

Executive Summary

SPD Town Planners have prepared this report on behalf of the Applicant, Mr Roy Syne, in support of the proposed development at No. 3 Clyde Street, Batemans Bay (the site). The proposed development is a Major Project, pursuant to Part 3A of the Environmental Planning and Assessment Act 1979 (as amended) (“the Act”). It involves demolition of the existing motel complex and construction of a new part four (4) and part five (5) level building, containing the following:

- | a hotel/serviced apartment complex in the western part of the site, comprising a reception area, conference room and forty-six (46) apartments/rooms (27 x studio and 19 x 1 bed);
- | permanent residential accommodation in the eastern part of the site, containing ten (10) apartments (2 x 1 bed, 6 x 2 bed and 2 x 3 bed);
- | a ground level restaurant fronting onto Clyde Street;
- | a ground level retail tenancy fronting onto North Street;
- | various back-of-house, plant, garbage storage facilities and the like at ground floor level;
- | off-street parking for fifty-six (56) vehicles, including twenty (20) car-stackers; and
- | stratum and strata subdivision of the proposed development.

The proposal incorporates vehicular access via a shared pedestrian/ driveway located at the western part of the site. This proposed shared-way incorporates part of the existing Council-owned land which accommodates a sewage easement and adjoins the site’s western boundary, providing a pedestrian link between North Street and the retail complex to the north of the site.

The proposed use of the land and general design of the shared-way have been discussed and agreed to in principle, by Eurobodalla Shire Council and the Department of Planning, with a view to continuing the shared-way through to the rear of the properties to the north of the site, when they are redeveloped in the future. The adoption of this method of accessing the site minimises the number of vehicle crossings to North and Clyde Streets, which will improve the streetscape and pedestrian environments as a consequence.

The proposal also incorporates a colonnade on the Clyde Street frontage of the site, in accordance with discussions with Eurobodalla Shire Council and the Department of Planning. The colonnade is proposed to provide access between the footpath and the ground floor of the building, which has had to be raised in order to mitigate against potential flooding and storm-event impacts. The colonnade incorporates a covered pedestrian area along the site's frontage, which will link into similar colonnades on adjoining properties, when they are developed in the future. This limits the number of ramps and stairs which will be required along Clyde Street, when neighbouring properties are developed. The colonnade may be used to provide outdoor tables and chairs and the like, to enliven the frontage of the site.

The design of the proposal has been the subject of a number of meetings with both Council and the Department of Planning, with a view to establishing appropriate building envelope and general approach to the heights, setbacks, vehicular access and spatial arrangements to be adopted at the site. As a result of these discussions, both Eurobodalla Shire Council and the Department of Planning have provided their support in principle to the proposed heights and setbacks, as well as the adoption of some permanent residential accommodation on the site. Council has also agreed with the proposal to provide a shared-way adjacent to the site's western boundary, on the basis that Council approves the final design of this element.

This report describes the proposed development and the physical context in which it is to be constructed. It also addresses the revised Director-General's Requirements (DGRs), dated October 2007 and has been prepared having regard to Part 75E of the Act.

The site is located within the Batemans Bay Town Centre, in close proximity to the Clyde River. The site enjoys dual street frontages to Clyde and North Streets. The streetscape in the vicinity of the site is mixed, in terms of height, scale, architectural styles and external materials and finishes.

The site is zoned 3(a) Business under Council's Urban Local Environmental Plan 1999. The proposed development is permissible with consent in this zone.

Eurobodalla Shire Council and the Department of Planning are currently in the process of reviewing the planning controls applicable to the site and the Batemans Bay Town Centre Generally. Council has confirmed that it supports the proposal in principle (i.e. heights, setbacks and the like) and will further the urban design component of the Draft Batemans Bay Town Centre Structure Plan in order to reflect the articulation of the built form of the proposal. Council has also confirmed that it is amenable to increasing heights within certain areas in the Town Centre, and will review the built height controls contained in the Draft Structure Plan.

The following **Table 1** provides an overview of the DGRs and identifies where each of the matters is addressed in this EAR.

Table 1: Director General's Environmental Assessment Requirements

TOPIC	REQUIREMENT	REFERENCE IN EAR
GENERAL REQUIREMENTS		
1	Executive summary	Page i
2	An outline of the scope of the project including: - any development options; - justification for the project taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest; and - outline of the staged implementation of the project if applicable.	Sections 4.0 – 4.11
3	A thorough site analysis including constraints mapping and description of the existing environment.	Section 2.2 and Appendix D
4	Consideration of any relevant statutory and non-statutory provisions and identification of any non-compliances with such provisions, in particular relevant provisions arising from environmental planning instruments, Regional Strategies (including draft Regional Strategies) and Development Control Plans.	Sections 5.1 - 5.20 Compliance Table provided in Appendix Z
5	Consideration of impacts, if any, on matters of national environmental significance under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> .	Section 5.4
6	An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project.	Sections 6.0 and 7.0 and Appendix T



TOPIC	REQUIREMENT	REFERENCE IN EAR
7	The plans and documents outlined in Attachment 2, as follows: - existing site survey plan showing: - the location of the land, measurements of the boundaries of the land, the size of the land and north point; - existing levels of the land in relation to buildings and roads; - location and height of existing structures on the site; and - the location and height of adjacent buildings and private open space; - aerial photo of the subject site with the site boundary superimposed; - site analysis plan identifying existing natural elements of the site (including all hazards and constraints), existing vegetation, property dimensions, footpath crossing levels and alignments, existing pedestrian and vehicular access points and other facilities, slope and topography, natural features such as watercourses, rock outcrops, utility services, boundaries, orientation, view corridors and all structures on adjoining properties where relevant to the application (including windows, driveways etc); - locality / context plan indicating: - significant local features such as parks, community facilities and open space, watercourses and heritage items; - the location and uses of existing buildings,	Appendix C Figure 2 on page 10 Appendix D Figures 1, 2 and 3, Appendix D and Section 2.2



TOPIC	REQUIREMENT	REFERENCE IN EAR
	shopping and employment areas; - traffic and road patterns, pedestrian routes and public transport nodes; and - the existing site plan and locality plan should be supported by a written explanation of the local site and site constraints and opportunities revealed through the above documentation; 5. Environmental Assessment in accordance with the Director-General's Environmental Assessment Requirements; 6. architectural drawings illustrating the following general features: - the location of any existing building envelopes or structures on the land; - the floor plans; - the location of lifts, stairs and corridors; - adaptable housing requirements; - section plans; - fenestrations, balconies and other features; - communal facilities and servicing points; - the height of the proposed development in relation to the land; - significant level changes; - parking and vehicular access arrangements; - pedestrian access to, through and within the site; - shadow diagrams identifying	This report is the Environmental Assessment Appendix D



TOPIC	REQUIREMENT	REFERENCE IN EAR
	overshadowing impacts of the proposed structures;	
	7. elevations of the proposed buildings indicating height and key datum lines, building length and articulation, the composition of the façade and roof design, existing buildings on the site, building entries (pedestrian, vehicular and service), and profile of buildings on adjacent properties;	Appendix D
	8. shadow diagrams showing solar access to the site and adjacent properties, including the public reserve, at summer solstice;	Appendix D
	9. stormwater concept plan illustrating the concept for stormwater management from the site, and must include details of any major overland flow paths through the site and any discharge points to the street drainage system. Where an onsite detention system is required, the type and location must be shown and must be integrated with the proposed landscape design. Site discharge calculations should be provided;	Appendices J and K
	10. erosion and sediment control plan that shows the nature and location of all erosion and sedimentation control measures to be utilised on the site;	Appendix K
	11. landscape concept plan that shows the basic detail of planting design and plant species to be used, listing botanical and common names, mature height and spread, number of plants to be utilised and surface treatments (i.e. pavers, lawn etc);	Appendix O
	12. construction management plan which outlines traffic and pedestrian movement during construction and management of impacts on amenity of adjoining properties and appropriate mitigation measures including noise, dust and sediment and erosion	Appendices I and S



TOPIC	REQUIREMENT	REFERENCE IN EAR
	controls; and 13. view analysis comprising artist's impressions, photomontages etc of the proposed development in the context of the surrounding development.	Figure 13 and Appendix D
8	A signed statement from the author of the Environmental Assessment certifying that the information contained in the report is neither false nor misleading.	Page xiv
9	A Quantity Surveyor's Certificate of Cost to verify the capital investment value of the project	Appendix P
10	An assessment of the key issues specified below and a table outlining how these key issues have been addressed.	Section 6.0 and Appendix D
KEY ISSUES		
1. Strategic Planning		
1.1	Justify the proposal with reference to relevant local, regional and State planning strategies (including the draft <i>Structure Plan Batemans Bay Town centre and Town Centre DCP</i> . Provide justification for any inconsistencies with these planning strategies.	Sections 5.0 and 6.1
2. Urban design and sustainability		
2.1	Address the design quality with specific consideration of the façade, massing, setbacks, proportions to openings, building articulation, and amenity (including amenity impacts for adjoining and surrounding development).	Sections 4.8, 5.7.1.3, 5.14 and 5.16



TOPIC	REQUIREMENT	REFERENCE IN EAR
2.2	Address consistency with the character of development in the locality; density; street frontage; scale; built form including roof form; aesthetics; safety; pedestrian access and existing right of way; and provision of a public precinct. Consider access for the disabled, where appropriate.	Section 6.2.2
2.3	Address impacts in relation to privacy, views and overshadowing and relevant mitigation measures, including overshadowing of adjoining and surrounding development and of adjacent open space / coastal reserve.	Section 6.2.3
2.4	Demonstrate the suitability of the proposal with the surrounding area in relation to bulk, scale, amenity (including noise) and visual amenity having regard to the <i>Coastal Design Guidelines of NSW</i> (2003) and the <i>NSW Coastal Policy 1997</i> .	Section 6.2.4
2.5	Provide a detailed justification of any departure from height provisions in: <i>Lower South Coast REP</i> ; <i>Batemans Bay Town Centre DCP</i> and draft <i>Batemans Bay Structure Plan</i> and demonstrate the proposal is consistent with the future strategic intentions for the town centre.	Sections 5.12, 5.14, 5.16 and 6.2.5 and Appendix V
2.6	In the event that the proposed serviced apartments will be used for permanent residential purposes, demonstrate compliance with SEPP 65 and BASIX.	Section 5.8
3. Visual impact		
3.1	Address the visual impact of the proposal in the context of surrounding development and relevant mitigation measures. In particular address impacts on the amenity of the foreshore, overshadowing of public reserves, loss of views from public places (including nearby foreshore and from the Clyde River) and cumulative impacts.	Section 4.8, 6.2.3, 6.3 and Appendix T



TOPIC	REQUIREMENT	REFERENCE IN EAR
3.2	Use visual aids such as scale model and photomontage to demonstrate visual impacts. Amelioration of visual impacts through design, use of appropriate colours and building materials, landscaping and buffer areas must be addressed. An indicative external materials and finishes schedule is to be submitted.	Sections 4.8.2 and 6.3 and Appendix D
4. Traffic 4.1	Prepare a traffic impact study in accordance with Table 2.1 of the RTA's Guide to Traffic Generating Developments which addresses, but is not limited to the following matters: the capacity of the road network to safely and efficiently cater for the additional traffic generated; Access to and within the site; Servicing and parking arrangements; Intersection sight distances; Connectivity to existing developments; Impact on public transport (including school bus routes); Identify pedestrian movements and appropriate treatments; and Identify suitable mitigation measures, if required to ensure the efficient functioning of the road network.	Section 6.4 and Appendices H, T and Y
5. Hazard management and mitigation (coastal processes and flooding) 5.1	Provide a flood investigation report which assesses any flood risk on the site (for the full range of floods including events greater than the design flood, up to probable maximum flood; and from coastal inundation, catchment based flooding or a combination of the two), having consideration for relevant provisions of the NSW Floodplain Development Manual (2005) and recommendations from the Bateman's Bay Coastal Hazard Management Plan (for the Batemans Bay CBD).	Sections 4.6 and 6.5 and Appendices N and T

TOPIC	REQUIREMENT	REFERENCE IN EAR
5.2	Demonstrate and suitably investigate: (a) appropriate floor levels (based on flood levels plus freeboard) and suitable protection for underground car parks (which may include appropriate levels for driveway crests and adequate flood proofing in the car park); (b) impact of flooding on the development (including potential for wave run-up from tidal inundation); (c) impact of the development on flooding to surrounding properties (due to raising floor levels); and (d) adequate egress and safety in a flood event. A flood management plan should be provided which outlines how the development will manage flood events (including suitable evacuation routes or warnings). (e) impacts of climate change, sea level rise and more frequent and intense storms on flooding.	Sections 6.5.1.3 and 6.6 and Appendices M and T Section 6.5.1.3 Section 6.5.1.4 Section 6.5.1.5 Section 6.5.1.6
Hazard management and mitigation (contamination) 5.3	Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of SEPP 55 – Remediation of Land.	Sections 2.5, 3.2 and 6.5.2 and Appendix T
Hazard management and mitigation (acid sulfate soils) 5.4	Identify the presence and extent of acid sulfate soils on the site and, where relevant, appropriate mitigation measures.	Sections 4.6 and 6.5.3 and Appendices J and T



TOPIC	REQUIREMENT	REFERENCE IN EAR
Hazard management and mitigation (geotechnical) 5.5	Provide an assessment of any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations that address these limitations.	Sections 6.5.5 and Appendix G
6. Water cycle management 6.1	Address and outline measures for Integrated Water Cycle Management (including best practice stormwater management based on Water Sensitive Urban Design principles).	Sections 4.6 and 6.6 and Appendices J, K and T
6.2	Assess the impacts of the proposal on surface water and groundwater quality during both construction and occupation of the site, including impacts on Batemans Bay and the Clyde River Estuary.	Sections 4.6 and 6.6.2 and Appendices J, K and T
6.3	Demonstrate consistency with the NSW Wetlands Management Policy, NSW Estuary Management Policy, NSW State Rivers and Estuaries Policy, and the Batemans Bay and Clyde River Estuary Management Plan.	Section 6.6.3 and Appendices M and T
6.4	Address and recommend an appropriate sediment and erosion control during and post-construction, demonstrating compliance with the guidelines provided by the Landcom reference <i>'Soils and Construction – Managing Urban Stormwater, 4th Edition, March 2004'</i> .	Section 6.6.4 and Appendices J, K and T



TOPIC	REQUIREMENT	REFERENCE IN EAR
7. Infrastructure provision		
7.1	Address existing capacity and requirements of the development for sewerage, water, electricity, waste disposal, telecommunications and gas in consultation with relevant agencies. Identify and describe staging, if any, of infrastructure works.	Section 6.7 and Appendix Q
7.2	Address the provision of public services and infrastructure having regard to Council's Section 94 Contributions Plan.	Sections 5.17 and 6.7.8 and Appendices T and U
8. Noise		
8.1	Address potential noise impacts, in particular during the construction of the proposal, and provide appropriate mitigation measures.	Sections 4.6.3, 5.13.2 and 6.2.1.6 and Appendix T
Consultation	You should undertake an appropriate and justified level of consultation with the following agencies during the preparation of the environmental assessment: (a) <i>Agencies or other authorities:</i> • Eurobodalla Shire Council; • Department of Water and Energy; and • Relevant infrastructure providers. (b) <i>Public:</i> Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy. The consultation process and the issues raised should be described in the Environmental Assessment.	Section 3.2 and Appendix V



Authorship and Limitations

This report has been prepared by Genevieve Slattery (Senior Urban Planner) and Spiro Stavis (Principal Planner), both of whom certify that the information contained within the report is neither false nor misleading.

Genevieve Slattery (BTP (Hons) MPIA)

A handwritten signature in blue ink, appearing to read 'G Slattery'.

Date

25 July 2008

Spiro Stavis (BA, MPIA)

A handwritten signature in blue ink, appearing to read 'Spiro Stavis'.

Date

25 July 2008

Statements and information including figures contained in this document are based on sources which are believed to be reliable and correct. Although we have no reason to doubt the accuracy and reliability of the statements and information, no responsibility is assumed by us or any of our staff or consultants for any mis-statement omission or error and interested persons should rely on their own enquiries.



Document history and status

VERSION	ISSUED TO	QTY	DATE	REVIEWED
Preliminary	Department of Planning	1	18/12/06	Genevieve Slattery / Spiro Stavis
	Workshop 1 Dunn + Hillam Architects	1		
	SPD Town Planners	1		
	Client	1		
Working Draft	Workshop 1 Dunn + Hillam Architects	1	15/11/07	Genevieve Slattery
Working Draft	Workshop 1 Dunn + Hillam Architects	1	18/12/07	Genevieve Slattery
Working Draft	Workshop 1 Dunn + Hillam Architects	1	25/3/08	Genevieve Slattery
Working Draft	Workshop 1 Dunn + Hillam Architects	1	26/3/08	Genevieve Slattery
Draft	Workshop 1 Dunn + Hillam Architects	1	7/4/08	Genevieve Slattery
Final draft	Workshop 1 Dunn + Hillam Architects	1	30/4/08	Genevieve Slattery
Preliminary	Department of Planning	1 (pdf)	7/5/08	Genevieve Slattery / Spiro Stavis / Workshop 1 Dunn + Hillam Architects
Final	Workshop 1 Dunn + Hillam Architects	1		
	SPD Town Planners	1		
	Client	1		
Amended preliminary final	Workshop 1 Dunn + Hillam Architects	1 (pdf)	16/7/08	Genevieve Slattery
Amended preliminary final	Workshop 1 Dunn + Hillam Architects	1 (pdf)	17/7/08	Genevieve Slattery
Amended preliminary final	Department of Planning	1 (pdf)	21/7/08	Genevieve Slattery / Spiro Stavis / Workshop 1 Dunn + Hillam Architects
Final	Department of Planning	20		
Final	Workshop 1 Dunn + Hillam Architects	1	25/7/08	Genevieve Slattery / Workshop 1 Dunn + Hillam Architects
	SPD Town Planners	1		
	Client	1		
	Client	1		

Table 2 below provides the details of all consultants who have had involvement with the project.



Table 2: Project consultants

Discipline	Consultant	Contact details
Architecture and urban design	Workshop 1 Dunn + Hillam Architects	33 Salisbury Street, Botany NSW 2019 Ph 9316 7715 Fax 9316 7725
Traffic and parking	Masson Wilson Twiney	20/809 Pacific Highway, Chatswood NSW 2067 Ph 9410 4100 Fax 9415 2944
Construction traffic management	John Condon & Associates	1554 Princes Highway, Bimbimbie NSW 2536 Ph 4471 7755 Fax 4471 7788
Survey	The Lawrence Group	12, 45-51 Huntley Street, Alexandria NSW 2015 Ph 1300 765 315 Fax 1300 765 316
Fire safety engineering	Warrington Fire Research	Suite 2002A, Level 20, 44 Market Street, Sydney NSW 2000 Ph 8270 7600 Fax 9299 6076
BASIX	The House Energy Rating Company of Australia	18 Garden Street, Maroubra NSW 2032 Ph 9345 0219 Fax 9349 6912
BASIX	Building Sustainability Assessments	7 William Street, Hamilton NSW 2303 Ph 4962 3439 Fax 4962 3470



Discipline	Consultant	Contact details
Building services engineering	GHD Pty Ltd	352 King Street, Newcastle NSW 2300 Ph 4979 9999 Fax 4979 9988
Geotechnical engineering	Douglas Partners	1 Luso Drive, Unanderra NSW 2526 Ph 4271 1836 Fax 4271 1897
Structural engineering	Simpson Design Associates	Studio 1, 84 Mullens Street, Balmain NSW 2041 Ph 9810 6911 Fax 9810 6922
Quantity surveying	BDA Pty Ltd	Suite 119, 330 Wattle Street, Ultimo NSW 2007 Ph 9281 7944 Fax 9281 7945
Building Code of Australia	BCA Logic Pty Ltd	Level 1, 71-73 Archer Street, Chatswood NSW 2067 Ph 9411 5360 Fax 9411 5420
Acoustic engineering	Wilkinson Murray Pty Ltd	Level 2, 123 Willoughby Road, Crows Nest NSW 2065 Ph 9437 4611 Fax 9437 4393
Civil and hydraulic engineering	Whipps-Wood Consulting Engineers	Lower ground, 48 Alfred Street, Milsons Point NSW 2061 Ph 8923 8444 Fax 8923 8484



Discipline	Consultant	Contact details
Landscape architect	Ayling + Drury Landscape Architecture	617 Cordeaux Road, Mt Kembla NSW 2526 Ph 4422 9901
Environmental engineer	Peter Spurway & Associates	495 Bingi Road, Bingi NSW 2537 Ph 4473 8662

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- A Correspondence dated 1 February 2006 from the Minister, confirming the proposal is a Major Projects Application
- B Correspondence dated 31 October 2007 from the Minister containing amended Director General's Requirements
- C Survey plan (Dwg. Nos. 1 and 2 Issue A) dated 1 January 2005 and prepared by Lawrence Group Surveyors
- D Site analysis, architectural plans, sections and elevations, shadow diagrams, ESD and landscape drawing and photomontages (Dwg. Nos. DA 03-00 - 16) dated 28 April 2008 and prepared by Workshop 1 Dunn + Hillam Architects
- E Design Verification Statement dated 7 February 2008 and prepared by Workshop 1 Dunn + Hillam Architects
- F Architectural Design Statement prepared by Workshop 1 Dunn + Hillam Architects
- G Geotechnical Report (Project No. 40385) dated May 2005 and prepared by Douglas Partners
- H Traffic and Parking Assessment Report dated 21 April 2008 and prepared by Masson Wilson Twiney
- I Construction Management Plan dated prepared by BDA Consultants
- J Stormwater Drainage Statement dated 19 February 2008 and prepared by Whipps-wood Consulting
- K Stormwater Concept and Sediment and Erosion Control Plans (Dwg. Nos. HDA01/P2-HAD05/P2) dated December 2007 and prepared by Whipps-Wood Consulting
- L Structural Report dated 4 March 2008 and prepared by SDA Consulting Engineers
- M Water Resource Management – Estuary and Groundwater Issues dated February 2008 and prepared by Peter Spurway & Associates

- N Coastal Processes and Flooding Review dated December 2007 and prepared by Peter Spurway & Associates
- O Landscape Plan (Dwg. No. ADS-D0802-01 and 02) dated 8 February 2008 and prepared by Ayling + Drury Landscape Architecture
- P Quantity Surveyor's report dated 20 February 2008 and prepared by BDA Consultants Pty Ltd
- Q Engineering services brief dated April 2008 and prepared by GHD
- R Correspondence from Bannermans dated 8 April 2008 in relation to the proposed strata and stratum subdivision of the proposed development
- S Construction Traffic Management Plan dated 21 February 2008 and prepared by John Condon & Associates
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- U Correspondence from Bannermans dated 8 April 2008 in relation to the proposed shared accessway
- V Consultation meeting notes and correspondence
- W ABSA Certificate No. 11613954 dated April 2008 and BASIX Certificate No. 189916M dated 22 April 2008
- X BCA Assessment Report (Document No. 101024-r2/jd) dated 1 July 2008 and prepared by BCA Logic
- Y Memorandum dated 17 July 2008 and prepared by Masson Wilson Twiney
- Z Compliance Table

1.0 Introduction

SPD Town Planners hereby submits this Environmental Assessment Report (EAR) to the Department of Planning (hereafter referred to as the Department). The report accompanies a Project Application seeking approval pursuant to Part 75J of Part 3A of the Act for development at No. 3 Clyde Street, Batemans Bay (the site).

SPD Town Planners has consulted with the Department in order to determine whether the proposed development is a Major Project under Part 3A of the Act. On 1 February 2006, the Minister determined that the proposal is a Major Project, and therefore subject to assessment under Part 3A of the Act (see **Appendix A**).

As requested by the Minister, a Preliminary Assessment was submitted to the Department on 17 March 2006, pursuant to Section 75E of the Act. On 24 June 2006, the Department provided the Director General's Requirements (DGRs) for the project, pursuant to Section 75F(2) of the Act. A copy of the Department's letter, which includes the DGRs is provided at **Appendix B**.

A draft Environmental Assessment was submitted to the Department of Planning on 18 December 2006. The proposal incorporated demolition of the existing motel, restaurant and associated improvements on the site, and construction of a new serviced apartment complex on the premises. The proposed new building incorporated two (2) retail tenancies, seventy-eight (78) serviced apartments (34 x studio, 39 x 1 bed and 5 x 2 bed) as well as semi-basement parking for ninety-nine (99) vehicles. Conference, gymnasium, office and back-of-house facilities were also proposed in conjunction with the serviced apartments.

The proposed development incorporated a "courtyard" design, whereby an internal courtyard was proposed, bounded by a building varying between three (3) and five (5) levels above ground. A semi-basement parking level was also proposed.

Subsequent to submitting the Application to the Department of Planning, the Department raised concern in relation to the design of the proposal. The main issues associated with the proposal were as follows:

- | the architectural design of the proposed new building and its visual impact, particularly from Batemans Bay;
- | the height of the proposal to both Clyde and North Streets;
- | the proposed side, front and rear boundary setbacks;
- | the interface of the proposed ground floor retail level with the adjoining street level, given the requirement to “lift” the building to ameliorate potential flooding impacts; and
- | the appropriate amount of car parking to be provided on the site, given the constraints affecting the site. The Department considered that a reduced car parking rate may be acceptable in the context of the site, given the difficulties associated with “raising” the building to deal with groundwater and flooding issues, and the impacts arising from this, particularly associated with the interface of the ground floor levels and the adjacent public domain.

As a result of these concerns, a number of meetings were conducted between the project team and the Department of Planning, Eurobodalla Shire Council staff, and staff from the South Coast regional office of the Department of Planning. The meetings were largely focussed on the appropriateness of the building envelope controls proposed by the Draft Batemans Bay Town Centre Structure Plan.

As a consequence of these meetings, and additional meetings with the Applicant and representatives of the project team, the Department of Planning’s Urban Design team worked through a series of options, for possible building envelope and spatial arrangements for the site, in the context of the larger block bounded by North and Clyde Streets and the Princes Highway.

Additional workshops were conducted between the Department of Planning and the project team, at which the specifics of the revised building envelope controls were “tested” and discussed in more detail. Consequently, agreement was reached between Eurobodalla Shire Council, the Department of Planning and Applicant, in respect of the controls to be applied at the site, which are generally as follows:

! building height:

- ! Precinct 1 (fronting Clyde Street): a maximum building height of 12m above natural ground level, built to the street edge, and a 6m setback thereafter, with a maximum building height of 16m behind;
- ! Precinct 2 (fronting North Street) a maximum height of 18m above natural ground level;

! floor space ratio (FSR): no FSR controls will be applicable;

! flood planning levels:

- ! commercial / retail levels to be at a minimum of AHD 2.7m to Clyde Street and AHD 2.5m to North Street;
- ! entrances to below ground level parking areas to be a minimum of AHD 2.9m;

! setbacks:

- ! Clyde Street: 1.5m for ramps and stairs plus 4m for colonnade at ground floor level only, nil setback at First and Second floors and a 6m setback for that part of the building above 12m in height;
- ! North Street: nil setback;
- ! western boundary: 6m setback from the centre of the Council sewage easement;
- ! side boundaries: nil setback close to street frontages, 3m setback where located adjacent to non-habitable spaces and 6m setback adjacent to residential apartments; and

| car parking: 1 car parking space per apartment and no visitor, staff or retail car parking required to be provided. It was agreed that vehicles would enter and exit the site via a shared pedestrian / vehicular thoroughfare adjoining the site's western boundary. The long-term vision for this component of the scheme is that this shared accessway will provide access to the rear of other sites fronting onto Clyde Street, as well as becoming a pedestrian linkage for properties to the north of the site.

The design of the proposal has been adjusted to address these revised building controls, as agreed with the Department of Planning and Eurobodalla Shire Council staff.

The development, the subject of this report and Project Application, incorporates demolition of the existing motel complex and construction of a new part four (4) and part five (5) level building, containing the following:

- | a hotel/serviced apartment complex in the western part of the site, comprising a reception area, conference room and forty-six (46) apartments/rooms (27 x studio and 19 x 1 bed);
- | permanent residential accommodation in the eastern part of the site, containing ten (10) apartments (2 x 1 bed, 6 x 2 bed and 2 x 3 bed);
- | a ground level restaurant fronting onto Clyde Street;
- | a ground level retail tenancy fronting onto North Street;
- | various back-of-house, plant, garbage storage facilities and the like at ground floor level;
- | off-street parking for fifty-six (56) vehicles, including twenty (20) car-stackers; and
- | stratum / strata subdivision of the proposed development.

It is possible that the permanent residential apartments proposed at the eastern part of the site, may be leased back to the operator of the hotel/serviced apartment complex, the details of which will be finalised at a later date, and subject to relevant approvals from the Minister and other relevant authorities.

The proposal incorporates vehicular access via a shared pedestrian / driveway located at the western part of the site. This proposed shared-way incorporates part of the existing Council-owned land, which accommodates a sewage easement and adjoins the site's western boundary, providing a pedestrian link between North Street and the retail complex to the north of the site.

The proposed use of the land and general design of the shared-way have been discussed and agreed to in principle, by Eurobodalla Shire Council, with a view to continuing the shared-way through to the rear of the properties to the north of the site, when they are redeveloped. The adoption of this method of accessing the site minimises the number of vehicle crossings to North and Clyde Streets.

The proposal also incorporates a colonnade on the Clyde Street frontage of the site, in accordance with discussions with Eurobodalla Shire Council and the Department of Planning. The colonnade provides access between the footpath and ground floor level, and maximises this linkage, despite the requirement to raise the ground floor level to mitigate against potential flooding impacts. The colonnade provides a covered pedestrian area along the site's frontage, which will link into similar colonnades on adjoining properties, when they are developed in the future. The colonnade will also be used to provide outdoor tables and chairs and the like, to enliven the frontage of the site.

The design of the proposal has been the subject of a significant number of meetings with both Council and the Department of Planning, with a view to establishing appropriate building envelope and general approach to the heights, setbacks, vehicular access and spatial arrangements to be adopted at the site. As a result of these discussions, Eurobodalla Shire Council has provided its support in principle to the proposed heights and setbacks, as well as the adoption of some permanent residential accommodation on the site.

Council has also agreed with the proposal to provide a shared-way adjacent to the site's western boundary, on the basis that Council approves the final design of this element.

This report has been prepared in order to address the issues identified in, and information requested by, the DGRs. This report also describes the proposed development and the physical context within which it is to be constructed.

This report is based on information contained in, and should be read in conjunction with the following information which is submitted with this application:

- | Correspondence dated 1 February 2006 from the Minister, confirming the proposal is a Major Projects Application contained in **Appendix A**;
- | Correspondence dated 31 October 2007 from the Minister containing amended Director General's Requirements contained in **Appendix B**;
- | Survey plan (Dwg. Nos. 1 and 2 Issue A) dated 1 January 2005 and prepared by Lawrence Group Surveyors contained in **Appendix C**;
- | Site analysis, architectural plans, sections and elevations, shadow diagrams, ESD and landscape drawing and photomontages (Dwg. Nos. DA 03-00 - 16) dated 28 April 2008 and prepared by Workshop 1 Dunn + Hillam Architects contained in **Appendix D**;
- | Design Verification Statement dated 7 February 2008 and prepared by Workshop 1 Dunn + Hillam Architects contained in **Appendix E**;
- | Architectural Design Statement prepared by Workshop 1 Dunn + Hillam Architects contained in **Appendix F**;
- | Geotechnical Report (Project No. 40385) dated May 2005 and prepared by Douglas Partners contained in **Appendix G**;
- | Traffic and Parking Assessment Report dated 21 April 2008 and prepared by Masson Wilson Twiney contained in **Appendix H**;
- | Construction Management Plan dated 8 February 2008 and prepared by BDA Consultants contained in **Appendix I**;

- | Stormwater Drainage Statement dated 19 February 2008 and prepared by Whipps-wood Consulting contained in **Appendix J**;
- | Stormwater Concept and Sediment and Erosion Control Plans (Dwg. Nos. HDA01/P2-HAD05/P2) dated December 2007 and prepared by Whipps-Wood Consulting contained in **Appendix K**;
- | Structural Report dated 4 March 2008 and prepared by SDA Consulting Engineers contained in **Appendix L**;
- | Water Resource Management – Estuary and Groundwater Issues dated February 2008 and prepared by Peter Spurway & Associates contained in **Appendix M**;
- | Coastal Processes and Flooding Review dated December 2007 and prepared by Peter Spurway & Associates contained in **Appendix N**;
- | Landscape Plan (Dwg. No. ADS-D0802-01 and 02) dated 8 February 2008 and prepared by Ayling + Drury Landscape Architecture contained in **Appendix O**;
- | Quantity Surveyor's report dated 20 February 2008 and prepared by BDA Consultants Pty Ltd contained in **Appendix P**;
- | Engineering Services Brief dated April 2008 and prepared by GHD contained in **Appendix Q**;
- | Correspondence from Bannermans dated 8 April 2008 in relation to the proposed strata and stratum subdivision of the proposed development contained in **Appendix R**;
- | Construction Traffic Management Plan dated 21 February 2008 and prepared by John Condon & Associates contained in **Appendix S**;
- | Statement of Commitments contained in **Appendix T**;
- | correspondence from Bannermans dated 8 April 2008 in relation to the proposed shared accessway contained in **Appendix U**;
- | Consultation meeting notes and correspondence contained in **Appendix V**;

- | ABSA Certificate No. 11613954 dated April 2008 and BASIX Certificate No. 189916M dated 22 April 2008 contained in **Appendix W**;
- | BCA Assessment Report (Document No. 101024-r2/jd) dated 1 July 2008 and prepared by BCA Logic contained in **Appendix X**;
- | Memorandum dated 17 July 2008 and prepared by Masson Wilson Twiney contained in **Appendix Y**; and
- | Compliance Table at **Appendix Z**.

2.0 Site Location and Description

2.1 Site description

The site of the proposed development (hereafter known as "the site") is located on the western side of Clyde Street, to the north of its junction with North Street. **Figure 1** shows the site's location.



Figure 1: Location plan (© whereis.com)

The site comprises one (1) lot, is legally described as Lot 4 DP 585 556 and commonly known as No. 3 Clyde Street, Batemans Bay (the site).

The site is “L-shaped”, has a primary frontage of approximately 30.6m to Clyde Street and a secondary frontage of 33.35m to North Street. The site is generally flat, does not contain any significant vegetation and has an overall area of approximately 2,700sqm. **Figure 2** below provides an aerial view of the site in the context of the Batemans Bay Town Centre. **Figure 3** below shows the location of the site within the broader regional context.



Figure 2: Aerial view of the site and Batemans Bay Town Centre

The site contains a motel complex containing twenty-nine (29) rooms in a number of two (2) storey buildings. The site also contains a two (2) storey building occupied by a Domino's Pizza, fronting onto Clyde Street. The site provides at-grade off-street parking for forty-three (43) vehicles as well as an in-ground swimming pool. Vehicular access is achieved from both Clyde and North Streets. Photos of the site are provided in **Figures 4 to 8** inclusive below.

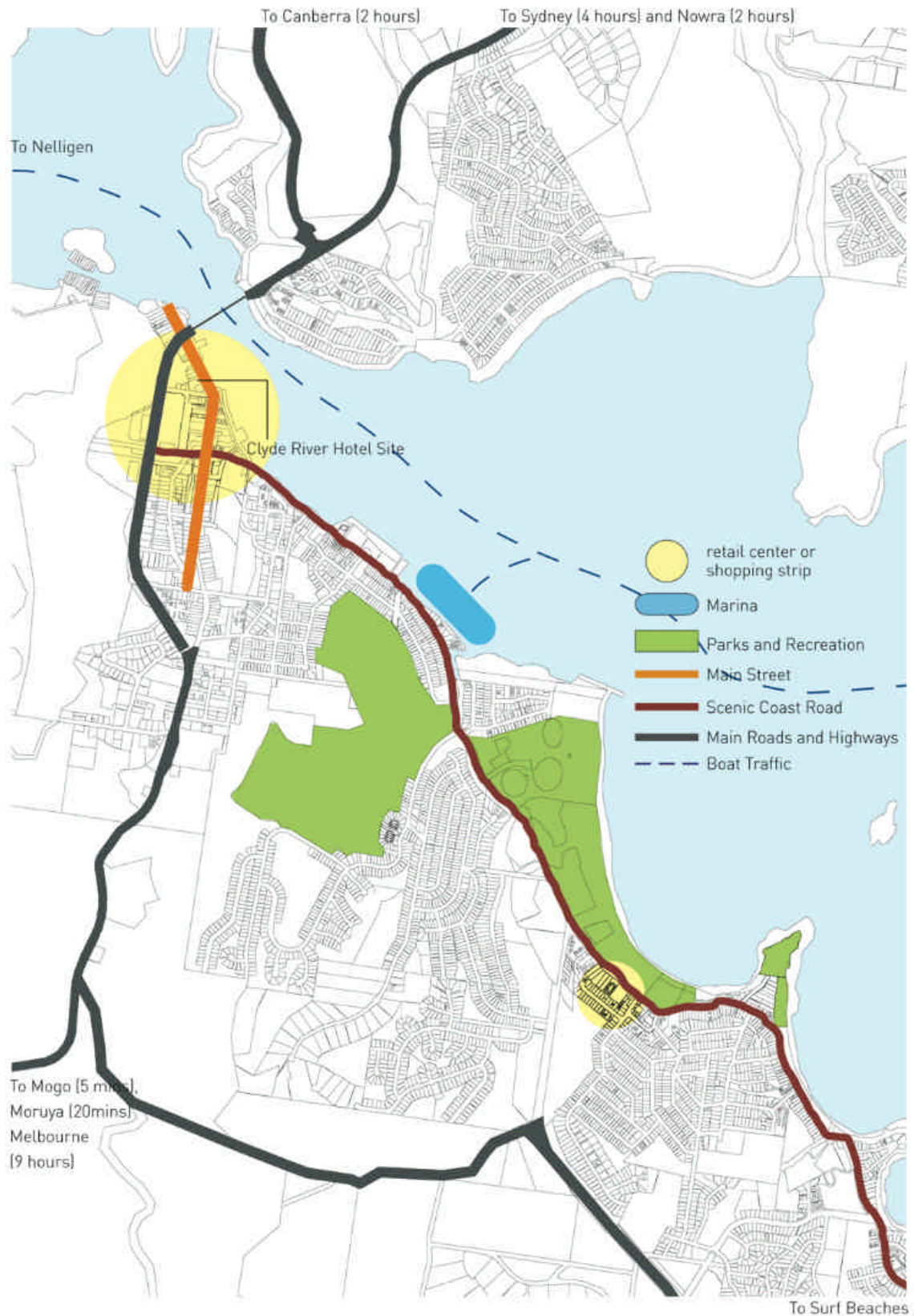


Figure 3: Regional context plan

Scale 1:25000



Regional Context Diagram



Figure 4: View of the site's primary frontage, looking north west from Clyde Street



Figure 5: View of the site's primary frontage looking south west from Clyde Street



Figure 6: View of the site's secondary frontage looking north west from North Street



Figure 7: View of the western-most wing of the existing motel, looking west from within the site



Figure 8: View of the centre of the site looking north from North Street

2.2 Site analysis

Batemans Bay Town Centre is the commercial hub for the Eurobodalla region in terms of being the focus for the regional economy and tourism. This will be reinforced through the recent creation of the Batemans Bay Marine Reserve.

The Batemans Bay Town centre is geographically restricted by McLeod's Creek, Batemans Bay and the escarpment, which restricts the centre's potential for the Centre to grow larger. As a consequence, the future development of the Town Centre will be predicated upon increasing densities within the established centre, as is encouraged in strategic planning policies relating to the region. This is a more cost-effective mode of development, as it can take advantage of existing infrastructure and facilities. Furthermore, increasing densities in the Town Centre will also negate the creation of additional settlements, which have the potential for adverse environmental impacts associated with land clearing, flora and fauna and the like.

A site analysis prepared by Workshop 1 Dunn + Hillam Architects at **Appendix D** reveals the following main opportunities and constraints:

- | the site is located close to the intersection of Clyde and North Streets, which is identified as a town centre “hub” in Council’s strategic planning documents;
- | the site is located within the Batemans Bay retail / commercial centre;
- | the site is located in close proximity to the Clyde River, McLeod’s Creek and the Murra Murra Foreshore walkway;
- | existing development on the site does not have active street frontages nor encourage people into the site;
- | dual street frontages allow the provision of through-site links, improving access to the Clyde River foreshore;
- | the site is adjoined by buildings varying between one (1) and three (3) storeys in height;
- | the site is located in a prominent location, in terms of its visibility, particularly on approach from the north;
- | the site is located in a flood-prone area and may be subject to acid sulfate soils; and
- | groundwater is located approximately 1m below existing ground level.

Workshop 1 Dunn + Hillam Architects have prepared a number of context and site analysis drawings, which are provided below in **Figures 9 to 16** inclusive.



Figure 9: Block plan showing the site in the context of existing building footprints in the locality



Figure 10: Plan showing existing land uses in the context of the site

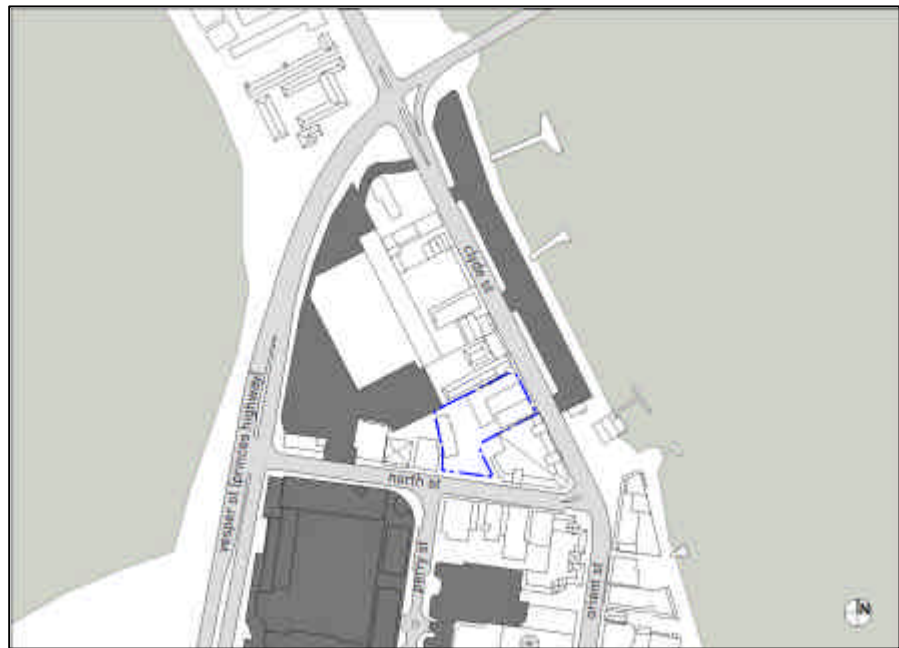


Figure 11: Plan showing existing road networks in the locality of the site

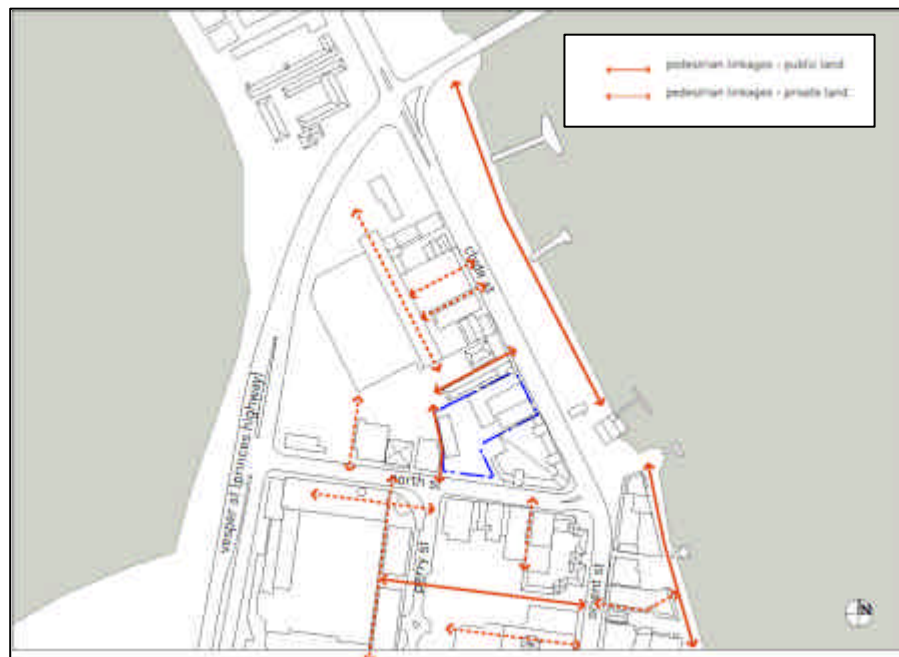


Figure 12: Plan showing existing pedestrian movements and routes in the locality of the site



Figure 13: Primary view corridors and vantage points in the Batemans Bay Town Centre



Figure 14: Summer and winter sun angles

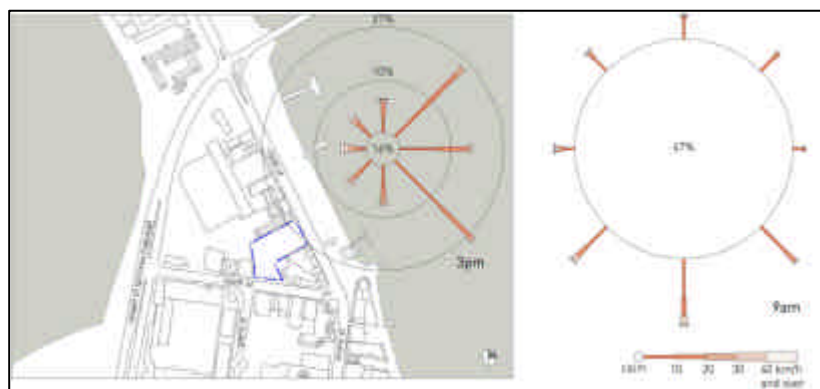


Figure 15: Prevailing winds

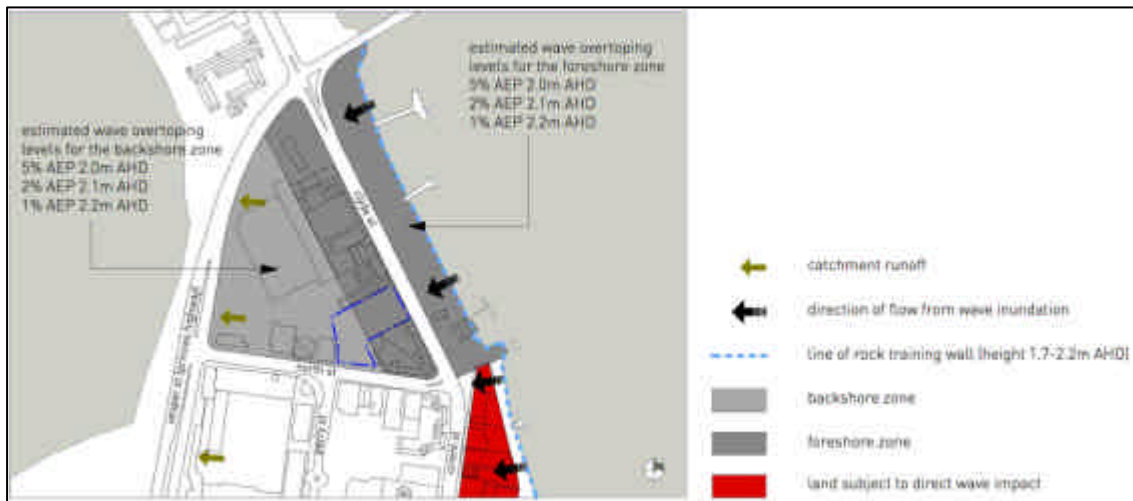


Figure 16: Flood and wave inundation influences

2.3 Surrounding Development

2.3.1 To the north (side)

The site is adjoined to the immediate north a single storey building (with a high parapet) occupied by Ned Kelly Bargains. Further north, the streetscape is characterised by a series of one (1) and two (2) storey retail/commercial buildings, including a recently completed shopping complex (see **Figures 17** and **18**).



Figure 17: View of the streetscape to the north of the site, looking north west from Clyde Street



Figure 18: View of the streetscape to the north of the site, looking south west from Clyde Street

2.3.2 To the south (secondary frontage)

The site is adjoined to the immediate south by a single storey retail building, located on the corner of Clyde and North Streets. The building has a two (2) storey scale by virtue of the design of its roof. Further south, on the opposite side of North Street, are a number of single and two (2) storey retail/commercial buildings, fronting onto North Street.

The large Stockland Shopping Complex, with a three (3) to four (4) storey scale is located to the south west of the site on Perry Street (see **Figures 19 to 21** below).



Figure 19: View of the retail building to the immediate south of the site, looking north west from Clyde Street



Figure 20: View of the buildings to the south of the site, looking east from North Street



Figure 21: View of the Stockland shopping complex, looking south west from the site

2.3.3 To the east (primary frontage)

The site is adjoined to the immediate east by Clyde Street. On the opposite side of Clyde Street is a hardstand car parking area, adjoining the Clyde River and Murra Murra walkway (see **Figures 22** and **23** below), which is in the process of being landscaped as per the concept plan at **Figure 27** (page 178).



Figure 22: View of the Council car park and Clyde River looking north east from the site



Figure 23: View of the amenities block and boat wharf looking south east from the site

2.3.4 To the west (rear)

The site is adjoined to the immediate west by a Council-owned sewage easement which also contains a footpath, providing pedestrian access between North Street and the retail complex to the north-west of the site. Further west are a number of one (1) and two (2) storey buildings, containing retail and commercial uses, including a hair salon, Elders Real Estate, Leading Edge Electronics and Ray White Real Estate (see **Figure 24** below).



Figure 24: View of the streetscape to the west of the site, looking north west from North Street

2.4 Streetscape and context

Clyde and North Streets are located in the Batemans Bay Town Centre and are characterised by single, two (2) and three (3) storey retail/commercial buildings. The streetscape is relatively mixed, in terms of architectural styles and external materials and finishes.

2.5 Public transport

Batemans Bay is accessible by the following transport options:

- | Murray's Coaches which runs daily between Canberra and Narooma;
- | Prior's Bus Service which runs daily (excluding Saturday) between Sydney (Parramatta) and Narooma; and
- | V-Line Bus Service which runs daily between Bairnsdale and Batemans Bay.

2.6 Environmental site conditions

The site is currently used for retail and motel purposes. Based on research undertaken (see **Section 3.1** below), there is no reason to suggest that the site may be affected by any contamination which would affect the proposed development. The site may be affected by acid sulfate soils.

3.0 Background

3.1 Previous applications

A search of Council's files relating to the site reveals the following previous applications:

- | Development Application (DA) approved on 23 September 1969, permitting extensions to the existing motel at the site;
- | Building Application (BA) No. 320/70 approved on 19 November 1970, permitting brick additions to the existing motel at the site;
- | BA No. 45/71 approved on 19 March 1971, permitting the construction of a swimming pool;
- | DA approved on 26 June 1978, permitting extensions to the existing motel;
- | BA No. 641/79 approved on 8 November 1979, permitting improvements to the existing motel;
- | BA No. 548/81 approved on 21 July 1981, permitting construction of a garage and stairs;
- | DA No. 3028/84 approved on 27 February 1984, permitting an illuminated advertising sign;
- | DA approved on 21 June 1985, permitting internal alterations to create two (2) additional motel units;
- | Building Certificate issued on 9 February 1988;
- | DA No. 7245/88 approved on 30 June 1988, permitting additions to a restaurant, study and office;
- | BA No. 462/88 approved on 27 September 1988, permitting additions to the existing motel;
- | DA No. 7640/88 approved on 10 March 1989, permitting an illuminated flush wall sign;

- | Building Certificate issued on 18 February 1992;
- | DA / CC No. 2017/99 issued on 28 January 1999, permitting alterations and additions to the existing motel; and
- | DA No. 468/04 approved on 15 April 2004, permitting two (2) additional motel units, garage and store.

3.2 Overview of consultation

The following **Table 3** provides a chronology of events associated with the Project Application which is the subject of this report.

Table 3: *Chronology of events associated with Project Application No. 06_0008*

Date	Event
8 September 2005	Meeting conducted with the Eurobodalla Shire Council Development Review Panel to introduce the proposal and discuss Council's planning controls which would apply. Council noted that sewer and water supply in the area were sufficient for the proposed development.
5 October 2005	Preliminary meeting conducted with the then Department of Infrastructure, Planning and Natural Resources to introduce the project and obtain feedback as to whether the proposal would be a Major Project.
9 January 2006	Submission made to the Department of Planning, seeking the Minister's opinion as to whether the proposal for demolition of the existing motel and construction of a new serviced apartment complex containing three (3) retail tenancies, eighty (80) serviced apartments with associated reception area, meeting room and the like and basement parking for fifty-four (54) vehicles, would constitute a Major Project under Part 3A of the Act.
1 February 2006	Correspondence received from the Department of Planning, confirming that the proposal constitutes a Major Project under Part 3A of the Act.
17 March 2006	Preliminary Assessment submitted to the Department of Planning

Date	Event
21 March 2006	Attendance at a workshop conducted by Eurobodalla Shire Council in relation to the Draft Batemans Bay Town Centre Structure Plan
5 July 2006	Director General's Requirements (DGRs) received from the Department of Planning.
4 August 2006	Meeting with the Department of Planning South Coast Regional Office to discuss the proposal in the context of the DGRs. The Department was generally supportive of the proposal, including increased heights and densities.
10 August 2006	Meeting with the Eurobodalla Shire Council Development Review Panel to discuss the proposal. Council raised concern in relation to the following issues: - the height of the proposed building in the context of the planning controls applicable to the site (i.e. non-compliance with Town Centre DCP and Draft Batemans Bay Town Centre Structure Plan); - the need to provide a through-site link; - inappropriateness of the proposed setback to Clyde Street at the upper level; - the need to consider issues of flooding and tidal inundation; - the need to relocate Council's sewage pump station as part of the proposal; - the proposal should comply with Council's Parking Code, to take the pressure off kerb-side parking in the Town Centre; - the proposal did not provide any boat-trailer parking, which is required under Council's Parking Code; - access ramps will be required to deal with level changes, and will need to comply with disabled access requirements; - compliance with BCA will be required; - overshadowing and solar access will need to be considered; and

Date	Event
	the functionality of the internal courtyard and its likelihood of being used by the general public were questioned.
19 December 2006	Draft Environmental Assessment Report and associated information submitted to the Department of Planning.
9 February 2007	Meeting with the Department of Planning to discuss the proposal. The Department raised concern with the height, bulk and scale of the proposal and resultant visual impacts of the proposal.
13 March 2007	An onsite meeting was conducted with the Department of Planning, to discuss the context of the site, the proposed building envelope, Draft Structure Plan controls and constraints affecting the development of the site, including flooding.
26 March 2007	Emailed correspondence received from the Department of Planning, providing clarification in relation to the nature and extent of flood investigations required to be undertaken.
8 May 2007	Emailed correspondence received from the Department of Planning, raising concern with the following issues: - the appropriateness of the proposed courtyard design due to its visual impacts. The Department suggested that a “tower” option may be more appropriate; - the appropriateness of the height of the proposal and its setbacks from property boundaries and street edges; - the interface between the ground level and adjoining footpath, having regard to the need to “raise” the building to deal with potential flood inundation. The Department suggested that this issue would need to be dealt with by Council in its revisions to the planning controls for the Batemans Bay Town Centre; and - the potential to reduce the amount of onsite car parking required to be provided for the tourist accommodation, and the potential to pay S94 Contributions for shortfalls associated with retail/commercial floorspace.

Date	Event
16 May 2007	Meeting conducted with the Department of Planning.
16 May 2007	SPD Town Planners forwarded a copy of the following information to the Department of Planning, with respect to consultation with Eurobodalla Shire Council, regarding the Draft Batemans Bay Town Centre Structure Plan: • Professor Tom Heneghan's urban design appraisal of the Draft Structure Plan; • geotechnical report for the site, prepared by Douglas Partners; • submission from SPD Town Planners to Eurobodalla Shire Council dated 24 January 2006, making comments on the Draft Structure Plan; and • submission from SPD Town Planners to Eurobodalla Shire Council dated 7 March 2007, making comments on the Draft Structure Plan.
31 July 2007	Meeting conducted with the Department of Planning, including their Urban Design specialists. The purpose of the meeting was to discuss possible building envelope controls for the site and the block generally, bounded by Clyde and North Streets and the Princes Highway. The Department provided some envelope controls, upon which revised sketch plans were to be prepared by Workshop 1 Dunn + Hillam Architects.
20 August 2007	Meeting conducted with the Department of Planning at which time revised drawings were presented by Workshop 1 Dunn + Hillam Architects. The drawings essentially proposed an 18m height to North Street and 16m height to Clyde Street, as suggested by the Department of Planning. The Department indicated that the proposal was generally satisfactory, however further consideration would need to be given to the following issues: • setbacks between habitable rooms in the north western corner of the site; • treatment of the colonnade and ramps to both street frontages; • treatment of the North Street façade, having regard to plant rooms,

Date	Event
	fire safety equipment, hotel reception etc; • design of the accessway adjacent to the site's western boundary, to ensure a pleasant and safe environment; • flooding issues; and • car parking. The issue of possible permanent residential accommodation was also raised, and the Department indicated that any permanent residential accommodation would need to meet the minimum requirements of SEPP 65. The Department agreed to reconsider the DGRs for the project, and to arrange a further meeting to discuss the specifics of their content.
24 August 2007	Workshop 1 Dunn + Hiram Architects forwarded revised architectural plans to the Department of Planning, consistent with the building envelope controls discussed at the 20 August 2007 meeting, which are as follows: • 12m building height above natural ground level, fronting onto Clyde Street (Precinct 1), with a building height of 16m setback 6m from the Clyde Street boundary; • 18m building height above natural ground level, fronting onto North Street (Precinct 2); • no FSR control; • flood planning level of AHD 2.7m for the commercial/retail levels and AHD 2.9m for parking levels; • setbacks as follows: • 1.5m for ramps and stairs to the Clyde Street boundary; • 4m for the colonnade to Clyde Street, at ground level only; • Nil setback to North Street; • 6m setback from the centre line of the Council-owned easement

Date	Event
	adjoining the site's western boundary; • nil setback to side boundaries adjoining street frontages; • 3m side setback to non-habitable rooms; • 6m side setback adjacent to residential apartments; and • 1 parking space to be provided per apartment, with no other parking required to be provided onsite.
5 October 2007	Workshop 1 Dunn + Hillam Architects forwarded a document to the Department of Planning, providing a comparison between the building envelope specified in the current Batemans Bay Town Centre DCP, the draft Batemans Bay Town Centre Structure Plan and the scheme agreed to by Eurobodalla Shire Council and the Department of Planning.
31 October 2007	Revised DGRs issued by the Department of Planning.
8 November 2007	Workshop 1 Dunn + Hillam Architects wrote to Eurobodalla Shire Council, seeking advice as to whether Council would be supportive of the provision of some permanent residential accommodation in the part of the site overlooking Clyde Street.
19 November 2007	Workshop 1 Dunn + Hillam Architects attended a meeting with Eurobodalla Shire Council to discuss the revised proposal, possibility of incorporating permanent residential accommodation fronting onto Clyde Street and flood mitigation issues. Council staff were generally supportive of the revised proposal, and indicated that Council would look to implement the proposed building envelope controls into the draft Town Centre Structure Plan, currently under review.
19 November 2007	Correspondence received from Eurobodalla Shire Council, confirming that Council will further the draft Batemans Bay Town Centre Structure Plan in accordance with the building envelope proposed for the site. Council also indicated that it would be supportive of some permanent residential accommodation, subject to compliance with relevant legislative requirements.

Date	Event
5 December 2007	Workshop 1 Dunn + Hillam Architects attended a meeting with representatives of Stockland. The purpose of the meeting was to introduce the proposal to Stockland's representatives, with particular regard to issues of land use, building heights, the Clyde Street colonnade and the proposed shared accessway along the western part of the site. Stockland's representatives were generally supportive of the proposal, however, raised concern if any shared accessway extended over their property, as Stockland intends to develop a two (2) storey development extending between North and Clyde Streets.
25 February 2008	Workshop 1 Dunn + Hillam Architects and the Applicant attended a meeting with Council staff, to discuss the final proposal with them, prior to submitting it to the Department of Planning. Council made the following general comments: - additional detail in relation to servicing (i.e. garbage etc) will be required to be provided; - the use of timber in the colonnade should be maximised; - the proposed development will inform the proposed new LEP and DCP as well as traffic planning within the Batemans Bay Town Centre; - the provision of permanent residential accommodation overlooking Clyde Street is positive and will enliven the Town Centre; - the proposed building envelope is generally consistent with what Council envisages for its new Town Centre controls; and - input from a fire engineer may be required in respect of egress using the Clyde Street colonnade.
7 May 2008	Draft EA Report submitted to the Department of Planning to undertake a test of adequacy.

Date	Event
5 June 2008	Feedback received from the Department of Planning, requesting minor adjustments and additional information/clarification in the Project Application documentation. Subsequent phone discussions were and email correspondence conducted between Workshop 1 Dunn + Hillam Architects and the Department of Planning on this same day.
21 July 2008	Amended draft EA submitted to the Department of Planning for review.
25 July 2008	Confirmation received from the Department of Planning, that the draft EA was suitable for finalisation and issue.

4.0 Description of the Proposed Development

4.1 Summary of proposed development

The development the subject of this report incorporates demolition of the existing motel complex and construction of a new part four (4) and part five (5) level building, containing the following:

- | a hotel/serviced apartment complex in the western part of the site, comprising a reception area, conference room and forty-six (46) apartments / rooms (27 x studio and 19 x 1 bed);
- | permanent residential accommodation in the eastern part of the site, containing ten (10) apartments (2 x 1 bed, 6 x 2 bed and 2 x 3 bed);
- | a ground level restaurant fronting onto Clyde Street;
- | a ground level retail tenancy fronting onto North Street;
- | various back-of-house, plant, garbage storage facilities and the like at ground floor level;
- | off-street parking for fifty-six (56) vehicles, including twenty (20) car-stackers; and
- | stratum / strata subdivision of the proposed development.

The following section is based on the architectural plans prepared by Workshop 1 Dunn + Hillam Architects (see **Appendix D**). An overview of the numeric aspects of the proposal and its compliance with applicable planning controls is provided in **Appendix Z**.

4.2 Detailed description by level

The following section provides a detailed description of the proposed development by level.

4.2.1 Ground floor

The Ground Floor level comprises the following:

- | a restaurant with frontage to Clyde Street, adjoined by a colonnade to provide opportunities for outdoor tables/chairs as well as protection from the weather. Amenities and back-of-house facilities are located behind the proposed restaurant;
- | two (2) lobbies with frontage to Clyde Street, providing access to the permanent residential apartments above;
- | car parking for fifty-six (56) vehicles, including twenty (20) car stackers. A valet parking system for vehicles associated with the serviced apartments, is proposed to be adopted to move vehicles into and out of the parking level;
- | a substation, mechanical plant room, garbage room, fire stairs, storeroom, lift providing access to the serviced apartments/hotel rooms above and a main switch and fire equipment room;
- | a retail tenancy with frontage to North Street;
- | reception for the serviced apartments/hotel rooms with frontage to North Street;
- | a ramp and colonnade fronting onto North Street; and
- | vehicular access to the proposed car parking area is provided from North Street, encompassing the existing Council easement adjoining the site's western boundary (in accordance with discussions with Council staff).

4.2.2 First floor level

The First Floor level comprises the following:

- | a conference room with associated terrace area;
- | nine (9) serviced apartments / hotel rooms (5 x studio and 4 x 1 bed);
- | a common landscaped courtyard, comprising both planting and a reflection pool; and
- | four (4) permanent residential apartments (1 x 1 bed and 3 x 2 bed) with frontage to Clyde Street.

4.2.3 Second floor level

The Second Floor level comprises the following:

- | thirteen (13) serviced apartments / hotel rooms (8 x studio and 5 x 1 bed), one (1) of which is an adaptable apartment, design to comply with AS1428; and
- | four (4) permanent residential apartments (1 x 1 bed and 3 x 2 bed) with frontage to Clyde Street.

4.2.4 Third floor level

The Third Floor level comprises the following:

- | twelve (12) serviced apartments / hotel rooms (7 x studio and 5 x 1 bed), one (1) of which is an adaptable apartment, design to comply with AS1428; and
- | two (2) x three (3) bedroom permanent residential apartments with frontage to Clyde Street.

4.2.5 Fourth floor level

The Fourth Floor level comprises twelve (12) serviced apartments / hotel rooms (7 x studio and 5 x 1 bed), one (1) of which is an adaptable apartment, design to comply with AS1428.

4.3 Residential amenity

The building has been designed to achieve excellent internal amenity for both the serviced apartments / hotel rooms and the permanent residential apartments, through the inclusion of the following design features:

- | generously proportioned areas of private open space accessible directly from living rooms;
- | clerestory windows at the uppermost level of the permanent accommodation building;
- | sun hoods, balcony overhangs and the like to provide solar protection to windows and other openings;
- | common open space at First Floor level;
- | cross flow ventilation; and
- | excellent levels of natural solar access due to the orientation of the proposed apartments.

The permanent residential apartments have been designed in accordance with SEPP 65 and the Residential Flat Design Code (see **Section 5.7** below).

4.4 Servicing

A bin store room is provided at Ground Floor level. Storerooms are also proposed throughout the Ground Floor level. Waste collection will be undertaken by a waste contractor, appointed by the operator of the complex. It is envisaged that the operators of the proposed serviced apartment complex will move garbage/recycling bins from within the site to the North Street kerb for collection, before returning the bins to their permanent storage points within the site.

A new electricity substation is proposed at the rear of the site, adjacent to the proposed new shared accessway. County Energy has confirmed that the proposal to provide a new substation in the order of 800 amps is sufficient to service the proposed development. GHD have prepared a report which provides further particulars of the servicing arrangements (see **Appendix Q**).

Various plant rooms, electrical switch rooms and the like are provided at Ground Floor level.

4.5 Landscaping and common open space

A Landscape Concept Plan has been prepared by Ayling + Drury Landscape Architects (see **Appendix O**). The plan proposes the following:

- | two (2) new street trees on the Clyde Street frontage of the site, in accordance with Council's requirements for street planting;
- | several large trees within the central courtyard, over a slab accommodating soil depths of up to 1m;
- | various small trees, shrubs and groundcover plants around the perimeter of the courtyard, to provide privacy and amenity; and
- | street furniture and paving in accordance with Council's requirements.

4.6 Stormwater, drainage and groundwater

4.6.1 Stormwater and drainage

Stormwater Drainage Concept and Erosion and Sediment Control Plans have been prepared by Whipps-Wood Consulting (see **Appendix K**). The design of the proposal is also in accordance with the recommendations provided in the Coastal Processes and Flooding Review report prepared by Peter Spurway and Associates Pty Ltd (see **Appendix N**), so as to mitigate against potential flooding and inundation of the ground level tenancies and parking area.

In essence, an Integrated Water Cycle Management system is proposed. To this end, the following will be adopted:

- | roofwater will be collected from gutter channels and downpipes, and directed to first-flush devices at ground level, where fine pollutants can be stored and removed from the drainage system;
- | the relatively clean water from the roof will then be collected in a 100m³ rainwater storage tank and employed primarily for non-potable uses, such as toilet flushing and landscape irrigation;
- | a submersible pump system is proposed to be installed to convey non-potable water to the points of use, with a back-up supply provided by a direct water main connection via an automatic rainwater diversion valve if electrical power is lost during a storm or if no rainwater remains in the tank;
- | an oversized rainwater tank is proposed to permit greater capacity and flood attenuation when the tank is partly empty;
- | mesh basket pit inserts are to be installed for the collection of litter from surface runoff prior to discharge into the Council street drainage network; and
- | leaf guards and first flush devices will be installed to improve rainwater quality.

Peter Spurway & Associates Pty Ltd have also prepared a Water Resource Management – Estuary and Groundwater Issues Report, which is also submitted with this Application (see **Appendix M**). The report notes that the watertable at the site is located at approximately AHD 0.5m, which is approximately 1.3m below ground level.

The report makes the following comments in relation to water quality and the like:

- | the potential for impacts on the wetland located 120m west of the site (McLeod's Creek), is limited by a combination of the distance to the wetland, the intervening Vesper Street and the natural fall of the landscape and the stormwater system, to the east;
- | the development applies “best practice” to reflect the importance of avoiding contamination of the watertable. Impacts on the water table during construction have been limited through the selection of the “G-Pile” piling system, comprising pre-cast concrete piles installed by hydraulic injection, eliminating the requirement for excavation. This technique avoids dewatering for footing construction, generates negligible vibration and does not pose a risk of groundwater contamination;
- | unforeseen dewatering (if any were required due to a seasonally shallower water table) would occur early in the site works to allow for onsite discharge of pumped groundwater, back into the water table. This would require a shallow return pond to accept dewatering line discharge. There would be no discharge of pumped groundwater by dewatering, to Batemans Bay, either directly or indirectly via the stormwater system; and
- | the proposed car parking area has been designed to be covered, and thereby unaffected by rainfall events, with any wash-down runoff passing through gross-pollutant traps with hydrocarbon filters. Runoff via the stormwater system to Batemans Bay is either surplus roof water or water that has been treated by gross pollutant pits.

The report concludes that the proposal will not give rise to any adverse impacts on the water table or estuary either during construction or in the long-term. It also concludes that seagrasses located within the Batemans Bay estuary and the wetlands within McLeod's Creek will not be affected by the proposal.

4.6.2 Sediment and erosion control

As outlined in the Sediment and Erosion Control Plan prepared by Whippswood, potential stormwater and erosion impacts during construction will be managed through the installation of the following:

- | sediment fencing around the boundaries of the site;
- | a stabilised vehicle accessway;
- | controlled stockpile locations; and
- | placement of sandbags sediment traps in the gutters adjoining the site, to prevent sediment from entering the stormwater drainage system.

4.6.3 Construction traffic management

John Condon & Associates have prepared a Construction Traffic Management Plan (see **Appendix S**).

4.6.3.1 Pedestrian protection and control

Pedestrians are proposed to be protected and controlled for the duration of works at the site, in the following manner:

- | pedestrian access is to be maintained essentially uninterrupted, along both the Clyde and North Street frontages of the site throughout works at the site. On occasions where works are to be carried out on the footpath and roadside, pedestrians will be diverted to the opposite side of the street;

- | permanent hoardings will be provided along the footpaths adjoining both the North and Clyde Street frontages of the site. These will be installed prior to the commencement of formwork for the First floor slab; and
- | a Traffic Control Plan has been prepared to demonstrate the proposed methodology to be employed to protect and control pedestrians while works are underway.

4.6.3.2 Construction traffic

Construction traffic impacts are proposed to be managed for the duration of works at the site, in the following manner:

- | entry to the site will be from North Street to minimise disruptions to Clyde Street;
- | construction vehicles will be generally restricted to non-peak periods to minimise impacts on the local road network;
- | a certified traffic controller will be employed to manage the flow of construction traffic to and from the site;
- | all delivery vehicles will be required to notify the site prior to arrival to minimise waiting times. Smooth access to and from the site will be facilitated with traffic controllers on the street and a pedestrian spotter on the footpath;
- | all trucks will be directed to approach the site from the eastern end of North Street, allowing a right-hand turn into the site gate;
- | all trucks exiting the site will be directed to head west along North Street, and exit onto Vesper Street / Princes Highway, so as to minimise disturbances within the heart of the Town Centre; and
- | a Traffic Control Plan has been prepared to demonstrate the proposed methodology to be employed to manage construction vehicles for the duration of works at the site.

4.6.3.3 Construction works on the roadside and footpath

A Traffic Control Plan has been prepared to manage construction works required to be undertaken on the roadside and footpath (eg erection and dismantling of hoardings, relocation of services and construction of new entry ways, kerbs and footpaths). The Plan (see **Appendix S**) proposes the following management measures:

- | for works on the footpath where vehicular traffic is not affected, pedestrian traffic will be diverted to the opposite side of the street;
- | for works affecting both the footpath and roadside, pedestrian traffic will be diverted to the opposite side of the street and traffic control measures (by a qualified traffic controller) will be implemented for the duration of the works.

4.6.4 Construction management

A Construction Management Plan has been prepared by BDA Consultants (see **Appendix I**). The following sections provide an overview of the management measures proposed to be adopted to manage construction impacts associated with the redevelopment of the site.

4.6.4.1 Site logistics

The main aspects of site logistics are as follows:

- | security fencing and erosion control measures will be provided prior to demolition works commencing;
- | site sheds, amenities and materials storage compounds will be installed initially in double-height parking areas beneath the proposed central courtyard so as not to interfere with construction of the upper levels of the proposed building. These will later be transferred to the upper levels of the site;
- | Class B hoardings will be provided on both street frontages; and

- | construction access will be as per the Traffic Control Plans prepared by John Condon & Associates (see **Section 4.6.3** and **Appendix S**).

4.6.4.2 Site safety

Site safety will be managed through implementation of the following measures:

- | a certified traffic controller will be used to manage the flow of construction traffic and its interface with general traffic and pedestrian movements;
- | delivery vehicles will be required to notify the site on approach to minimise waiting times; and
- | construction traffic will be generally restricted to non-peak times, to reduce the potential for conflict with general traffic and pedestrian movements.

4.6.4.3 Construction programme

The construction programme is envisaged to comprise the following:

- | a single contract for construction of the whole project will be let on the basis of competitive tendering. Construction will fall into the following general stages (with some overlap)
 - | demolition, site preparation and deep-bored piers;
 - | columns and podium slab, foundations, ground slabs and retail walls;
 - | lightweight structure (walls and floors) to upper levels and stairs
 - | windows, internal partitions and doors, services rough-ins;
 - | floor, wall and ceiling finishes, door hardware, electrical switchboard and plant;
 - | joinery, fittings and fixtures, sanitary fixtures, whitegoods and light fittings; and
 - | site-works, final painting, carpets, commissioning and clean-up.

Prior to and following approval of the proposal, neighbours will be briefed on the project and kept regularly informed on progress and proposed future programmes. A regular bulletin describing the activities proposed for the following two (2) weeks will be issued to a nominated representative for each neighbour and will also be available on the project website.

Construction is anticipated to have a duration of between 18 months to two (2) years, including an allowance for inclement weather. Measures to control noise, dust, truck movements and other construction-related activities will be implemented throughout the duration of the works, in accordance with **Sections 4.6.1 to 4.6.4** above.

4.7 Building Code of Australia

BCA Logic has prepared a BCA report which accompanies this application (see **Appendix X**). The BCA assessment report identifies several areas of non-compliance with the deemed to satisfy provisions of the Building Code of Australia 2007. These essentially relate to the proposed timber frame construction and the main stair in the serviced apartment building on the western side of the site.

Workshop 1 Dunn + Hiram Architects have had preliminary discussions with a Fire Engineer from Warrington Fire, and have confirmed that they are satisfied that these areas of non-compliance can be suitably addressed with a Fire Engineered Solution prior to the application for a construction certificate, without affecting the exterior building envelope.

4.8 Urban form and building design

The siting, massing and design of the proposed development are consistent with the stated desired future character for the Batemans Bay Town Centre, as is evident by Eurobodalla Shire Council's support for the general design and massing of the proposed development.

The building envelope has been derived by the Department of Planning in consultation with Workshop 1 Dunn + Hiram Architects and Eurobodalla

Shire Council. The heights and general building placement will result in a significant positive contribution to the streetscape in the locality, setting the design parameters for future development of other sites within the Town Centre.

The setbacks, heights and general placement of the building on the site have had regard to the future development potential of adjoining sites. To this end, the proposed side setbacks and building separation will ensure that good levels of residential amenity (i.e. solar access, privacy and the like) are maintained, if the adjoining sites are developed. Separation distances and the like will accord with those specified in the SEPP 65 Residential Flat Design Code.

Furthermore, the design of the proposal ensures that all serviced apartments/hotel rooms and permanent residential apartments achieve natural cross-flow ventilation and excellent solar access, so as to ensure high levels of internal amenity and efficiency.

The proposed development will activate both the North and Clyde Street frontages of the site, with the incorporation of colonnades and retail/restaurant tenancies. The colonnade will improve pedestrian linkages with the site, despite the fact that the ground floor level has had to be raised above the level of the footpath, in order to mitigate against potential flooding impacts.

The proposal provides a new shared accessway adjoining the site's western boundary, as agreed to in principle by the Department of Planning and Eurobodalla Shire Council. The intention of this means of access is that it will provide access to the rear of the properties to the north of the site, in the event that they are developed in the future. This will minimise the need for the adjoining sites to provide multiple driveways to Clyde Street, which would interrupt the urban design of the streetscape and minimise the opportunity for retail tenancies with frontage to the street.

Colonnades and associated ramps on both street frontages have been provided, in accordance with discussions with the Department of Planning

and Eurobodalla Shire Council. The ramps provide disabled access from street level to the raised ground floor level tenancies (raised to overcome potential flooding issues). Furthermore, the provision of colonnades ensures that covered pedestrian areas are accommodated within the site, and also provides opportunities for future outdoor tables/chairs, further activating the street frontages. In addition, Council's intention is that all sites fronting onto Clyde Street will be required to provide similar colonnades, so that access between sites is continuous and the more narrow sites do not have to provide ramped access, which would restrict the functionality of their frontages.

The proposed development is appropriate for the site given the context, and is considered to be in keeping with the stated desired future character for the area. The proposal incorporates a central landscaped courtyard for use by occupants of the building.

4.8.1 External colours, materials and finishes

Workshop 1 Dunn + Hillam Architects have prepared a Schedule of External Colours, Materials and Finishes, which is submitted with this Application. In essence, the proposed development will incorporate the following:

- | two (2) types of terracotta tiles in earthy tones;
- | timber balustrade railings with glazed panels;
- | timber sun-shades;
- | clear finished timber cladding to balcony spaces and upper level apartments fronting onto Clyde Street;
- | copper (or equivalent colour material) roofing with matching gutters;
- | aluminium door and window frames;
- | clear finished timber posts to upper level balconies; and
- | off-form concrete columns at ground level.

4.9 Subdivision

It is proposed to stratum subdivide the proposed development into three (3) allotments, comprising one (1) allotment for the serviced apartments, one (1) allotment for the permanent residential apartments and one (1) allotment for the restaurant/retail tenancies.. It is also proposed to strata subdivide the permanent residential stratum allotment into ten (10) separate strata allotments.

Details of the proposed stratum /strata subdivision arrangements are provided in the correspondence from Bannermans (see **Appendix R**).

4.10 Consideration of development options

As discussed previously in **Section 3.0**, a number of options have been investigated in respect of the redevelopment of the site. At the time of submission of the original EA Report on 18 December 2006, the proposal incorporated demolition of the existing motel, restaurant and associated improvements on the site, and construction of a new serviced apartment complex on the premises.

The proposed building comprised two (2) retail tenancies, seventy-eight (78) serviced apartments (34 x studio, 39 x 1 bed and 5 x 2 bed) as well as basement parking for ninety-nine (99) vehicles. Conference, gymnasium, office and back-of-house facilities were also proposed in conjunction with the serviced apartments.

The proposed development comprised a “courtyard” design, whereby an internal courtyard was proposed, bounded by a building varying between three (3) and five (5) levels above ground. A semi-basement parking level was also proposed. The Department raised concern in relation to the design of the proposal, with particular regard to the following:

- | the architectural design of the proposed new building and its visual impact, particularly from Batemans Bay;
- | the height of the proposal to both Clyde and North Streets;

- | the proposed side, front and rear boundary setbacks;
- | the interface of the proposed ground floor retail level with the adjoining street level, given the requirement to “lift” the building to ameliorate potential flooding impacts; and
- | the appropriate amount of car parking to be provided on the site, given the constraints affecting the site. The Department considered that a reduced car parking rate may be acceptable in the context of the site, given the difficulties associated with “raising” the building to deal with groundwater and flooding issues, and the impacts arising from this, particularly associated with the interface of the ground floor levels and the adjacent public domain.

As a result of these concerns, a number of meetings were conducted between the project team and the Department of Planning, Eurobodalla Shire Council staff, and staff from the South Coast regional office of the Department of Planning. The meetings were largely focussed on the appropriateness of the building envelope controls proposed by the Draft Batemans Bay Town Centre Structure Plan.

As a consequence of these meetings, and additional meetings with the Applicant and representatives of the project team, the Department of Planning’s Urban Design team worked through a series of options, for possible building envelope and spatial arrangements for the site, in the context of the block bounded by North and Clyde Streets and the Princes Highway.

Additional workshops were conducted between the Department of Planning and the consultant team, at which the specifics of the revised building envelope controls were “tested” and discussed in more detail. Consequently, agreement was reached between Eurobodalla Shire Council, the Department of Planning and Applicant, in respect of the controls to be applied at the site, which are as outlined in **Appendix Z**.

Figures 25 and 26 below demonstrate two (2) of the options which were considered during this design phase, in consultation with Council and the Department of Planning.

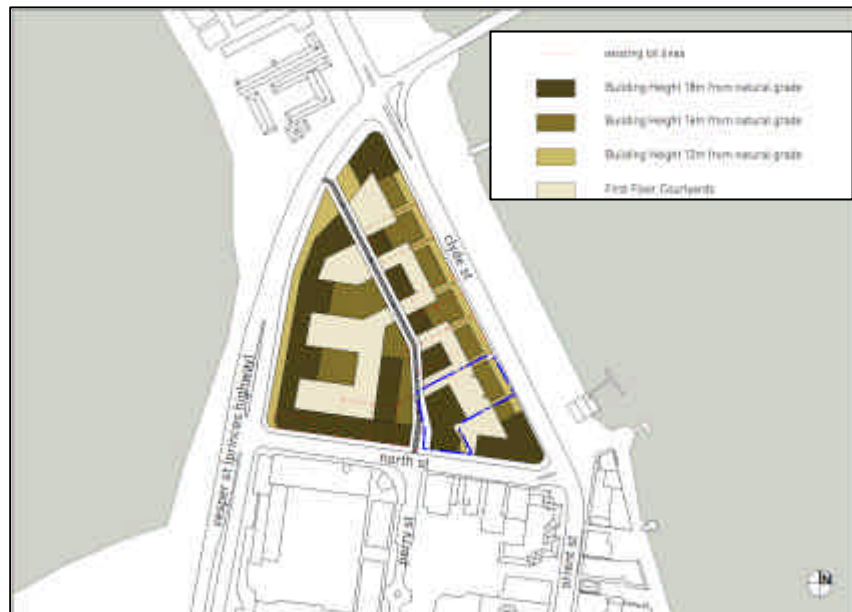


Figure 25: Building massing Option 1 considered during the design of the proposal

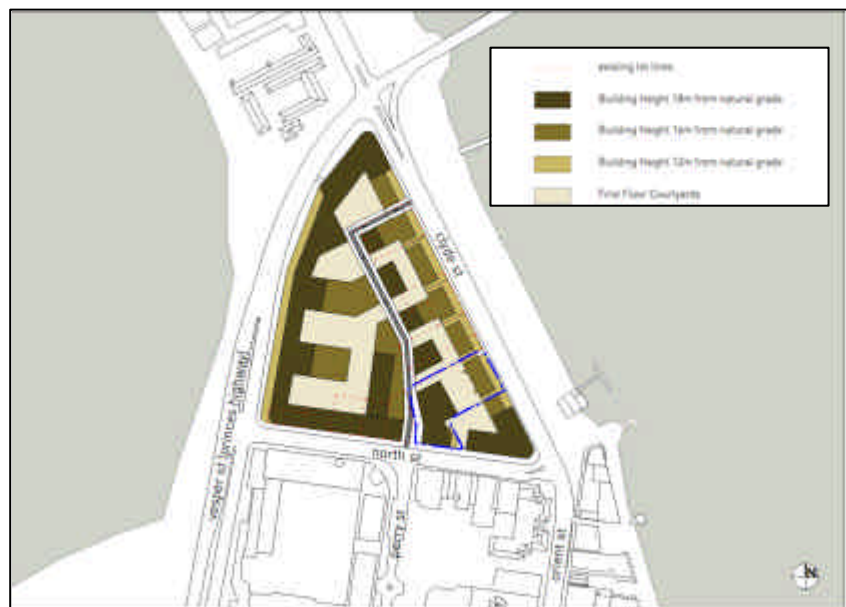


Figure 26: Building massing Option 2 considered during the design of the proposal

The outcome of the testing of these two (2) options resulted in agreement between Council and the Department of Planning, that Option 2 was the preferred option. The design of the proposal has been adjusted to address the revised building controls outlined above in **Figure 26**, as agreed to in principle with the Department of Planning and Eurobodalla Shire Council staff (see **Appendix V**).

4.11 Justification for the project

4.11.1 Tourism and local economic issues

The economy of the Batemans Bay Shire is significantly reliant upon the tourism sector, with tourism accounting for 13% of employment in the area (D Gibbs: Community Employment Strategy 2003). It is understood that in 2003 tourism accounted for a \$250 million injection into the Shire's economy.

The Draft Structure Plan makes the following observations in respect of the tourism market in the Town Centre:

- | the Department of Planning estimates that the permanent population of the greater area could expand to 24,450 by 2021. The increase in population during peak periods gives reason for concern regarding the long-term effect on annual business viability;
- | businesses catering for the tourist market will benefit if the design includes tourism services;
- | the market provision of services within the town centre in the past has been heavily represented by low to medium cost tourist accommodation. Future markets will demand a greater range of accommodation and quality service;
- | the installation of the Murra Murra Walkway, the Watergardens and the pending Foreshore Park will be prime attractions for the community and visitors. As adjacent sites redevelop these assets will need to be enhanced by the built form and retail businesses that interact with these spaces;

- | identified a lack of high quality (4 to 4.5 star) visitor accommodation has been identified in the greater Batemans Bay area and limited visitor accommodation in the town centre;
- | a greater supply of high quality visitor accommodation in the town centre would compliment the cultural and natural facilities, and support the retail and entertainment uses in the town; and
- | there is a very limited number of quality conference facilities within the town centre.

The proposed development seeks to address the identified shortage of high quality tourist accommodation in the Town Centre. It also seeks to provide employment opportunities, and is expected to provide approximately twenty (20) operational jobs.

The proposed development also seeks to provide a high quality built form, which will make a significant contribution to the aesthetic appearance of the Batemans Bay Town Centre, and provide a benchmark for future developments in the locality.

4.11.2 Environmental impacts

The proposal will not give rise to any unreasonable adverse environmental impacts, by virtue of the design of the proposal and the proposed construction methodology to be adopted at the site. Furthermore, the Statement of Commitments at **Section 7.0** and **Appendix T** provides further safeguards, so as to ensure the management of potential environmental impacts associated with the proposal.

4.11.2.1 Suitability of the site

The site is suitable for the proposed development, for the following reasons:

- | there is an acknowledged shortage of high quality tourist accommodation within the Batemans Bay Town Centre, which this proposal seeks to redress (see **Section 6.11.1** above);
- | the site is located within the Batemans Bay Town Centre, and the provision of a mix of tourist, permanent residential and retail accommodation is appropriate in this context. The varied uses will assist in enlivening the site and will improve safety and security in the Town Centre by introducing residential population into the area, which will afford casual surveillance in the locality;
- | the design of the proposal has been undertaken having regard to the site constraints, generally as follows:
 - | minimal excavation is proposed, so as to minimise impacts associated with groundwater and acid sulfate soils;
 - | the proposal has been designed to minimise potential visual impacts, particularly when viewed from Batemans Bay, by keeping the building as low as possible and breaking the building into two (2) separate built forms;
 - | the ground floor building design has been derived so as to minimise potential flooding impacts; and
 - | onsite car parking has been minimised as far as is practical, so as to minimise the impact of the proposal on the local road network. Limiting the provision of onsite car parking also minimises the need for excavation and disturbance of soils at the site.

4.11.2.2 The public interest

The proposal is consistent with the public interest by virtue of the provision of a high quality architecturally designed building, within the Batemans Bay Town Centre. The proposed new building will set the benchmark for future development in the locality.

Furthermore, the proposed development is expected to provide additional employment opportunities for the local workforce, both associated with the construction and ongoing operation of the proposed new complex.

The proposal will also boost the local economy by attracting additional tourists to the Batemans Bay Town Centre.

5.0 Statutory framework

The following planning instruments and policies are relevant to the proposed development:

- | Part 3A of the Environmental Planning and Assessment Act 1979 (as amended);
- | State Environmental Planning Policy (Major Projects) 2005;
- | Environment Protection Biodiversity Act 1999 (EPBC Act);
- | Coastal Protection Act 1979;
- | State Environmental Planning Policy No. 71: Coastal Protection (SEPP 71);
- | State Environmental Planning Policy No. 65: Design Quality of Residential Flat Accommodation (SEPP 65);
- | State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- | State Environmental Planning Policy No. 11: Traffic Generating Development (SEPP 11);
- | State Environmental Planning Policy No. 55: Remediation of Land (SEPP 55);
- | Draft State Environmental Planning Policy No. 66: Integration of Land Use and Transport (Draft SEPP 66);
- | Lower South Coast Regional Environmental Plan No. 2 (REP No. 2);
- | Eurobodalla Urban Local Environmental Plan 1999 (LEP 1999);
- | Development Control Plan: Batemans Bay Town Centre Development Guidelines (Town Centre DCP);
- | Eurobodalla Development Control Plan: Parking Code;
- | Draft Batemans Bay Town Centre Structure Plan (draft Structure Plan);

- | Batemans Bay S94 Contributions Plan;
- | Coastal Design Guidelines for NSW (2003);
- | NSW Coastal Policy 1997;
- | Draft Nature Coast Design Guide;
- | South Coast Regional Strategy; and
- | Residential Flat Design Code.

The following sections provide an assessment of the proposal having regard to the relevant provisions of the abovementioned policies and guidelines.

5.1 Part 3A of the Environmental Planning and Assessment Act 1979

Part 3A of the EP&A Act commenced on 1 August 2005 and establishes the assessment and approval process for all Major Projects. The Minister is the consent authority for determination of Major Projects pursuant to Clause 79D of the Act.

Pursuant to the provisions of Division 1 Section 75B(1) of the EP&A Act, development may be declared to be a Major Project by virtue of a State Environmental Planning Policy or by an order of the Minister.

To this end, reference is made to State Environmental Planning Policy (Major Projects) 2005. Clause 6 of SEPP 2005 identifies development to which Part 3A of the EP&A Act applies, including the following:

“ (a) that is described in Schedule 1 or 2, or

(b) that is described in Schedule 3 as a project to which Part 3A of the Act applies, or

(c) to the extent that it is not otherwise described in Schedules 1–3, that is described in Schedule 5”

Clauses 1(f) and 1(g) in Schedule 2 of the SEPP relate to development in coastal areas which is considered a Part 3A Project, and state the following:

“(f) recreational or tourist facilities (other than internal refits of, or minor alterations or minor additions to, existing facilities or a change of use of a building by which the building becomes a recreational or tourist facility):

(i) in the case of facilities wholly or partly in a sensitive coastal location outside the metropolitan coastal zone—that provide accommodation (or additional accommodation) for any number of persons, or

(ii) in the case of facilities wholly or partly in a sensitive coastal location in the metropolitan coastal zone—that provide accommodation (or additional accommodation) for 100 persons or more, or

(iii) in the case of facilities outside a sensitive coastal location that are not connected to an approved sewerage treatment work or system—that provide accommodation (or additional accommodation) for 25 persons or more,

(g) buildings or structures (other than minor alterations or minor additions to existing buildings or structures) that are:

(i) greater than 13 metres in height, in the case of buildings or structures wholly or partly within a sensitive coastal location, or

(ii) greater than 13 metres in height, in the case of buildings in other locations outside the metropolitan coastal zone, excluding any building that complies with all development standards relating to the height of such a building set by a local environmental plan that applies to the land on which the building is located.”

The proposed development comprises tourist facilities and buildings which are in excess of 13m in height on a site which is located within a sensitive coastal location. As a consequence, the proposal is a Major Project and is therefore subject to the provisions of Part 3A of the EP&A Act.

As discussed previously, Mr Roy Syne seeks the Minister’s approval pursuant to Clause 75J of Part 3A of the EP&A Act.

5.2 State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 outlines the types of development which are declared to be a Major Project having regard to Part 3A of the EP&A Act. As discussed above in **Section 5.1**, the proposed development falls within the scope of SEPP Major Projects and as a consequence, is subject to the provisions of Part 3A of the EP&A Act.

5.3 Eurobodalla Urban Local Environmental Plan 1999 (LEP 1999)

LEP 1999 applies to the site. Relevant provisions of the document are considered in the following sections.

5.3.1 Clause 7: General objectives

Clause 7 of LEP 1999 contains the following general objectives:

- “(a) to encourage orderly and proper development within the area of Eurobodalla, and*
- (b) to identify zones in which particular classes of development are most likely to be appropriate, having regard to the environmental characteristics of the locality, servicing and access requirements and constraints, and the characteristics of the development, and*
- (c) to optimise the use of existing services and infrastructure and promote the efficient provision of any services and infrastructure in the future in accordance with the intensity and type of development proposed for the locality, and*
- (d) to ensure that provision is made for public amenities, public services and community facilities early in the process of development, and*

- (e) to ensure that no development on any land is likely to jeopardise the future orderly and economic development of the land or of the land in its vicinity, and*
- (f) to provide a broad, long-term framework of planning controls based on a strong emphasis on general, particular and zone-specific objectives and strategies in concert with development control plans giving expression to detailed planning provisions, and*
- (g) to enhance individual and community wellbeing and welfare by following a path of economic development that safeguards the welfare of future generations, and*
- (h) to accommodate population growth and facilitate expansion and diversification in the area's economy."*

The proposal is consistent with the abovestated general objectives, in the following manner:

- | the proposal incorporates a mix of uses, comprising retail, tourist accommodation and permanent residential accommodation, consistent with the nature of development envisaged in the Batemans Bay Town Centre. The proposed development is permissible with consent in the zone and the design of the proposed development is consistent with the building envelope controls determined by the Department of Planning in consultation with Eurobodalla Shire Council (objective a);
- | the proposed development is permissible with consent in the zone. The proposed development responds to the constraints of the site (see **Sections 2.2 and 4.9**) (objective b);
- | GHD have confirmed that the infrastructure in the locality is capable of accommodating the servicing requirements of the proposed new complex (see **Appendix Q**). Furthermore, the proposal incorporates a new access lane on the western side of the site, which it is anticipated will link into the sites to the north, when they are developed, assisting in minimising the impacts of developments within the locality, on vehicular access to/from Clyde Street (objective c);

- | public amenities are provided in association with the proposal, including the proposed new access lane on the site's western boundary. This new lane will be of benefit to the wider community, by providing vehicular access to the rear of the properties to the north of the site, minimising the requirement for multiple driveways from adjoining sites, to Clyde Street, when they are redeveloped in the future (objectives d);
- | the proposed building envelope has been designed by the Department of Planning in consultation with Eurobodalla Shire Council, as part of an urban design plan for the entire block bounded by Clyde Street, North Street and the Princes Highway. To this end, the design of the proposal will complement the future development of adjoining properties, as Council has indicated that they will amend the draft Batemans Bay Town Centre Structure Plan to accord with the general design parameters (i.e. heights, setbacks and the like) incorporated in the proposal (objectives e and f);
- | a range of consultant reports have been prepared to assess the impact of the proposal on the environment, including Estuary and Groundwater matters, global warming, flood impacts and the like – see **Appendices M and N**). Furthermore, the Statement of Commitments at **Appendix T** provides further safeguards to mitigate potential adverse impacts associated with the proposal (objective g); and
- | the proposed development will provide approximately twenty (20) permanent jobs, associated with the ongoing operation of the complex. Furthermore, the proposal provides for new retail and restaurant tenancies, adding to the stock of this type of accommodation in the locality. The proposed new tourist accommodation will address the current shortage evident in the locality, and result in additional tourism in the region (objective h).

5.3.2 Clause 8: Particular objectives

Clause 8 of LEP 1999 contains a range of objectives relating to particular areas and issues. The following sections discuss only those objectives of relevance to the proposed development.

5.3.2.1 Environment protection

The particular objectives of the LEP with respect to environment protection are stated at Clause 8(a) and are as follows:

- “(i) to protect coastal areas, estuaries, wetlands, rainforests and other environmentally sensitive areas from the effects of inappropriate use or other inappropriate development, and*
- (ii) to promote the retention of trees and tree cover and to conserve as far as practicable the existing pattern of vegetation to maintain landscape quality and remaining natural ecosystems, and*
- (iii) to conserve soil, flora and fauna and significant natural features, and*
- (iv) to conserve and manage significant natural resources in such a way that their essential values are maintained and enhanced, and*
- (v) to provide for the existing and potential functions of water courses and floodways for domestic water supply, drainage, aquaculture, recreation and ecological purposes, and*
- (vi) to control development in the catchment of the Deua River to protect water quality for domestic and ecological purposes, and*
- (vii) to maintain the overall scenic beauty of the rural landscape of the area of Eurobodalla and protect significant views from public roads, reserves and waterways, and*
- (viii) to maintain air quality and avoid noise pollution, having regard to the nature and extent of their effects and the sensitivity of affected people or things, and*
- (ix) to provide for the existing and potential functions of riparian and foreshore areas to ensure stability and to protect water quality and ecological, visual and recreational values, and*
- (x) to ensure that development or activities in one zone do not adversely affect environmentally sensitive land in adjacent zones.”*

The proposal is consistent with the abovestated objectives, as follows:

- | the proposal will not give rise to any unreasonable adverse environmental impacts in respect of coastal areas, estuaries and the like (see **Sections 6.5 and 6.6** and **Appendices M and N**) (objective i);
- | the site does not contain any significant vegetation or fauna. The proposed new development incorporates significant planting within a common central courtyard, which will provide a pleasant landscaped setting within the site and provide potential habitat for birds and other fauna (objectives ii and iii);
- | the reports prepared by Peter Spurway & Associates with respect to estuary and groundwater issues and flood management demonstrate that the proposal will not give rise to adverse impacts in relation to natural resources, waterways, flora and fauna and the like (objectives iv, v and vi);
- | the proposed development will complement the coastal location of the site and make a positive contribution to the visual quality of the Batemans Bay Town Centre (see photomontage at **Appendix D**) (objective vii);
- | the proposal will not give rise to any adverse impacts on air quality or noise pollution (see Statement of Commitments at **Appendix T**) (objective viii); and
- | the site is located some distance from the foreshore and riparian zone and will not have an adverse impact in this regard (objectives ix and x).

5.3.2.2 Ecologically sustainable development

The particular objectives of the LEP with respect to ecologically sustainable development are stated at Clause 8(b) and are as follows:

- “(i) to integrate economic, environmental and social goals into policies, practices and decision-making, and*
- (ii) to take a precautionary approach to decision-making to ensure that resources are utilised in a sustainable manner, and*
- (iii) to protect biological diversity, and*

(iv) to ensure that natural and environmental assets are properly valued, and

(v) to provide for equity within and between generations.”

The proposal is consistent with the abovestated objectives, by virtue of the following:

- | the proposal involves timber-framed construction, which relies upon a renewable resource and reduces the need for bulk excavation and piling, due to the building’s reduced overall weight;
- | the proposed construction methodology employs “best practice” to reflect the importance of mitigating against potential environmental impacts. Impacts on the water table will be managed through the use of the “G-piling system, whereby pre-cast concrete piles are installed by hydraulic injection, eliminating the need for excavation at the site;
- | the proposal incorporates rainwater reuse to minimise water usage associated with landscape irrigation and the like;
- | the proposal incorporates design measures to ensure natural ventilation to all residential apartments through a system of horizontal and vertical duct systems, which will be configured to capture the main prevailing winds, so as to assist in the cross flow ventilation effect; and
- | the proposal will introduce both tourist and permanent residential accommodation into the Batemans Bay Town Centre, which will ensure a range of accommodation types, which appeal to a wide range of demographics.

5.3.2.3 Land management

The particular objectives of the LEP with respect to land management are stated at Clause 8(c) and are as follows:

- “(i) to minimise risks to life and property from bushfires, and geological or other hazards, and*
- (ii) to reduce the impact of flooding/ocean inundation on land owners and occupiers and to reduce public and private losses due to flooding/ocean inundation in accordance with the NSW Government's Flood Prone Land Policy, and*
- (iii) to ensure that coastal development is compatible with the degree of coastline hazard in accordance with the NSW Government's Coastline Hazard Policy, and*
- (iv) to encourage community services and facilities for residents of non-urban areas to be located in existing villages and towns.”*

The proposal is consistent with the abovestated objectives, as follows:

- | Douglas Partners have prepared a geotechnical report to accompany this application (see **Appendix G**). The report concludes that groundwater occurs at the site at approximately 1.45m to 1.55m below existing ground level, and that bedrock is not encountered until depths of approximately 53.1m below existing ground level (objective i);
- | if detected, acid sulfate soils will be managed primarily through the construction methodology proposed to be employed at the site, whereby excavation and soil disturbance will be minimised, through the use of the G-piling system, involving hydraulic injection of concrete pre-cast piles, as outlined in the report prepared by Peter Spurway and Associates (see **Appendix M**). (objective i);
- | matters pertaining to flood inundation, global warming, storm events and the like have been considered in reports prepared by Peter Spurway & Associates (see **Appendices M** and **N**). The reports conclude that the proposal incorporates sufficient freeboard at ground floor level as to

minimise potential inundation from tidal and storm events and potential future sea-level rises (objectives ii and iii); and

- | the proposal will result in the provision of additional tourist, retail and residential facilities within the established Batemans Bay Town Centre (objective iv).

5.3.2.4 Transport

The particular objectives of the LEP with respect to transport are stated at Clause 8(e) and are as follows:

- “(i) to encourage the provision of a balanced transport system, including safe and convenient facilities for pedestrians, cyclists, public transport users and road users generally, and*
- (ii) to encourage the development of transport networks and systems in a manner integrated with land use, including a hierarchy of roads to service varying transport functions, and*
- (iii) to ensure that the provision of roads supports and facilitates the desired pattern of development as indicated on the land use map, and*
- (iv) to ensure adequate reservation of land for roads and access in places where new development is carried out, and*
- (v) to minimise conflicts between the transport function of roads and the access needs of adjoining land, and*
- (vi) to protect visual amenity for road users, and*
- (vii) to require adequate off-street parking to meet demand generated by redevelopment or new development.”*

The proposed development is consistent with the abovementioned objectives, as follows:

- | the proposal incorporates onsite car parking for fifty-six (56) vehicles. Parking will be controlled via a valet parking system (for the serviced apartments) to ensure the safe movement of vehicles into and within the site. Bicycle parking can be accommodated within various storage rooms within the site (objective i);
- | the proposal incorporates the provision of a new accessway adjoining the site's western boundary, as agreed to in principle by the Department of Planning and Eurobodalla Shire Council. The accessway is proposed in order to locate the vehicular access point as far away from Clyde Street as possible. Furthermore, the accessway is proposed to link into properties to the north of the site, in the event that they are developed in the future. The intent of the lane is to minimise the number of driveways to Clyde Street, and provide opportunities for onsite car parking and loading/unloading, which will minimise pressure on Clyde Street in particular (objectives i, ii, iii, iv and v);
- | the proposal will have minimal visual impact in respect of road-users, as it will complement the existing streetscape (see photomontage at **Appendix D**) (objective vi); and
- | the proposal provides fifty-six (56) onsite car parking spaces, which allows one (1) space per apartment. The proposed provision of car parking is consistent with the rate of provision agreed to by the Department of Planning and Eurobodalla Shire Council and will ensure that the proposed development does not place an undue strain upon the availability of parking within the Town Centre. Masson Wilson Twiney have prepared a Traffic and Parking report which is submitted with this application (see **Appendix H**). The report concludes that the proposal will have a negligible impact on traffic in the locality, and there will not be any adverse impacts in relation to the availability of on-street car parking (objective vii).

5.3.2.5 Recreation and tourism

The particular objectives of the LEP with respect to recreation and tourism are stated at Clause 8(f) and are as follows:

- “(i) to promote the development of a range of recreational opportunities and facilities to meet the needs of people of various ages and with various interests at the neighbourhood, local and regional levels, and*
- (ii) to provide for multiple use of public buildings and facilities, and*
- (iii) to promote provision of land for neighbourhood recreational use in or adjacent to residential areas and for local recreational use in reasonable proximity to residential areas, and*
- (iv) to encourage tourist accommodation primarily in urban areas, and*
- (v) to protect the quality, accessibility and attractiveness of the area's natural recreational resources and to protect their environmental characteristics and sensitivity.”*

The proposed development is consistent with the abovestated objectives, as follows:

- | the proposal provides new high quality tourist accommodation within the Batemans Bay Town Centre. The proposal will address the current lack of this style of accommodation within the area, and draw additional tourists to the region (objectives i and iii);
- | the proposal incorporates a mix of uses, including tourist accommodation, permanent residential accommodation and retail and restaurant tenancies (objective ii);
- | the proposal provides communal open space within a central courtyard at First Floor level, for the future occupants of the building. The site is located in close proximity to Batemans Bay and the Murra Murra walkway, which provide additional opportunities for recreational pursuits (objective iii); and

- | the proposal complements the area’s existing natural recreational resources and will likely increase their enjoyment as a result of drawing additional visitors to the region (objective iv).

5.3.2.6 Housing

The particular objectives of the LEP with respect to housing are stated at Clause 8(g) and are as follows:

- “(i) to encourage a range of housing opportunities to meet the needs of the community for a choice of dwelling size, type, tenure, cost and location, and*
- (ii) to ensure that new development is consistent with the character of existing residential areas, having regard to the physical characteristics of the land, the nature of the vegetation and landscape, and existing buildings in the locality, and*
- (iii) to provide opportunities for higher residential densities where essential public services are available or can be provided efficiently and economically, and in locations convenient to shops, entertainment and other facilities.”*

The proposed development is consistent with the abovestated objectives, as follows:

- | the proposal provides ten (10) new residential apartments for permanent accommodation. The apartments comprise a mix of 1, 2 and 3 bed apartments in a variety of configurations, adding to the variety and stock of permanent residential accommodation within the Batemans Bay Town Centre (objective i);
- | the proposed permanent residential apartments are integrated into the overall development and complement the streetscape in the locality (see photomontage at **Appendix D**) (objective ii); and
- | the proposal involves a total of forty-six (46) serviced apartments/hotel rooms and ten (10) permanent residential apartments. The expected population and density are considered acceptable in the Town Centre context, which is well serviced in terms of transport, retail facilities and the like (objective iii).

5.3.3 Clause 24: Zoning and permissibility

Pursuant to Clause 24 of LEP 1999, the site is zoned 3(a) General Business. The objectives of the General Business zone are as follows:

- “(a) to provide for and encourage a range of commercial activities that rely on direct and frequent access by members of the public, especially retail, office, entertainment and personal service activities, including those carried out by public authorities, and*
- (b) to recognise and reinforce a hierarchy of commercial centres, ranging from the three major centres of Batemans Bay, Moruya and Narooma, to village and neighbourhood shopping centres, and*
- (c) to provide for and encourage intensive tourist accommodation, such as motels and holiday flats, in commercial centres if, and only if, on-site car parking is provided, and*
- (d) to provide for and encourage dwellings on the upper floors of commercial buildings where on-site car parking is provided and to recognise that residential car parking demand will be lower in such a case than in the case of residential development in localities less convenient to commercial facilities, and*
- (e) to enable small scale industries to operate in commercial centres, especially where they retail to or directly service the public, and*
- (f) to ensure that small commercial centres providing primarily for the daily needs of nearby residential areas retain a scale and character consistent with a residential neighbourhood, and*
- (g) to establish a zone where a broad range of uses is permissible to facilitate more detailed planning in the form of development control plans for specific commercial areas, and*
- (h) to encourage a high standard of design in commercial centres, and*
- (i) to encourage access for disabled people to commercial buildings.”*

The proposed development is consistent with the abovestated zone objectives which are relevant to the proposal, as follows:

- | the proposal provides a retail tenancy and restaurant which will encourage commercial pursuits within the Town Centre (objective a);
- | the proposed use is consistent with the scale and intensity of development envisaged by Council and the Department of Planning within the Batemans Bay Town Centre (objective b);
- | the proposal provides new tourist accommodation and sufficient onsite car parking as to meet the likely future demand of the complex (objective c);
- | the proposal provides permanent residential accommodation on the Clyde Street frontage of the site at First, Second and Third Floor levels (objective d);
- | the proposed new building is professionally designed by Workshop 1 Dunn + Hillam Architects, and is of a high quality, which will complement the streetscape in the vicinity of the site (objective h); and
- | the proposal incorporates access ramps from street level to within the development itself. Disabled access is provided throughout the site by ramps and a passenger lift (objective i).

5.3.4 Clause 25: What development may be carried out in the 3(a) Business zone

The proposed development incorporates a range of uses, including tourist accommodation ¹, a residential flat building ², a restaurant ³ and a shop ⁴, all of which are permissible with consent in the 3(a) zone, pursuant to Clause 25 of LEP 1999.

- 1 “**Tourist accommodation**” is defined in LEP 1999 in the following manner:

“means a building or buildings used for the provision of temporary accommodation to tourists or travellers, but does not include:

- (a) a bed and breakfast establishment, or*
- (b) a caravan park, or*
- (c) a hotel, or*
- (d) a dwelling-house or dwelling let casually for holiday accommodation where there is only one dwelling-house on the land or the dwelling is part of a dual occupancy.”*

- 2 “**Residential flat building**” is defined in LEP 1999 in the following manner:

“means a building or a group of buildings comprising 3 or more dwellings, but does not include integrated housing.”

- 3 “**Restaurant**” is defined in LEP 1999 in the following manner:

“means a building, place or structure used principally for the sale of food and refreshments for consumption on the premises or on the land where it is located.”

- 4 “**Shop**” is defined in LEP 1999 in the following manner:

“means a building or place used for the purpose of selling items (whether goods or materials) by retail or by auction, or for hiring or displaying any such items for the purpose of selling or hiring them, but does not include a building or place elsewhere specifically defined in this plan.”

5.3.5 Clause 26: What controls apply to residential development in the 3(a) Business zone

The objectives for residential development within the 3(a) Business zone are as follows:

- “(a) to encourage greater vitality in business areas, especially outside standard business hours, and*
- (b) to provide for convenient living opportunities, while minimising conflicts between commercial and residential land uses.”*

The proposed permanent residential component of the proposal is consistent with the abovestated objectives, in that it will increase the population of the Town Centre, which will enliven the area and provide greater opportunities for casual surveillance and the like. Furthermore, the design of the proposal has been undertaken to provide separate entrances to the permanent residential apartments, to minimise potential conflicts with other uses within the complex. In addition, the residential apartments are separated from the proposed serviced apartments by approximately 16m which is sufficient as to minimise potential acoustic and visual privacy impacts.

Clause 26(3) states that residential development may only be carried out if each of the following conditions can be met:

- “(a) no residential development is provided on the ground floor of any building, except for access to dwellings and for car parking spaces, and*
- (b) at least one car parking space is provided on the land for each dwelling on that land.”*

The proposed permanent residential apartments are located on First, Second and Third Floor levels, in compliance with Clause 26(3)(a) above.

As outlined in **Appendix Z**, the proposed development incorporates one (1) parking space per apartment, in compliance with (b) above.

5.3.6 **Clauses 55 - 60: Flood prone land and coastal hazards**

Clauses 55, 56 and 57 relate to flood prone land. Clauses 58, 59 and 60 relate to coastal hazards. As discussed throughout this report, the site is identified as being flood prone. Furthermore, it is located in the vicinity of Batemans Bay estuary, and as a consequence, may be subject to coastal processes.

Peter Spurway & Associates have prepared a detailed Coastal Processes and Flooding Review (see **Appendix N**) in accordance with the following:

- | NSW Floodplain Development Manual (2005); and
- | Batemans Bay Coastal Hazard Management Plan.

The report addresses issues including:

- | assessing the risk of flooding and coastal inundation at the site;
- | demonstrating and investigating appropriate floor levels and methods of protecting onsite car parking;
- | impact of flooding on the development, including the potential for wave run-up;
- | impact of the development on flooding to surrounding properties;
- | methods of safe evacuation in the event of a flood event; and
- | impacts of climate change, sea level rises and more frequent and intense storms on flooding.

The report makes the following conclusions in respect of these matters:

- *“the proposal meets Eurobodalla Shire Council’s current flood standards for commercial floor levels;*
- *car park and access design meets Eurobodalla Shire Council’s current flood standards;*
- *the proposal will have no adverse impact on the flooding of surrounding development;*
- *climate change impacts have been assessed in line with current knowledge and the proposed development adequately responds to the possibility of sea level rise;*
- *the building structure makes adequate provision for the fitting of flood gates., In this way, should inundation in future decades attain higher levels than the current design level, inconvenience and flood damages could be proactively managed;*
- *the development will not put at risk human life or safety; and*
- *the development is able to function without the need for an Emergency Response and Evacuation Plan until sea level rise effects are felt.”*

On the basis of the discussion above, it is considered that the proposal satisfies the requirements of Clauses 55-60 of LEP 1999.

There are no other clauses in LEP 1999 of relevance to this application.

5.4 Environment Protection Biodiversity Act 1999 (EPBC Act)

The EPBC Act is administered by the Federal Department of Environment, Water, Heritage and The Arts and aims to protect the environment, with regard to matters of National Environmental Significance.

The Act states that a person must not take an action that has, will have or is likely to have a significant impact on any of the matters of National Environmental Significance, without written approval from the Australian Government Environment Minister. Matters of National Environmental Significance are as follows:

- | World Heritage properties;
- | National Heritage places;
- | wetlands of international importance;
- | threatened species and ecological communities;
- | migratory species;
- | Commonwealth marine areas; and
- | nuclear actions (including uranium mining).

A Protected Matters search has been undertaken using the Department of Environment, Water, Heritage and The Arts' search tool, generating an EPBC Act Protected Matters Report. The report indicates that the proposal does not involve any matters of National Environmental Significance, and as a consequence, the EPBC Act is not applicable to this project.

Furthermore, the Water Resource Management – Estuary and Groundwater Issues report prepared by Peter Spurway & Associates which accompanies this application (see **Appendix M**) concludes that the proposal does not have the potential for:

- | any adverse impacts on Wetland No. 212 (under SEPP No. 14: Coastal Wetlands), which are located some 120m to the west of the site, to the west of Vesper Street;
- | any adverse impact on groundwater quality; or
- | pollution of Batemans Bay estuary or seagrass beds located within the estuary.

The Statement of Commitments at **Appendix T** provides further measures to minimise potential impacts of the proposed development.

5.5 Coastal Protection Act 1979

The Coastal Protection Act 1979 (CPA) aims to protect the NSW coastal environment for the benefit of present and future generations.

Reference is made to Part 3A Division 4 Section 75U of the EP&A Act, which states that Concurrence under Part 3 of the CPA is not required. Nonetheless, the proposal is generally consistent with the objectives of the CPA, as discussed throughout this report, as it:

- | demonstrates consistency with the principles of ecologically sustainable development;
- | will not adversely affect the behaviour or be adversely affected by the behaviour of the sea or an arm of the sea or any bay, inlet, lagoon, lake, body of water, river, stream or watercourse (see **Appendices M and B**); and
- | will not adversely affect any beach or dune or the bed, bank, shoreline, foreshore, margin or flood plain of the sea or an arm of the sea or any bay,

inlet, lagoon, lake, body of water, river, stream or watercourse (see **Appendices M** and **N**).

5.6 State Environmental Planning Policy No. 71: Coastal Protection (SEPP 71)

SEPP 71 applies to land the whole or any part of which is within the coastal zone, and is therefore relevant to this application. SEPP 71 aims to protect and enhance the coastal environment from inappropriate development. Consideration of the relevant sections of the Policy is provided in the following pages.

5.6.1 Clause 8: Matters for consideration

Clause 8 of the Policy sets out the Matters for Consideration when determining an application to carry out development on land to which the Policy applies. Consideration of the relevant matters is provided in **Table 4** below.

Table 4: *Matters for consideration under SEPP 71*

Matters for Consideration	Response
(a) the aims of this Policy set out in clause 2	The proposal is consistent with the aims at Clause 2 in the following manner: - the natural, cultural recreational and economic attributes of the NSW coast will not be adversely affected by the proposal (see Section 6.0); - the proposal is not located directly adjacent to the foreshore, and as such, will not have any impact on the level of public access to this area; - there are no known Aboriginal cultural heritage matters of relevance to the site; - the visual amenity of the coastal area has been considered in the design of the proposed new building. To this end, the proposed building height and setbacks serve to minimise the visual impact of the building when observed from the Batemans Bay estuary. Furthermore, the higher parts of the building are located at the rear of the site, to reduce their level of visibility. Finally, the proposed external colours, materials and finishes are considered appropriate in the coastal setting (see sample board and photomontage at Appendix D); - the site is not located in the vicinity of any beaches, natural coastal vegetation or rock platforms; - the marine environment will not be adversely affected by the proposal, as addressed in the reports prepared by Peter Spurway & Associates (see Appendices M and N). This issue is discussed in more detail in Sections 4.5 and 6.6; - the proposal has been designed in accordance with ESD principles (see Section 6.2.1.6); - the type, bulk, scale and size of the proposed development are consistent with the desired future character of the area, and are

Matters for Consideration	Response
	consistent with the building type and envelope which are supported in principle, by the Department of Planning and Eurobodalla Shire Council (see Section 6.2 and Appendices V and Z); and the proposal has been designed in a collaborative manner, with significant consultation with the Department of Planning and Eurobodalla Shire Council so as to achieve an integrated development approach and so as to ensure that the proposed development is consistent with the strategic vision for the Batemans Bay Town Centre and coastal region generally.
(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 proposal is located some distance from the foreshore, and does not provide any direct access to the area. Nonetheless, as described in Section 6.2.2.9, the proposed development incorporates disabled access from street level into the site. Disabled access is also provided to all retail tenancies and all serviced apartments within the western part of the building. Furthermore, the provision of the colonnade on both street frontages, is intended to provide a covered link to adjoining properties, as suggested by the Department of Planning and Eurobodalla Shire Council (see Appendix V).
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	See discussion for aim (b) above.
(d) the suitability of development given its type, location and design and its relationship with the surrounding area	A discussion of the suitability of the site is provided in Sections 2.3 and 8.0.

Matters for Consideration	Response
(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	A discussion of the management of potential issues associated with the proposal is provided in Section 6.0 . The Statement of Commitments at Appendix T provides further measures aimed at safeguarding the local environment.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities	An assessment of the impacts of the proposal on the scenic quality of the coastal setting is provided below in Section 6.3.1 . The photomontages at Appendix D demonstrate the visual suitability of the proposed development in the context.
(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	There are no threatened species recorded at the site or in the locality, which would be affected by the proposal (see Section 5.4).
(h) measures to conserve 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 potential for impacts on nearby marine ecology is discussed in detail in the report prepared by Peter Spurway & Associates (see Appendix N). In summary, the report concludes that the proposal will not have any adverse impacts on local waterways or species therein. The Statement of Commitments at Appendix T provides further measures aimed at managing potential impacts.
(i) existing wildlife corridors and the impact of development on these corridors	The site is located within the Batemans Bay Town Centre and does not contain or link into, any wildlife corridors.

Matters for Consideration	Response
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	A detailed discussion of the impact of coastal processes and hazards is provided in the report prepared by Peter Spurway (see Appendix N). In summary, the report concludes that the proposal is acceptable with regard to flooding, tidal inundation and impacts from storm events. The Statement of Commitments at Appendix T provides further measures aimed at managing potential impacts.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities	See discussion for aim (j) above.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	As discussed previously, there are no known Aboriginal cultural heritage matters of relevance to the site.
(m) likely impacts of development on the water quality of coastal waterbodies	See discussion for aims (e) and (j) above.
(n) the conservation and preservation of items of heritage, archaeological or historic significance	The site does not contain any Heritage Items. The proposal will not have any adverse heritage-related impacts.
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	Eurobodalla Shire Council is currently reviewing the draft Batemans Bay Town Centre Structure Plan. It is understood that the general controls for development in the locality will follow the same general parameters as adopted in the scheme the subject of this report (i.e. setbacks, heights and the like). A more detailed discussion of this issue is provided in Section 6.2 .

Matters for Consideration	Response
(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.	These matters are discussed in detail in Sections 6.6 and 6.7.

There are no other matters for consideration in SEPP 71 of relevance to this application.

5.7 State Environmental Planning Policy No. 65: Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65: Design Quality of Residential Flat Development (SEPP 65) was gazetted on 26 July 2002.

5.7.1.1 Introduction to SEPP 65

SEPP No. 65 aims to improve the design quality of residential flat development in New South Wales. The Policy recognises that the design quality of residential flat development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

5.7.1.2 Aims of the Policy

Improving the design quality of residential flat development aims to ensure that it contributes to the sustainable development of New South Wales:

- | by providing sustainable housing in social and environmental terms, and
- | by being a long-term asset to its neighbourhood, and
- | by achieving the urban planning policies for its regional and local contexts, and
- | to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and
- | to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and
- | to maximise amenity, safety and security for the benefit of its occupants and the wider community, and
- | to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.

5.7.1.3 Application of SEPP 65

SEPP No. 65 applies to development being:

- | the erection of a new residential flat buildings, and
- | the substantial redevelopment or the substantial refurbishment of an existing residential flat building, and
- | the conversion of an existing building to a residential flat building.

Under the Policy, a ‘residential flat building’ is defined as:

“A building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.”*

The proposal involves the construction of permanent residential accommodation in the eastern part of the site, comprising ten (10) dwellings over three (3) levels. It therefore follows that SEPP 65 applies to the permanent residential component of the proposal.

While SEPP 65 does not apply to the proposed serviced apartments, these units have been designed to generally accord with the Rules of Thumb contained in the Residential Flat Design Code.

Introduction to the principles

“Good design is a creative processes which, when applied to towns and cities, results in the development of great urban places: buildings, streets, squares and parks.

Good design is inextricably linked to its site and locality, responding to the landscape, existing built form, culture and attitudes. It provides sustainable living environments, both in private and public areas.

Good design serves the public interest and includes appropriate innovation to respond to technical, social, aesthetic, economic and environmental challenges.

The design quality principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating the merit of proposed solutions.”

The proposed building is compatible in height and scale with the desired future character of the area, which has been established in consultation with the Department of Planning and Eurobodalla Shire Council.

The proposed development will result in a quality environment for the future residents and for passers-by. The proposed building articulation increases aesthetic appeal and responds to the potential environmental impacts upon adjoining properties and the streetscape.

The development has been professionally designed by Workshop 1 Dunn + Hillam Architects and is consistent with SEPP 65 in terms of its general approach to the site and the proposed arrangement and use of spaces within and around the building. A Design Verification is submitted with this DA (see **Appendix E**).

Principle 1: Context

“Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.”

The context of the site is generally commercial in nature, with buildings varying between one (1) and two (2) levels in height. The proposed development will result in a part four (4) and part five (5) level building, in accordance with the building envelope controls established in consultation with the Department of Planning and Eurobodalla Shire Council.

The proposed development is one of the first within the Batemans Bay Town Centre, and will establish a benchmark upon which future developments can be based, both in terms of building use, envelope, provision of colonnades and external colours, materials and finishes (see **Figure 27** below).



Figure 27: Proposed land use

The proposed development is consistent with Principle 1 of SEPP 65.

Principle 2: Scale

“Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.”

The height, bulk and scale of the proposed building are compatible with the desired future character envisaged for the locality, as discussed throughout this report. The proposed development has been broken into two (2) separate forms, so as to reduce the apparent bulk and scale of the building. The building has a three (3) storey scale to Clyde Street, with the upper level setback, to minimise its visual impact. The North Street building has a defined base, middle and top, which breaks the form into three (3) smaller elements. The upper levels have been designed to appear as recessive elements, thereby minimising their visual impact.

The use of varied external materials and finishes will break-up the exterior of the building into a series of discrete elements, so as to minimise the perception of bulk and scale. This is also achieved through the design, which incorporates a defined base, middle and top to the building. The elevations of the proposed building are highly articulated and modulated, which further assists in

minimising the perception of height and bulk at the site. The photomontages submitted with this application demonstrate the appropriateness of the height of the proposed development (see **Appendix D**).

The proposed development is consistent with Principle 2 of SEPP 65.

Principle 3: Built form

“Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.”

The proposed development has minimal setbacks at the lower levels, so as to create a strong edge to the footpath, as is generally adopted in commercial centres, so as to provide a clear delineation between the private and public domains. The upper level in the Clyde Street building is setback from the street edge, to minimise its visual impact, particularly when viewed from the Batemans Bay estuary and Clyde River bridge.

The proposed development will contribute positively to the built form character of the streetscape and provides an appropriate internal landscaped setting and outlook from the apartments within the building.

The proposed development will achieve high quality residential accommodation and add to the vitality and architectural quality of the Batemans Bay Town Centre. Impacts on views from adjoining and nearby properties will be minimised through the placement of structures on the site (see **Section 6.3** below).

The proposed development is consistent with Principle 3 of SEPP 65.

Principle 4: Density

“Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.”

The proposal will result in ten (10) new permanent residential dwellings at the site (in addition to the serviced apartment complex), comprising 2 x 1 bed, 6 x 2 bed and 2 x 3 bed apartments.

The expected number of permanent residents is appropriate for the site area and its location close to local shopping amenities and public transport. The proposal provides one (1) parking space per dwelling so as to minimise its impact on the availability of on-street parking.

The proposed development is consistent with Principle 4 of SEPP 65.

Principle 5: Resource, energy and water efficiency

“Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.”

The proposal has been driven by strong principles of environmental and sustainable design. The systems used are numerous, integral and across all levels of the design. Some examples of actions taken to respond to and utilise climate, and to maximise the sustainability of the project are as follows:

- | the timber-framed construction system uses a renewable resource and reduces the need for site disturbance, and significantly reduces the number of concrete piers that will be required, therefore limiting ground disturbance in this sensitive coastal area;
- | the design and layout allows excellent penetration of natural light and air to reduce loads on heating, cooling and lighting. Furthermore, the apartments incorporate a horizontal and vertical duct system to capture the main prevailing winds affecting the site, so as to assist in providing cross-flow ventilation to each apartment;
- | large areas are given over to vertical service risers to allow natural stack cooling to occur through all of the apartments and corridors;
- | careful design of vertical circulation in the building provides equal access to all areas whilst offering users of the building the choice of using naturally-lit stairs or the lifts;
- | rainwater is to be collected and stored onsite for use in landscaping, toilets and laundries;
- | introducing permanent residential accommodation into the Town Centre reduces reliance on cars and encourages pedestrian life and movement within the town;
- | all habitable spaces will be fitted with ceiling fans; and
- | the design maximises north and eastern aspects by breaking the building into two (2), and therefore providing twice as many facades with reduced depth to the buildings themselves. The building on North Street protects the facades to the west of the Clyde Street building.

The proposed development is consistent with Principle 5 of SEPP 65.

Principle 6: Landscape

“Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by coordinating water and soil management, solar access, microclimate, and tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.”

The site is currently largely devoid of any significant landscaping. The proposal seeks to incorporate a high quality landscaped courtyard at First Floor level, in accordance with the Landscape Plan prepared by Ayling + Drury Landscape Architects (see **Appendix O**). The courtyard will incorporate areas of planting and paving, as well as a reflection pond, to further add to the amenity within this space.

The proposed provision for landscaping and screen planting ensures a pleasant leafy outlook from within the site. The species selected for the site are hardy and appropriate for the seaside location. Once they become established, the plants will require minimal irrigation.

The proposed development is consistent with Principle 6 of SEPP 65.

Principle 7: Amenity

“Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.”

The proposed permanent residential dwellings will achieve high levels of amenity due to the following design measures:

- | all apartments achieve natural cross flow ventilation;
- | apartments are dual aspect apartments, and will receive both morning and afternoon solar access;
- | each apartment has access to a generously proportioned area of private open space, accessible directly from the main living room;
- | ceiling fans will be provided within each apartment to further enhance temperature control, without the need for air-conditioning;
- | apartment layouts are flexible and can be furnished in a variety of ways; and
- | the permanent residential dwellings are separated from the serviced apartments at the site by some 20m, which is consistent with the minimum separation distances envisaged by the Residential Flat Design Code. This will ensure excellent levels of acoustic and visual privacy.

Apartment layouts and design provides good opportunities for casual surveillance of the street frontage and approach to the site while maintaining privacy between the apartments. The proposed lobby areas are directly accessible from the Clyde Street frontage of the site, which will ensure a high level of visibility as well as safety and security.

The proposed development is consistent with Principle 7 of SEPP 65.

Principal 8: Safety and security

“Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.”

The proposal provides for good safety and security. The proposed balconies and windows provide surveillance to the street frontages, pedestrian entrance, the curtilage of the proposed building and neighbouring properties, without compromising privacy.

Furthermore, the serviced apartment complex will have 24-hour service, which will further contribute to the level of security at the site.

The proposal is consistent with Principle 8 of SEPP 65.

Principal 9: Social dimensions

“Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.”

The development has considered the social context of the site and provides a mix of apartment layouts and aspects that will meet the existing and future needs of the community. The proposal will result in ten (10) high quality residential apartments available for occupation within this highly desirable location.

The proposal is consistent with Principle 9 of SEPP 65.

Principle 10: Aesthetics

“Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.”

The overall form and detailing of the building, the arrangement of open space areas within the site and proposed landscape design are appropriate and suitable for the site. The proposed use of timber and terracotta tiles on the exterior of the building are appropriate in the coastal location, and will provide a strong visual and historic link with the early timber buildings developed in the area (i.e. wharves, jetties, cottages and the like).

The external built form is consistent with that which was agreed to by the Department of Planning and Eurobodalla Shire Council, and will inform the future design of the precinct within which the site is located.

The proposal is consistent with Principle 10 of SEPP 65.

The proposal has been reviewed having regard to the design principles and is considered satisfactory with regard to the provisions of SEPP 65.

5.8 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

BASIX 2004 requires the provision of a BASIX Certificate in respect of “BASIX Affected Buildings.” BASIX Affected Building is defined in the Environmental Planning and Assessment Regulation 2000 in the following manner:

“Means any building that contains one or more dwellings, but does not include a hotel or motel.”

As discussed throughout this report, the proposal incorporates a serviced apartment/hotel complex and ten (10) permanent residential apartments. A BASIX Certificate is therefore required in respect of the permanent dwellings proposed at the site.

5.8.1 Permanent residential accommodation

Many of the advanced technologies and design measures (including water and energy saving measures) proposed at the site are unable to be characterised by the interactive BASIX assessment tool. Notwithstanding, ABSA and BASIX Certificates have been obtained in respect of the proposal (see **Appendix W**).

5.8.2 Serviced apartments

The serviced apartments proposed at the site are not “BASIX Affected Buildings”, and as such, BASIX and ABSA Certificates are not required for these dwellings. Notwithstanding, the proposed serviced apartments have been designed so that they could achieve both an ABSA and BASIX Certificate, with minimal modification, if this is required in the future (subject to relevant approvals).

Workshop 1 Dunn + Hillam Architects have advised that, based on current legislation, ABSA and BASIX Certificates could be readily obtained for the serviced apartments, in the event that they were amalgamated into larger single occupancy dwellings, for the following reasons:

- *“the construction of the serviced apartments will be the same as the adjacent permanent residential apartments on the east side of the site. The permanent residential apartments have achieved ABSA and BASIX Certification. The construction is predominantly timber-framed with significant insulation, in excess of minimum Building Code of Australia requirements to walls, floors and ceilings. The building will be clad in a long-lasting low-embodied energy terracotta tile and clear finished Australian hardwood. Good quality window systems with suitably shaded performance glazing are also being proposed;*
- *the serviced apartments have been designed using a module that uses standard Rules of Thumb for apartment space planning, taken from the NSW Department of Infrastructure, Planning and Natural Resources publication titled the “Residential Flat Design Code.” The module takes into account outdoor living areas, internal living spaces and access to sunlight, shade and natural ventilation. The use of the module ensures that once serviced apartments are amalgamated with minor alteration, a reduced number of good-sized, livable permanent residential apartments can be achieved with good access to controlled sunlight, sufficient shade and natural ventilation. In the event that the serviced apartments are amalgamated into permanent residential apartments, they will meet the requirements of SEPP 65;*
- *the serviced apartments have significant energy efficiency measures in the building. Low energy lighting is utilized throughout, with common area lighting being controlled by a building management system that utilizes daylight and motion sensors to switch lights on and off as required. Opportunities for natural cross-flow ventilation have been maximized and the building has an advanced multi-zoned energy efficient mechanical heating and cooling system that employs an automatic fresh-air economy cycle that kicks in when ambient exterior temperatures are suitable. This system has been designed to take full advantage of the comfortable steady temperate climate enjoyed in Batemans Bay for the vast majority of the year, and significantly reduces the load on mechanical heating and cooling;*

- *the building also harvests roof water from the site. Roof water will be stored in a tank below the car park and will be used for the flushing of toilets and garden watering needs; and*
- *fittings and fixtures in the serviced apartments are to be water and energy efficient.”*

5.9 State Environmental Planning Policy No. 11: Traffic Generating Development (SEPP 11)

State Environmental Planning Policy No. 11 – Traffic Generating Development (SEPP 11) was gazetted on 9 August 1985.

The proposed development falls within the scope of clause (h) in Schedule 2 of SEPP 11, which is as follows:

“Tourist facilities, recreation facilities, showgrounds or sportsgrounds, in each case having accommodation for 50 or more motor vehicles or the enlargement or extension of any existing tourist facilities, recreation facilities, showgrounds or sportsgrounds where that enlargement or extension includes accommodation for 50 or more motor vehicles.”

As a consequence, the application is required to be referred to the RTA for comment, pursuant to Clause 7(1) of SEPP 11.

A detailed Traffic and Parking Assessment has been prepared by Masson Wilson Twiney, and addresses both the requirements of SEPP 11 and Council’s Parking Code. The report also incorporates a Traffic Impact Study in accordance with Table 2.1 of the RTA’s Guide to Traffic Generating Developments (see **Appendix H**). A more detailed discussion of the report is provided in **Section 6.4**.

5.10 State Environmental Planning Policy No. 55: Remediation of Land (SEPP 55)

SEPP 55 aims to promote the remediation of contaminated land for the purposes of reducing the risk of harm to human health or any other aspect of the environment:

- “(a) by specifying when consent is required, and when it is not required, for a remediation work, and*
- (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
- (c) by requiring that a remediation work meet certain standards and notification requirements.”*

Contaminated land is defined at Part 7A of the EP&A Act, in the following manner:

“means land in, on or under which any substance is present at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.”

Clause 7 of SEPP 55 states that a consent authority must not consent to the carrying out of development on land unless:

- | it has considered whether the land is contaminated; and
- | if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out; and
- | if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

In order to determine the likelihood of the site being contaminated, a search of Council's files regarding previous uses and approvals at the site was undertaken. All previous approvals are listed in **Section 3.1** of this report. The search reveals that the site has been used as a motel for some thirty (30) years, and to this end, the potential for contamination at the site is considered to be unlikely. Additional investigations have been made with the Department of Lands, in respect of historic aerial photos of the site, however, these investigations did not result in any additional information, apart from that provided by Council.

In the event that the Department requires any further information to confirm the suitability of the site for the use proposed (which is a continuation of the existing tourist usage), copies of the relevant approvals referred to above, could be provided.

5.11 Draft State Environmental Planning Policy No. 66: Integration of Land Use and Transport (Draft SEPP 66)

Draft State Environmental Planning Policy No. 66 — Integration of Transport and Land Use (Draft SEPP 66). The policy package was on public exhibition until 14 December 2001. The aims of draft SEPP 66 are specified in clause 2 as follows:

“This Policy aims to ensure that urban structure, building forms, landuse locations, development designs, subdivision and street layouts help achieve the following planning objectives:

- (a) improving accessibility to housing, employment and services by walking, cycling and public transport,*
- (b) improving the choice of transport and reducing dependence solely on cars for travel purposes,*
- (c) moderating growth in the demand for travel and the distances travelled, especially by car,*
- (d) supporting the efficient and viable operation of public transport services,*

(e) providing for the efficient movement of freight.”

The aims of draft SEPP 66 are consistent with the current and previous metropolitan planning strategies and the previous draft retail policy of Planning NSW. The aims are considered to be reasonable and provide a good planning framework, which can lead to good planning outcomes.

5.11.1.1 Development to which the policy applies

Draft SEPP 66 applies to development having a gross floor area of more than 1,000m², and therefore applies to the proposed development.

5.11.1.2 Development Applications

Clause 9 of draft SEPP 66 stipulates a number of matters that need to be considered by a consent authority before granting consent to a DA to which the policy applies.

The matters that need to be considered in preparing plans or assessing DAs can be summarised as follows:

- “(a) whether carrying out the development will further the aims and planning objectives of this Policy;*
- (b) whether the development is consistent with the policy on location of specific land uses and the general policies in the Integrated Land Use and Transport Policy Package or complies with clause 10;*
- (c) whether adequate consultation with the Director-General of Transport NSW and any appropriate planning agency, transport agency and transport provider takes place in accordance with clause 11;*
- (d) whether the transport implications are considered in accordance with clause 12;*
and
- (e) whether the development incorporates travel demand mechanisms and features that will minimise the demand for travel and the use of cars including the following;*

- *urban form and structure that encourages walking, cycling and public transport;*
- *parking requirements that discourage car use in areas with good public transport access;*
- *facilities for cyclists;*
- *densities that help achieve viable public transport services and reflect the accessibility of the area by suitable public transport services and facilities; and*
- *provision for taxis.”*

The proposed development is consistent with the provisions of Draft SEPP 66 and responds to this instrument by:

- | providing tourist and permanent residential accommodation within the Batemans Bay Town Centre, where access to local attractions and services can be achieved by walking, cycling and use of public transport services;
- | providing a high quality pedestrian environment along both the Clyde and North Street frontages of the site;
- | providing a high quality shared pedestrian / vehicular along the western side of the site, providing linkages to the properties to the north of the site;
- | providing opportunities for secure on site bicycle parking in various storerooms provided in back-of-house areas, and
- | minimising the amount of parking provided on the site in order to discourage private car use and minimise the requirement for excavation, as far as is practical.

In this regard, it is submitted that the proposal, is consistent with the provisions of Draft SEPP No. 66.

5.12 Lower South Coast Regional Environmental Plan No. 1 (REP No. 1)

REP No. 1 applies to the site. Relevant provisions of the Policy are discussed in the following sections.

5.12.1 Clause 6: Height restrictions

Clause 6(2) of REP No. 1 imposes a maximum height of 14m for buildings on land to which the Policy applies. Height is defined in the REP in the following manner:

“in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the natural ground level immediately below that point.”

The proposed development has a maximum height of 17.325m (calculated in accordance with the definition in REP No. 1). The height of the proposed development therefore exceeds the maximum 14m permitted by Clause 6(2) of REP No. 1.

Notwithstanding this proposed variation, the height of the proposed development is consistent with the strategic planning controls proposed for the site, as agreed to by the Department of Planning and Eurobodalla Shire Council.

Notwithstanding, an objection pursuant to State Environmental Planning Policy No. 1 – Development Standards (SEPP 1) has been prepared and is provided below.

5.12.2 SEPP 1 Objection: Clause 6(2)

The following is our SEPP 1 Objection in respect of Clause 6(2) of REP No. 1.

What is the Clause Sought to be Varied and is it a Development Standard?

Clause 6(2) of REP No. 1 is a building height control. It is a numerical Development Standard and can therefore be varied with the consent.

What is the purpose or Object of the Standard?

Clause 2 of REP No. 1 contains the following aims and objectives:

- “(a) to conserve the scenic and environmental character of the region;*
- (b) to maintain the scale and character of the built environment;*
- (c) to preserve views to and from public places;*
- (d) to protect public places from overshadowing;*
- (e) to encourage development sympathetic to the natural landform; and*
- (f) to enable flexibility in building design consistent with the general aims and objectives of this plan.”*

Is compliance with the Standard unreasonable and unnecessary in the circumstances of the case?

Clause 6(2) of REP No. 1 imposes a maximum building height (measured to the underside of the ceiling) of 14m. The proposed development has a maximum height of 17.325m, at the western end of the site. The eastern part of the building, fronting onto Clyde Street and closest to the foreshore, has a maximum height to the top of Second Floor level, of 11.605m, in compliance with Clause 6(2). The Third Floor, within the eastern part of the site is setback 6m from the front boundary, and has a height of 14.905m, being marginally in excess of the 14m permitted.

Notwithstanding, the proposed development is consistent with the abovestated aims and objectives, as follows:

- | the proposed development has been designed having regard to principles of ecologically sustainable development, so as to minimise the environmental impacts of the proposed built form, particularly with regard to acid sulfate soils, flood management, solar access and view-sharing;
- | the proposed development has a high quality exterior, and will have a positive impact on the local environment, when viewed from surrounding areas (see photomontages in **Appendix D**);
- | the proposed development has been designed to step up away from the foreshore, so as to minimise the visual impact of the structure on the foreshore parks and waterways;
- | the proposal is one of the first large redevelopments within the Batemans Bay Town Centre. The design of the proposal has been undertaken in close consultation with the Department of Planning and Eurobodalla Shire Council, to ensure that it is consistent with the desired future character of the locality;
- | the proposed development will not give rise to any unreasonable view-related impacts, as demonstrated in the montages at **Appendix D**;
- | the proposed development will not create any overshadowing of the foreshore area (see **Appendix D**); and
- | the proposed development has been designed with consideration to the environmental constraints affecting the site (eg water table, acid sulfate soils etc). To this end, the car parking level is located above ground level, so as to minimise the requirement for excavation and interruptions to the water table and groundwater flows. The resultant building is one which is sympathetic to its coastal location.

In conjunction with the discussion above, compliance with the Standard is unreasonable and unnecessary in this instance as the proposed development:

- | is consistent with the desired future character of the locality in terms of height, bulk, scale, and size;
- | does not create any unreasonable impacts in terms of view-loss from adjoining properties;
- | will not result in any unreasonable adverse impacts on adjoining development in terms of loss of privacy, overshadowing and visual impact;
- | will not detrimentally impact on the amenity of the existing residential development of the area; and
- | provides high quality retail, tourist and residential accommodation.

Having regard to the above, compliance with the Development Standard at Clause 6(2) of REP No. 1 is considered both unreasonable and unnecessary in the circumstances of the case.

Is compliance with the Standard consistent with the Aims of the Policy

The aim of SEPP 1 is to provide flexibility in the application of planning controls where the merits of a proposal warrant such flexibility. It has been demonstrated above that strict compliance with the Building Height Development Standard at Clause 6(2) of REP No. 1 is unreasonable and unnecessary and therefore it is considered appropriate to invoke the provisions of SEPP 1 to permit a variation to the clause.

In doing so, the proposal is not considered to hinder the attainment of the objects of the Act, which are to promote and coordinate the orderly and economic use and development of land while having consideration for the environmental, social and economic impacts of carrying out the development.

Therefore, supporting the proposed variation to the Building Height control in Clause 6(2) of REP No. 1 is consistent with the aims of the Policy as well as objective (f) of the REP itself.

Is the objection well-founded?

The variation is supported for the reasons contained in this submission and the site specific circumstances that lend the site to a development of this nature. The objection to Clause 6(2) of REP No. 1 is considered well founded and accordingly is worthy of support.

5.13 Lower South Coast Regional Environmental Plan No. 2 (REP No. 2)

REP No. 2 applies to the site. Relevant provisions of the Policy are discussed in the following sections.

5.13.1 Clause 11: Objectives

Clause 11 in Division 2 of REP No. 2 contains the following objectives with regard to coastal and waterway environments:

- “(a) to minimise changes to natural coastal processes resulting from development,*
- (b) to protect water quality,*
- (c) to minimise risks to people and property resulting from coastal processes,*
- (d) to maintain the visual quality of the coastal and waterway environments,*
- (e) to provide for the appropriate recreational use of beaches, other coastal lands and waterways, and*
- (f) to maintain or enhance public access to and use of beaches, other coastal attractions and waterways in appropriate locations”*

The proposal is consistent with these objectives, as follows:

- | the proposal will have no unreasonable impacts on coastal processes (see **Appendices M and N** and **Section 6.5** below) (objective a);
- | the proposal will not give rise to any adverse water quality impacts (see **Section 6.6** below and **Appendices M and N**) (objective b);
- | the proposal has been designed in accordance with recommendations provided in the reports prepared by Peter Spurway & Associates (see **Appendices M and N**) so as to minimise the potential impacts of flooding, tidal inundation, storm events and the like (objective c);
- | the visual impacts of the proposal are considered acceptable (see photomontage at **Appendix D** and discussion below in **Section 6.3**) (objective d);
- | the proposal will attract additional tourism to the Batemans Bay region (objective e); and
- | the proposal will not give rise to any discernible changes in respect of public access to coastal locations and attractions, by virtue of the site's distance from the foreshore (objective f).

5.13.2 Clause 13: Coastal areas: policies for development control

Clause 13 of REP No. 2 contains a range of matters to be considered when assessing an application for development in coastal areas. A discussion of the proposal having regard to each of these matters is provided in **Table 5** below.

Table 5: *Matters for consideration under Clause 13 of REP No. 2*

Matters for Consideration	Response
1(a) the “Coastline Management Manual” published by the New South Wales Government	Refer to the report prepared by Peter Spurway & Associates at Appendix N .
1(b) the “South Coast Design Guidelines” issued by the Department of Planning,	Refer to the discussion at Section 5.18 , which relates to the Coastal Design Guidelines for NSW 2003, which supersedes the South Coast Design Guidelines.
1(c) any other guidelines issued by the Department of Planning in relation to development in coastal areas	Refer to the report prepared by Peter Spurway & Associates at Appendix N .
1(d) the “Estuarine Habitat Management Guidelines” or “Freshwater Habitat Management Guidelines” issued by NSW Fisheries, or both	Refer to the report prepared by Peter Spurway & Associates at Appendix N .
1(e) the “Crown Lands Coastal Policy” issued by the Department of Conservation and Land Management, where relevant	N/A
2(a) whether the development will cause pollution or siltation of the waterway and measures to minimise any adverse impacts	Refer to the discussion at Section 6.6 and the report prepared by Peter Spurway & Associates at Appendix M .

Matters for Consideration	Response
2(b) whether the development will have adverse effects on terrestrial or aquatic fauna, flora or their habitats	Refer to the discussion at Section 6.6 and the report prepared by Peter Spurway & Associates at Appendix M .
2(c) the need to maintain or improve the water quality of the waterway	Refer to the discussion at Section 6.6 and the report prepared by Peter Spurway & Associates at Appendix M .
2(d) whether the development will have an adverse effect on drainage patterns or cause shoreline erosion	Refer to the discussion at Section 6.5 and the report prepared by Peter Spurway & Associates at Appendix M .
2(e) the appearance of the development from the waterway and its foreshores	Refer to the discussion at Section 6.3 and the photomontage at Appendix D .
2(f) the desirability of requiring the dedication of appropriate land for open space or waterway access purposes for the purpose of ensuring public access to the waterway and its foreshores	N / A
2(g) whether the development will cause excessive congestion of, or generate conflicts between, people using the waterway or nearby land	The proposed development is not envisaged to have any discernible impact on the use of the nearby water or land. Discussion in respect of vehicular and pedestrian movements is provided in the Traffic Report prepared by MWT at Appendix H .
2(h) the noise likely to be generated by the development and the effect that any such noise would have on existing beneficial uses of the waterway or nearby land	The site is located some distance from the foreshore, and is not expected to give rise to any discernible noise impacts once operational, given the nature of the proposed development (i.e. mix of permanent and tourist accommodation with one (1) small shop and a restaurant). Noise impacts associated with construction activities will comply with EPA and WorkCover requirements (see Appendix T).

5.13.3 Clause 24: Natural resources: policies for development control

Clause 24 of REP No. 2 contains a range of matters to be considered when assessing an application for development in coastal areas, with respect to natural resources. A discussion of the proposal having regard to each of these matters is provided in **Table 6** below.

Table 6: *Matters for consideration with regard to surface and groundwater under REP No. 2*

Matters for Consideration	Response
(a) consider the impact the proposed development is likely to have on water quality and availability	Refer to the discussion at Sections 6.5, 6.6 and 6.7 and the report prepared by Peter Spurway & Associates at Appendices M and J .
(b) only consent to the application if satisfied that adequate water quality and availability will be maintained if the proposed development is carried out	Refer to the discussion at Section 6.6 and the report prepared by Peter Spurway & Associates at Appendix M . Furthermore, a sediment/erosion control plan has also been prepared by Whipps-Wood Consulting (see Appendices J and K).

5.13.4 Clause 29: Fishery resources: policies for development control

Clause 29 of REP No. 2 contains a range of matters to be considered when assessing an application for development within, adjoining or upstream of a fishery habitat area or within the drainage catchment of a fishery habitat area. A discussion of the proposal having regard to each of these matters is provided in **Table 7** below.

Table 7: *Matters for consideration with regard to fishery management under REP No. 2*

Matters for Consideration	Response
(a) the need to maintain or improve the quality or quantity of flows of water to the habitat	Refer to the discussion at Section 6.6 and the report prepared by Peter Spurway & Associates at Appendix M .
(b) the need to conserve the existing amateur and commercial fisheries	N / A
(c) any loss of habitat which will or is likely to be caused by carrying out the development	The proposal will not result in the loss of any habitat (see Section 6.6).
(d) whether the development would result in pollution of the waters and any measures to eliminate pollution	Refer to the discussion at Section 6.6 and the report prepared by Peter Spurway & Associates at Appendix M . Furthermore, a sediment/erosion control plan has also been prepared by Whipps-Wood Consulting (see Appendices J and K).
(e) the proximity of aquatic reserves dedicated under the <u>Fisheries and Oyster Farms Act 1935</u> and the effect the development will have on those reserves	Refer to the discussion at Section 6.6 and the report prepared by Peter Spurway & Associates at Appendix M .
(f) the need to ensure that native vegetation surrounding the fishery habitat area is conserved	The proposal will not result in any impacts in relation to native vegetation, as discussed at Section 6.6 and in the report prepared by Peter Spurway & Associates at Appendix M .

5.13.5 Clause 40: Tourism and recreation: policies for development control

Clause 40 of REP No. states that in considering an application for tourist development, the Council shall have regard to any guidelines published by the Department of Planning in relation to such development and any tourism strategies or plans prepared for the region by the Tourism Commission of New South Wales.

Tourism NSW promotes and supports the development of sustainable tourism in NSW. The Tourism NSW: Towards 2020 NSW Tourism Masterplan was released in 2002 and is currently under review. The proposal is consistent with the strategic objectives of the Masterplan as it involves new tourist accommodation contained within a building designed to achieve ESD principles.

The proposed new complex will address the current shortage of high quality tourist accommodation in the region, which is important, given that the Masterplan suggests that by 2020, some 86% of “visitor night” in NSW will be attributed to domestic travel, and that 10% of these will be spent within the NSW South Coast region.

5.14 Development Control Plan: Batemans Bay Town Centre Development Guidelines (Town Centre DCP)

The Town Centre DCP complements the planning controls contained in LEP 1999, and applies to the site. Relevant provisions of the DCP are discussed in the following sections.

5.14.1 Section 1.3: Objectives

Section 1.3 of the DCP contains general objectives. A discussion of the proposal having regard to these objectives is provided below in **Table 8**.

Table 8: Discussion of objectives of the Town Centre DCP

Objective	Response
(a) To provide more detailed controls to assist developers to achieve the aims and objectives in the Urban LEP in relation to development in the business zone	N / A
(b) To encourage the creation of an effective and attractive commercial precinct	The proposal provides a new retail tenancy, restaurant and a serviced apartments/hotel complex and ten (10) permanent residential dwellings, which will enhance the local economy and contribute to the nature of the Batemans Bay Town Centre.
(c) To reinforce the role of Batemans Bay Town Centre as a sub-regional and resort shopping centre	As per discussion for objective (b) above.

Objective	Response
(d) To recognise the importance of pedestrian amenity in the Town Centre by reducing conflict with through traffic and providing for the integration of commercial development with open space and pedestrian areas	As discussed in Sections 4.8 and 6.2.2.7, the proposal seeks to provide significant improvements to vehicular access arrangements to the site and neighbouring properties to the north, through the inclusion of a new vehicular accessway on the site's western boundary. This minimises the number of driveways required to be provided to Clyde Street in the event that properties to the north are developed, which will provide for an enhanced pedestrian environment along this busy street. Pedestrian access and circulation will also be improved through the integration of the pedestrian colonnades at Ground Floor level and the removal of the existing driveway on the Clyde Street frontage of the site.
(e) To provide design guidelines which provide guidance and identify the future direction and appearance of development in the Batemans Bay Town Centre	N/A
(f) To determine height and site density requirements which encourage development to complement the Murra Murra Mia Walkway and the Orient Street streetscape	As discussed throughout this report, the height and general design of the proposal has been determined in consultation with the Department of Planning and Eurobodalla Shire Council, and are considered acceptable in the context (see Section 4.8).
(g) To ensure that provision is made for vehicular movement, car parking, pedestrian circulation and public transport in and around the Town Centre	As per discussion for objective (d) above.
(h) To ensure the integration of developments, pedestrian and landscape links from all areas of the Town Centre with the Murra Murra Mia Walkway and Orient Street streetscape	As per discussion for objective (d) above.

Objective	Response
(i) To provide specific design guidelines for foreshore development along the Murra Murra Mia Walkway.	N / A

5.14.2 Section 2.2: Desired future character

Section 2.2 of the DCP provides a discussion of the desired future character of the Batemans Bay Town Centre, as follows:

“The major feature of the Batemans Bay Town Centre is its proximity to the Clyde River. The adoption of the Foreshore Master plan, completion of the Murra Murra Mia Walkway and the Orient Street streetscape has reinforced the linkage of the Town Centre to the waterfront with an emphasis on pedestrian amenity.

The desired future character of the Batemans Bay Town Centre is to be achieved by a design theme which:

- (a) emphasises the linkage between the built environment and the river foreshore;*
- (b) provides a focus for tourist and retail functions which integrate with landscaped public areas, community facilities, outdoor eating and the like; and*
- (c) provides a safe and pleasant pedestrian environment.”*

The proposed development is consistent with the desired future character, as follows:

- | it provides new retail, restaurant and tourist accommodation within the Town Centre, which will provide opportunities for additional patronage of the foreshore and Murra Murra walkway;
- | it provides new retail and restaurant tenancies to activate the street frontages of the site;
- | the colonnades proposed at the site are intended to provide opportunities for outdoor eating as well as pedestrian access; and

the proposed design of the development will improve pedestrian amenity and safety both in the vicinity of the site and the area generally, particularly as a result of the proposed new vehicular accessway adjoining the site's western boundary.

5.14.3 Section 2.3: Design theme

Section 2.3 contains a design theme, providing guidance in respect of the design and architectural treatment of new development in the Batemans Bay Town Centre. The main elements of the design theme are as follows:

- *“A distinctive design theme can be achieved for Batemans Bay by learning from the positive architectural elements in the streetscape.*
- *Rather than adopting standard designs from elsewhere, the appeal of Batemans Bay can be enhanced by appropriate design. The adopted design theme for Batemans Bay is that of a resort town with a strong emphasis on the linkages between the buildings and the river foreshore.*
- *Buildings will be of varying heights, depending on their location, and will obtain views to the river. A variety of uses will occur in buildings, with retail functions at ground level and commercial and residential uses on other levels.*
- *The style of buildings will generally be modern and be in a resort style. Materials and colours will be varied and reflect the riverside environment.*
- *Arcades and thoroughfares are encouraged to provide both visual and pedestrian links to the waterfront. The use of outdoor space for eating and cafes is encouraged.”*

The proposal is generally consistent with these themes, as follows:

the proposed new building has been architecturally designed and aims to “pick up” on some of the traditional elements evident in the Batemans Bay Town Centre. This is achieved through the use of neutral and earthy-coloured external materials and finishes, including timber, terracotta cladding and copper (or similar) roofing;

- | the height of the proposed development is at its lowest adjacent to Clyde Street, stepping up to the west, away from the Batemans Bay foreshore. This minimises the visual impact of the proposed building on the foreshore;
- | the proposal incorporates retail uses at Ground Floor level with tourist and permanent residential accommodation above;
- | opportunities for outdoor dining are provided by the colonnades at Ground Floor level; and
- | the pedestrian environment is proposed to be enhanced with the introduction of the new accessway adjoining the site's western boundary.

5.14.4 Section 3: Design considerations

Section 3 of the DCP contains a series of design considerations applicable to development in the Town Centre. Relevant aspects of these considerations are discussed in the following **Table 9**.

Table 9: Discussion of the proposal against Section 3 of the Town Centre DCP

Control	Response
Section 3.3: Building Appearance New development when viewed from the street and public places should ensure that the external design of buildings is attractive and visually compatible with attractive surrounding development and the streetscape. The following principles apply in respect to building design:	

Control	Response
(a) Buildings should be of a style and character that emphasises the resort function of Batemans Bay and links the built environment with the waterfront and river. (b) Exact replication of existing buildings should be avoided. However, existing design elements can be used to develop a specific character and reinforce the streetscape. (c) Building design, roof form, details of materials visible from public areas should not be in strong visual contrast with the character of attractive buildings in the sites visible locality. (d) Long unarticulated frontages to the street should be avoided. Frontages should be broken by smaller architectural elements.	A discussion of the appropriateness of the architectural style and character of the building is provided in the Architectural Design Statement at Appendix F and Section 6.2. As per Design Guideline (a) above. A discussion of the appropriateness of the architectural style and character of the building is provided in the Architectural Design Statement at Appendix F and Section 6.2. The appropriateness of the proposed new development in the context of the site is demonstrated in the photomontages at Appendix D. The proposed elevations are highly articulated and modulated through the provision of balconies, shop fronts, variations in materials, fenestration and the like. These design elements serve to minimise the perception of bulk and scale associated with the proposed new building, resulting in an appropriate visual presentation in the streetscape (see photomontages at Appendix D).
(e) Entry features to buildings and/or arcades are encouraged to provide a development with a visual focus and add interest to the building. (f) The use of awnings is encouraged to break up building facades. Awnings should have maximum width of 3.6 metres and be a minimum of 3.6 metres above the finished pavement level.	The proposal provides a series of pedestrian entrances to the building, from both Clyde and North Streets. These have been designed to ensure they are visually prominent and will comprise high quality finishes, so as to provide an attractive address to the public domain. The proposed new building provides covered colonnades along both the Clyde and North Street elevations of the building. As a consequence, awnings are not required.

Control	Response
(g) Tower elements are encouraged to break the skyline and create interest (h) In keeping with the design theme of Batemans Bay suitable materials would be: - bricks (light coloured) - tiles (light coloured) - timber - metal - glass - canopies - lightweight sunhoods - pre-coloured roofing sheets Note: Metals should be aluminium, stainless steel or powdercoated galvanised steel to protect from rusting.	The proposal incorporates two (2) separate structures, varying in height between 12m and 18m to create visual interest and add to the complexity of the Batemans Bay Town Centre's skyline. The proposed external colours, materials and finishes are discussed in Section 4.8.1. A sample board is provided at Appendix D. The proposed external materials are consistent with the provisions of the DCP and relate appropriately to the site's coastal location.

Control	Response
(i) Paint colours chosen should reflect the seaside environment. Strong violent colours such as red or bright yellow should be avoided. Colours chosen should generally be in accordance with the following: - Roofs: Off-White or Ghost Gum - Walls and Trim: Toronto Jays, Tranquil Blue, Windswept, French Silver, Ethereal, Blue Niche, Kenya Coral, Dakota Land, or Courtship. Note: These colours are from the Dulux Master Palette. Similar colours from other paint charts may be used.	As per discussion for Design Consideration (h) above.
Section 3.4: Streetscape and pedestrian links (a) New development should comply with the Master Plan for Built Form and Landscape (DCP Development Control Plan Batemans Bay Town Centre Development Guidelines Map No 6). (b) The footpath area fronting any new development should be paved in accordance with the adopted paving pattern for the Batemans Bay. Pavers to be used are Nu Brick Burwood Blue or similar.	Map 6 in the Town Centre DCP envisages a through-site linkage from North Street, using the existing pathway adjoining the site's western boundary, and exiting onto Clyde Street by the property to the north of the site. The proposed development is generally consistent with this requirement, through the incorporation of the proposal to provide a new vehicular/pedestrian accessway on the site's western boundary, linking into the rear of the properties to the north of the site. This is discussed in more detail in Section 4.8 and Appendix D. The treatment of the footpaths adjoining the site can be specified in relevant conditions of consent.

Control	Response
(c) New development and redevelopment of existing sites are encouraged to maintain existing pedestrian links and to create new links between streets and/or the waterfront in the Town Centre.	See discussion above for item (a).
Section 3.6: Flood and ocean influences mitigation Consideration is to be given to flooding, tidal inundation and stormwater flows.	These matters are discussed in detail in Section 6.5 and at Appendices M and N.
Section 3.7: Energy efficiency New commercial development must address the issue of energy efficiency. When designing buildings the design must aim to minimise the consumption of energy from non-renewable resources, provide an acceptable level of amenity and maximise the solar penetration. To adequately address the issue of energy efficiency, consideration will have to be given to building materials, insulation, ventilation, window placement and size, building orientation (where possible), site slope and landscaping.	Issues pertaining to energy efficiency and ESD are discussed in detail in Section 6.2.

5.14.5 Section 4: Development guidelines

Section 4 of the DCP contains a range of development guidelines, the relevant elements of which are discussed in **Table 10** below.

Table 10: Discussion of the proposal against Section 4 of the Town Centre DCP

Control	Response
Section 4.1: Site coverage Maximum FSR of 3:1 and maximum height of 10m at the site.	As outlined above in Appendix Z, the proposal has an FSR of 1.87:1. The proposed heights of the building are also outlined in Appendix Z, and are as follows: • 12m to the Clyde Street parapet, with a 16m high element setback 6m from the eastern boundary of the site; and • 18m to the North Street building. The proposed heights are consistent with those specified in the building envelope controls prepared by the Department of Planning and agreed to in principle by Eurobodalla Shire Council.
Section 4.2: Building heights Maximum height of 10m with punctuations by tower elements which do not exceed 10% of the building area or 30% of the maximum height (i.e. maximum height of 13m permitted).	As per discussion for 4.1 above.
Section 4.3: Setbacks Setbacks encouraged from street frontages with tourist accommodation at upper levels, to be setback 3m to enable the provision of private open space.	As discussed in Appendix Z the setback requirements for the site have been determined by the Department of Planning in consultation with Eurobodalla Shire Council. The proposed setbacks are consistent with those specified in the building envelope controls prepared by the Department of Planning and agreed to in principle by Eurobodalla Shire Council.

Control	Response
Section 4.4: Flooding and coastal inundation Minimum commercial floor level of AHD 2.6m required.	The proposed development has been designed to accommodate commercial floor levels of AHD 2.7m, in accordance with the recommendations contained in the Coastal Processes and Flooding Review report prepared by Peter Spurway & Associates (see N). A more detailed discussion of the matters pertaining to flooding and coastal inundation is provided below in Section 6.5.
Section 4.5: Service access Loading docks, service and garbage storage areas not to be visible from any public place.	The proposal incorporates garbage storage facilities at the western end of the Ground Floor level, in close proximity to the proposed new accessway along the western side of the site, for easy access. The room has been designed to integrate into the overall building, so that it will not be readily apparent from the public domain. Loading and unloading will occur either utilising existing loading zones in the vicinity of the site, or by delivery vehicles standing temporarily on the shared accessway, adjoining the site's western boundary.
Section 4.7: Access for persons with a disability Compliance with the BCA is to be achieved.	A BCA Report has been prepared by BCA Logic, which finds that the proposed development complies or is readily capable of complying with Part D3 of the BCA which relates to disabled access.
Section 4.8: Landscaping Landscaping to be designed to afford shade in summer and sun in winter and amenity within developments.	The proposal incorporates a generous central communal courtyard. Ayling + Drury Landscape Architects have prepared a Landscape Concept Plan (see Appendix O). Species selection has been undertaken having regard to minimising the requirement for irrigation and maximising solar control into private and public areas within the site.

Control	Response
Section 4.10: Car parking Car parking to comply with Council's relevant DCP. Minimum 1 car parking space per dwelling or accommodation unit.	The proposal provides fifty-six (56) car parking spaces. A Traffic and Parking Assessment has been prepared by Masson Wilson Twiney (see Appendix H). The report concludes that: - the proposal will have a negligible impact on traffic generation, resulting in an additional six (6) trips in the morning peak hour and thirteen (13) additional trips in the evening peak hour; - the provision of one (1) parking space per apartment / dwelling is considered to meet the likely future demands of the development; - the site is located within the Batemans Bay Town Centre, allowing easy access to a range of services and facilities which can be reached on foot, rather than by requiring a car; - the car park and access arrangements are considered to be satisfactory; - the proposal for a 24-hour valet system will ensure the safe and efficient operation of the proposed car stackers; and - the proposal will not impact on the availability of on-street parking in the locality.

There are no other sections in the Town Centre DCP of relevance to the proposal.

5.15 Eurobodalla Development Control Plan: Parking Code (Parking DCP)

The Parking DCP was adopted by Council on 20 October 1992 and came into force on 1 January 1993. The DCP applies to the proposal and relevant provisions are discussed in the following sections.

The DCP requires the provision of parking at the following rates:

- | commercial premises (retail): 1 space per 30m² GFA (minimum 2 spaces);
- | restaurant / café: 1 space per 30m²;
- | permanent residential accommodation (in mixed-use developments):
 - | 1 space per 1 bed unit;
 - | 1.5 spaces per 2 bed unit;
 - | 2 spaces per 3 bed unit;
 - | 0.25spaces per unit for visitor parking; and
- | tourist establishment (including serviced apartments and conference room):
 - | 1 space per accommodation unit; plus
 - | 1 space per 4 units for visitors; plus
 - | 1 space per owner / manager's residence; plus
 - | 1 space per employee or full-time equivalent; plus
 - | 1 space per 4 units for boat trailer parking (maximum 3 spaces).

The proposed development incorporates the following:

- | forty-six (46) serviced apartments / hotel rooms;
- | ten (10) permanent residential dwellings (2 x 1 bed, 6 x 2 bed and 2 x 3 bed);
- | 120sqm of retail floorspace; and
- | 300sqm of restaurant floorspace.

No onsite manager's residence is proposed. It is anticipated that the proposed new serviced apartments/hotel complex and restaurant will employ 20 persons.

Based on the characteristics of the proposal and the requirements of the Parking DCP, the proposal is required to provide a total of three (3) boat trailer parking spaces and 110 car parking spaces, as follows:

- | 46 spaces for the serviced apartments;
- | 11.5 spaces for visitors to the serviced apartments complex;
- | 21 employee spaces associated with the serviced apartments complex;
- | 15 spaces for the permanent residential dwellings;
- | 2.5 visitor spaces for the permanent residential dwellings;
- | 10 spaces for the restaurant; and
- | 4 retail parking spaces.

As discussed previously, the proposal provides fifty-six (56) car parking spaces, and is therefore deficient when assessed against the provisions of the current Parking DCP.

However, it is important to note that the issue of parking requirements has been discussed with both Council and the Department of Planning, and it has been agreed that the rates specified in the current Parking DCP are not suitable

in the context of the site and having regard to the environmental constraints affecting the site (eg water table and the site's location within the Town Centre).

To this end, agreement has been reached with the Department of Planning and Eurobodalla Shire Council in respect of a revised parking requirement, the details of which are outlined in **Appendix Z**. In essence, the proposal is required to provide one (1) parking space per apartment, with no visitor or staff car parking required to be provided. The proposed development incorporates fifty-six (56) apartments (both serviced and permanent) and is therefore required to provide fifty-six (56) parking spaces. The proposal complies with this requirement. This is discussed in more detail in **Sections 5.1.5 and 6.4**.

5.16 Draft Batemans Bay Town Centre Structure Plan (Draft Structure Plan)

The Draft Structure Plan applies to the site, and was most recently publicly exhibited in June 2007. It is understood that Council is currently reviewing the document having regard to public submissions made during the period of public consultation, in addition to the outcomes of meetings with the Department of Planning, with respect to appropriate urban design and building envelope controls for the precinct within which the site is located.

The site is located across two (2) precincts, which have differing building controls. The precincts are:

- | Foreshore Precinct fronting onto Clyde Street; and
- | Marketplace Precinct fronting onto North Street.

The main aspects of the current Draft Structure Plan, as they apply to the Precincts are as follows:

- | maximum height of 10m (3 storeys) , with the third level setback approximately 3m from the Clyde Street boundary, in the Waterfront Precinct;
- | maximum height of 18m (5 storeys) in the Marketplace Precinct;
- | minimise the provision of onsite car parking in the Waterfront Precinct; and
- | provide additional onsite car parking in the Marketplace Precinct.

As outlined above in **Appendix Z**, the proposal exceeds the maximum 10m height control applicable to the eastern part of the proposal, fronting onto Clyde Street. However, the heights of the proposal are consistent with the heights which were developed by the Department of Planning in consultation with Eurobodalla Shire Council, and it is understood that it is Council's intention to amend the Draft Structure Plan, to accord with these heights.

The proposal is generally consistent with the remaining controls contained within the Draft Structure Plan.

5.17 Batemans Bay S94 Contributions Plan

The Batemans Bay S94 Contributions Plan applies to the site. The site is located within the “Northern District” as specified in the Plan. Relevant rates for contributions pursuant to the Plan are as follows:

- | \$109.15 per person for Open Space and Recreation;
- | no contribution for Community Facilities;
- | \$34.75 per person for Waste Disposal;
- | \$9.40 per person for Cycleways and Pedestrian Facilities;
- | \$27.20 per person for Administration;
- | \$9,975.00 per parking space which a proposal is deficient; and
- | \$832.60 per person for Arterial Roads.

Discussions have been conducted with Eurobodalla Shire Council staff in relation to the issue of S94 Contributions associated with the proposal. In this regard, the discussions related to the possibility that the S94 Contributions payable on the application could be off-set as a consequence of the proposed dedication of land along the site’s western boundary to Council, in association with the proposed provision of a shared accessway leading from North Street to the rear of the properties to the north of the site.

It was agreed that further detailed discussions in this regard, would be undertaken once consent to the proposed development was granted. Furthermore, emailed correspondence from Batemans Bay Council, dated 6 February 2008 provided the following written comments, in relation to this issue:

“On the premise of previous meetings and presentation to Councillors endorsing in principle the plans and model presented by your firm on behalf of Syne, I confirm Council will agree in principle to consent to the construction of a vehicle driveway

entrance over part of Council land from North Street to your clients property, with the following provisos:

- *an agreement to be drawn up between Council and your client at their cost defining responsibilities of:*
 - *construction, maintenance and renewal of that driveway*
 - *relocation of services and access across that driveway for maintenance of any services by Council*
 - *provision of detailed agreement and construction details approved by Council prior to issue of Construction Certificate*

Such agreement not to compromise any published plans (in the yet to be adopted Batemans Bay Town Centre Structure Plan and subsequent LEP) for the extension of Perry Street inclusive of that driveway to access other properties behind Clyde and North Street”

Appendix U provides details in relation to the proposed accessway and further discussions with Council in this regard.

5.18 Coastal Design Guidelines for NSW (2003)

The Coastal Design Guidelines for NSW (2003) aims to demonstrate how best practice urban design can assist development in coastal areas to be more responsive to community expectations and local conditions. Relevant provisions of the Guidelines are discussed below.

5.18.1 Section 1.2: Coastal Towns

Section 1.2 of the Guidelines relates to Coastal Towns, and indicates that Batemans Bay would be considered to be a Coastal Town. The Guidelines provide an overview of the main issues facing Coastal Towns, including the following:

- | degradation of the economic viability of the Town Centre by new commercial and retail uses and development being located remote from the Town or its commercial centre;
- | impact on the environment and reduction of the existing town's character and viability, caused by new settlements and major commercial, retail and tourist developments;
- | ribbon development reducing the natural and rural lands that separate settlements because of the location of new release areas;
- | degradation of water quality in waterways and coastal lakes;
- | protection of heritage values;
- | placing buildings and infrastructure in areas subject to natural hazards; and
- | strip development along roads and highways.

The Guidelines suggests that Coastal Towns offer opportunities for the following:

- | creating functional urban centres in close proximity to areas of natural beauty;
- | the consolidation of future growth where infrastructure, quality buildings and pedestrian friendly streets may be at present, under-utilised;
- | using the town as a model for new neighbourhoods and infill developments;
- | upgrading public transport, cycle and pedestrian systems; and
- | regeneration of degraded natural assets.

Table 11 below provides a discussion of the proposal having regard to the stated Desired Future Character matters contained in the Guidelines.

Table 11: Discussion of the proposal against the Desired Future Character matters contained in the Coastal Design Guidelines for NSW

Desired Future Character Matter	Response
1. Relationship to the environment The relationship of the town to the coast is protected and enhanced to provide: - visual links and views of the coast - a clear relationship to the original landform, the foreshore and other unique natural features - protection of significant natural areas for environmental education and recreational purposes - ecological links between the coast and the hinterland as well as the surrounding coastal floodplain and wetlands - significant areas of native vegetation - access to foreshores whilst protecting dunes, lakes and beaches - water quality in wetlands, estuaries, coastal lakes and beaches - protection for Aboriginal and	The proposal is generally consistent with these matters, as follows: - the proposed building will provide views of the Batemans Bay estuary as well as other coastal areas; - the proposal has been designed to minimise the extent of excavation, as a consequence of the physical characteristics of the site (i.e. presence of acid sulfate soils, proximity of groundwater and depth of bedrock); - the proposal will not have any adverse impacts on the Batemans Bay estuary, groundwater or other natural areas (see Sections 6.5 and 6.6 below) and will increase tourism in the area; - onsite detention is proposed. It is also proposed to harvest rainwater for reuse for non-potable purposes (eg toilet flushing) (see Sections 4.6 and 6.6 and Appendix J); and - the Construction Management Plan prepared by BDA Consultants provides recommendations in relation to the management of acid sulfate soils (see Appendix I).

Desired Future Character Matter	Response
European relics and items • for the maintenance of significant areas of native vegetation and trees whilst managing for bush fire protection • for the utilisation of sustainable water and wastewater systems, where appropriate	
2. Visual amenity Areas of visual sensitivity include: • views to and from the coast, rivers, lakes and other waterbodies • views to and from the hinterland • views of headlands • night and daytime views • the urban settlement as it sits within the landscape • public views which are retained and reinstated, including views from the streets and public areas to the water • providing clear boundaries between each town and adjacent rural and natural land uses • providing clear separation	The proposal complements the coastal setting within which the site is located, and will not give rise to any adverse visual impacts, in respect of views from the Batemans Bay estuary (see Section 6.3 and Appendix D). Views of the Batemans Bay estuary will be generally retained from properties in the locality (see Section 6.3 and Appendix D).

Desired Future Character Matter	Response
between adjacent settlements by maintaining rural and natural land enhancing and upgrading the open space network for conservation, recreation, views and public access	
3. Edges to the water and natural areas A variety of edge conditions exist between the town and the coastline. Access to the coastal foreshore and waterways is optimised and adds to cultural and social opportunities.	The proposed development will not have any impact on access to the foreshore or waterways, due to its distance from these areas.
4. Streets - provide a hierarchy of streets having regard to historic, topographic and environmental considerations - public streets or public pathways provide the boundary between development and open spaces and the foreshore reserves - the street pattern of new development builds upon the historical and original urban structure of the settlement - streets and public places provide quality pedestrian environments	The proposal will not adversely affect the hierarchy of streets in the Batemans Bay Town Centre, as discussed in the Traffic and Parking Assessment prepared by Masson Wilson Twiney (see Appendix H). The proposal incorporates a new shared pedestrian/vehicular accessway along the western side of the site, which is proposed to link into the rear of the properties to the north of the site, when they are developed in the future. This will minimise the requirement for new driveway access points from Clyde Street. The proposed new accessway will be designed in consultation with Eurobodalla Shire Council, so as to ensure it complies with relevant Council requirements, and provides a high quality pedestrian environment.

Desired Future Character Matter	Response
5. Buildings - predominant building types in town centres are small apartment buildings, mixed-use, shop-top housing, townhouses, terraces, detached houses, commercial/retail, education and civic buildings - predominant building types in suburban areas include small apartment buildings, townhouses, semi-detached and detached dwellings - development is predominantly low-scale - heritage buildings are retained and revitalized to tell the story of the town's growth through cycles of reuse and adaptation - housing, employment and transport are integrated into the town centres as well as in surrounding suburban centres - industrial areas are located within the urban, environmental and visual constraints of the settlement	The proposed development is part four (4) and part five (5) levels, located within the Batemans Bay Town Centre. The proposed heights and indeed building type are consistent with the stated Desired Future Character for the area, as outlined in Eurobodalla Shire Council's strategic planning documents, which seek to provide for increased densities in Town Centres, so as to minimise urban sprawl and reactivate town centre economies. The proposed building has a three (3) storey scale to Clyde Street, with the uppermost level setback 6m from the Clyde Street boundary, so as to minimise its visibility from street level. The North Street elevation is modulated and articulated to break up the bulk of the building and minimise its visual impact. The proposal will provide additional opportunities for employment in the Town Centre. A new high quality retail tenancy and restaurant will also be provided, adding to the stock of this type of accommodation in the locality. The incorporation of serviced apartments/hotel rooms and associated conference facilities, will attract additional tourism to the area, to the benefit of the local economy.

Desired Future Character Matter	Response
6. Height - generally heights of up to 4 storeys in town centres - generally heights of up to 2 storeys in suburban areas - heights are subject to place-specific urban design studies. New development is appropriate to the predominant form and scale of surrounding development (either present or future), surrounding landforms and the visual setting of the settlement. Buildings avoid overshadowing of public open spaces, the foreshore and beaches in town centres before 3pm in mid-winter and 6:30pm Summer Daylight Saving Time. Elsewhere, avoid overshadowing of public open spaces, the foreshore and beaches before 4pm mid-winter and 7pm Summer Daylight Saving Time.	The proposed development is part four (4) and part five (5) storeys in height, consistent with the building heights and building envelope controls prepared by the Department of Planning in consultation with Eurobodalla Shire Council. The proposed building heights are consistent with the scale of development envisaged in the immediate locality, by both the Department of Planning in consultation with Eurobodalla Shire Council. Shadow diagrams have been prepared to demonstrate that the proposal does not give rise to any significant overshadowing of the public open space and foreshore park on the eastern side of Clyde Street (see Section 6.3 below and Appendix D).

5.18.2 Part 2: Design principles for coastal settlements

Part 2 of the Guidelines provides the following five (5) design principles for coastal settlements:

- ! defining the footprint and boundary of the settlement;
- ! connecting open spaces;
- ! protecting the natural edges;
- ! reinforcing the street pattern; and
- ! appropriate buildings in a coastal context.

The proposal has been designed having regard to the site analysis and local consideration issues set out in the Guidelines. Detailed site and contextual analysis documentation is provided in **Section 22** and at **Appendix D**.

Table 12 below provides a discussion of the proposal having regard to the five (5) design principles contained in the Guidelines.

Table 12: Discussion of the proposal against the Design Principles for Coastal Settlements contained in the Coastal Design Guidelines for NSW

Design Principle	Response
Defining the footprint and boundary	The site is located within the Batemans Bay Town Centre. The proposal incorporates new development within the existing commercial centre, which will revitalise the urban design and economy of the area. The proposal is consistent with the Guidelines in that it will not result in any expansion of the footprint of the existing Batemans Bay Town Centre settlement. The proposal provides a mixed-use development built to the perimeters of the site, as envisaged in the Guidelines (see page 47 of the Guidelines).

Design Principle	Response
Connecting open spaces	The site provides for convenient linkages to the public open spaces on the Batemans Bay foreshore, including the Murra Murra walkway. There are no other open spaces of significance in the immediate vicinity of the site.
Protecting the natural edges	The site is located some distance from the coastal edge and will not have any impacts in this regard.
Reinforcing the street pattern	The proposal does not alter the existing street pattern. However, it is proposed to provide a new shared pedestrian/vehicular accessway adjacent to the western side of the site, to provide for future connection to the properties to the north of the site, once they are developed. This new accessway will ensure that the existing street hierarchy in the Town Centre is retained. It will also minimise the requirement for additional driveway access points to Clyde Street, once the sites to the north are redeveloped. The proposed ground level setbacks reinforce the street edges, and provide an appropriate urban design response in the urban setting within which the site is located.
Appropriate buildings for a coastal context	The section of the Guidelines dealing with “settlement centres adjacent to the coastal edge of the foreshore reserve” would apply to the proposal (page 76 of the Guidelines). The proposal is generally consistent with the guidelines specified for this type of development, as follows: - the higher parts of the proposed building are located at the western edge of the site, so as to minimise their visual impact when viewed from the foreshore; - overshadowing impacts in respect of public open spaces and the foreshore have been minimised (see Section 6.3 and Appendix D); - the proposal will not give rise to any unreasonable view-related impacts (see Section 6.3 and Appendix D); - the proposed building is well articulated and modulated so as to

Design Principle	Response
	minimise the perception of bulk and scale (see Section 6.2 and Appendix D); and onsite car parking is provided, and will not be visible from the public domain. Access to the proposed parking will be via the proposed new shared pedestrian / vehicular accessway, located at the western part of the site.

5.19 NSW Coastal Policy 1997

The NSW Coastal Policy 1997 provides a guide to the management and planning of the coastal zone. This is achieved through the incorporation of a range of goals and strategic actions with the intent of resulting in sustainable coastal development.

The Policy is a broad-based document which provides guidance to local Councils, Government agencies and other relevant stakeholders, in respect of planning for and managing coastal areas. The Policy also apportions responsibilities to various bodies, with a view to achieving the strategic objectives of the document.

To this end, the specifics of the document are not directly applicable to the proposal, however, the general strategic goals are. The nine (9) Goals specified in the Policy are as follows:

- *“to protect, rehabilitate and improve the natural environment*
- *to recognise and accommodate natural processes and climate change;*
- *to protect and enhance the aesthetic qualities of the coastal zone;*
- *to protect and conserve cultural heritage;*
- *to promote ecologically sustainable development and use of resources;*

- *to provide for ecologically sustainable human settlement;*
- *to provide for appropriate public access and use;*
- *to provide information to enable effective management; and*
- *to provide for integrated planning and management.”*

The proposal is consistent with the abovestated Goals, as discussed throughout this report.

5.20 Draft Nature Coast Design Guide

The Draft Nature Coast Design Guide has been prepared by Eurobodalla Shire Council. The objective of the Design Guide is:

“to create a strategy that enables the Greater Batemans Bay community to act upon the general directions expressed in the ‘Visions for the Future’ statement; its wishes for ‘appropriate’ design; to formulate a visionary approach; and to do so in ways that still provide a wide range of choices for the expression of individuality for owners...The approach that this Draft Nature Coast Style Guide is proposing is based on the environment itself.”

The Design Guide seeks to:

“create an urban environment that mediates, fits with and responds to its surroundings. Towns in the Nature Coast need to rise to the aesthetic challenge that the natural environment quietly and continuously presents.”

The proposed development is generally consistent with the overarching objectives of the Design Guide, as it:

- ! responds to the environmental characteristics of the site;
- ! aims to minimise excavation and soil disturbance;
- ! introduces new landscaping at the site, where presently there is none of any significance;

- | respects the hydrology of the area and aims to minimise impacts on local waterways, groundwater and stormwater flows;
- | incorporates an architectural design and external colours, materials and finishes which complement the coastal setting (see **Appendix D**); and
- | incorporates design measures to maximise natural cross flow ventilation and solar access.

5.21 South Coast Regional Strategy

5.21.1 Aims and objectives

The South Coast Regional Strategy is relevant to the proposed development. The Strategy seeks to guide sustainable growth throughout the South Coast over the next twenty-five (25) years, with the following main aims:

- | to protect high value environments by ensuring that no new development occurs in these important areas and their catchments;
- | to cater for a housing demand of up to 45,600 new dwellings by 2031 to accommodate the additional 60,000 people expected in the region over the next twenty-five (25) years;
- | to increase the amount of housing in existing centres to ensure the needs of future households are better met, in particular, the needs of smaller households and an ageing population;
- | to prioritise and manage the release of future urban lands to ensure that new development occurs in and around existing well-serviced centres;
- | to use the recommendations of the Sensitive Urban Lands Panel to guide the finalisation of the development form and environmental management of the seventeen (17) “sensitive urban lands”;
- | to manage the environmental impact of settlement by focusing new urban development in existing identified growth areas, such as Nowra-Bomaderry, Milton-Ulladulla, Batemans Bay and Bega;

- | to only consider additional development sites if they satisfy the Sustainability Criteria at Appendix 1 of the Strategy;
- | to avoid new towns and villages unless compelling reasons are presented and they can satisfy the Sustainability Criteria;
- | to avoid new rural residential zones unless as part of an agreed structure plan or settlement strategy;
- | to ensure an adequate supply of land to support economic growth and provide capacity to accommodate a projected 25,800 new jobs;
- | to limit development in places constrained by coastal processes, flooding, wetlands, important primary industry resources and significant scenic and cultural landscapes; and
- | to protect the cultural and Aboriginal heritage values and visual character of rural and coastal towns and villages and surrounding landscapes.

The proposal is consistent with these aims, in the following manner:

- | the proposal incorporates ten (10) new permanent residential apartments, adding to the stock of residential accommodation available in the region;
- | the proposal provides ten (10) new permanent residential apartments within the established Batemans Bay Town Centre, in close proximity to a range of services and infrastructure;
- | the proposed development will provide additional economic benefits for the local area, in the form of employment and tourism; and
- | the proposal has been designed having regard to the environmental constraints of the site, as discussed throughout this report.

5.21.2 Batemans Bay

The South Coast Strategy Map identifies Batemans Bay as a major regional centre, and states the following in this regard:

“Eurobodalla Shire is projected to grow by an additional 15,000 people, the majority of which will be concentrated in Batemans Bay and the major towns of Moruya and Narooma. Growth in Batemans Bay will be concentrated on town centre type development encouraging mixed use and higher density living, strengthening its role as the major residential, commercial and tourism centre for the middle part of the Region.”

The proposed development maintains consistency with the Strategy Map, by introducing a new mixed-use development into the established Batemans Bay Town Centre. The proposal will provide both permanent and tourist accommodation as well as retail tenancies, to the benefit of the local economy.

5.21.3 Development considerations

The Strategy contains Outcomes and Actions in respect of the following matters:

- | natural environment (maintaining and enhancing the values and functions of the local environment);
- | natural hazards (undertaking development appropriately having regard to natural hazards such as sea-level rises, coastal recession, rising water tables and flooding);
- | housing and settlement;
- | economic development and employment growth;
- | rural landscape and rural communities;
- | water, energy and waste resources; and
- | cultural heritage.

The proposed development is generally consistent with the Outcomes and Actions contained in the South Coast Regional Strategy, as outlined above in **Section 5.21.1**.

5.22 Residential Flat Design Code

The Residential Flat Design Code (RFDC) supplements SEPP 65, and is applicable to the permanent residential accommodation component of the proposed development. The RFDC contains a series of Rules of Thumb, aimed at guiding the design of multi-unit residential accommodation, so as to ensure a high degree of residential amenity and appropriate built forms, having regard to environmental and contextual characteristics.

A Design Verification Statement, confirming the acceptability of the proposal with respect to SEPP 65 and the RFDC is provided at **Appendix E**.

Table 13 below provides a discussion of the proposal, having regard to the applicable Rules of Thumb contained in the RFDC.

Table 13: *consideration of the proposal against Rules of Thumb in the RFDC*

Rule of Thumb	Response
Deep soil zones A minimum of 25% of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.	As discussed throughout this report, the site is constrained by groundwater levels and the possibility of the presence of acid sulfate soils at the site. In this regard, there is limited scope for the provision of deep soil at the site. Notwithstanding, a central courtyard is provided, with soil depths of up to 1m, so as to accommodate substantial planting and provide a pleasant common open space. Furthermore, the site is located within an urban area where sites generally have close to 100% site coverage. In this regard, the provision of a common courtyard with deep soil zones is considered acceptable with respect to the Rule of Thumb.

Rule of Thumb	Response
Open space The area of communal open space required should generally be at least between 25% and 30% of the site area. Larger sites and brownfield sites may have potential for more than 30%. Where developments are unable to provide the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open and/or in a contribution to public open space.	The proposed common courtyard is approximately 25% of the area of the site, as required. The proposed development provides approximately 25% of the site as a communal courtyard, as required.
The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m²; the minimum preferred dimension in one direction is 4m.	No ground level residential apartments are proposed.
Planting on Structures In terms of soil provision, there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following rates are recommended as minimum standards for a range of plant sizes: 1 large trees such as figs (canopy diameter of up to 16m at maturity): minimum soil volume of	The proposed development has soil depths of up to 1m, which is sufficient to accommodate the planting proposed in the Landscape Concept Plan prepared by Ayling +Drury.

Rule of Thumb	Response
150 cubic metres, minimum soil depth of 1.3m and minimum soil area of 10m x 10m area or equivalent; medium trees (8m canopy at maturity) : minium soil volume of 35 cubic metres, minimum soil depth of 1m and minimum soil area of 6m x 6m area or equivalent; small trees such as figs (4m canopy at maturity) : minium soil volume of 9 cubic metres, minimum soil depth of 0.8m and minimum soil area of 3.5m x 3.5m area or equivalent; shrubs: minimum soil depths of 500mm to 600mm; groundcover: minimum soil depths of 300mm to 450mm; and turf: minimum soil depths of 100mm to 300mm with subsurface drainage additional.	
Safety Carry out a formal crime risk assessment for all residential developments of more than 20 dwellings.	The proposal provides ten (10) permanent residential apartments, such that a formal crime risk assessment is not required.

Rule of Thumb	Response
Visual privacy Refer to Building Separation minimum standards.	See discussion below in relation to Building Separation.
Pedestrian access Identify the access requirements from the street or car parking area to the apartment entrance. Follow the accessibility standard set out in Australian Standard AS1428 (parts 1 and 2) as a minimum. Provide barrier free access to at least 20% of dwellings in the development.	Proposed permanent residential apartment are accessed directly from Clyde Street, via two (2) clearly identifiable lobbies. Lifts and stairs provide access to the apartments above. Disabled access is provided to the permanent residential apartments due to the provision of ramps and lifts, between all levels of the building, including the car parking level. Barrier-free access is provided to the permanent residential apartments due to the provision of ramps and lifts, between all levels of the building, including the car parking level.
Vehicle access Generally limit the width of driveways to a maximum of 6m. Locate vehicle entries away from main pedestrian entries and on secondary frontages.	The proposed driveway is 6m in width, as required. The vehicular entrance to the site is provided via the proposed shared accessway from North Street, essentially at the rear of the site.
Apartment layout Single aspect apartments should be limited in depth to 8m from a window. The back of a kitchen should be no more than 8m from a window. The width of cross-over or cross-through apartments over 15m deep should be 4m or greater to avoid deep narrow apartment layouts.	The proposed permanent residential apartments are all dual-aspect. All kitchens are located within 8m of a window. The units are all in excess of 4m wide.

Rule of Thumb	Response
Buildings not meeting the minimum standards listed above must demonstrate how satisfactory daylighting and natural ventilation can be achieved, particularly in relation to habitable rooms. If Council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: 1 bedroom apartment: 50m²; 2 bedroom apartment: 70m²; and 3 bedroom apartment: 95m².	N / A The proposed apartment sizes are 84m² for 1 bed, 99m² for 2 bed and 123m² for 3 bed apartments.
Balconies Provide primary balconies for all apartments, with a minimum depth of 2m. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context, noise and wind can not be satisfactorily mitigated with design solutions. Require scale plans of balcony with furniture layout to confirm adequate useable space when an alternative balcony depth is proposed.	The primary balconies to the apartments have a minimum depth of 2.85m, as required. Furniture layouts are provided on the floorplans, demonstrating the appropriateness of the balcony sizes.

Rule of Thumb	Response
Ceiling heights The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired: - in mixed use buildings: 3.3m for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use; - in residential flat buildings in mixed use areas: 3.3m minimum for ground floor to promote future flexibility of use; - in residential flat buildings or other residential floors in mixed use buildings: in general, 2.7m minimum for all habitable rooms on all floors, 2.4m is the preferred minimum for all non-habitable rooms however 2.25m is preferred. For 2 storey units, 2.4m minimum for the second storey if 50% or more of the apartment has 2.7m ceiling heights. For 2 storey units with a 2 storey void space, 2.4m minimum ceiling heights. For attic spaces, 1.5m minimum wall height at the edge of room with a 30 degree minimum ceiling slope;	The proposed ground floor has a floor to ceiling height of 4m while the residential levels above have floor to ceiling heights of 2.88m (Levels 1 and 2) and 2.87m (Level 3), which are considered acceptable in the context.

Rule of Thumb	Response
developments which seek to vary the recommended ceiling heights must demonstrate that apartments will receive satisfactory daylight (eg shallow apartments with large amounts of window area).	
Internal circulation In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed for adaptive reuse of buildings, where developments can demonstrate the achievement of the desired streetscape character and entry response and where developments can demonstrate a high level of amenity for common lobbies, corridors and units.	A maximum of two (2) apartments are accessed from each common lobby at each level of the building.
Storage In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: - studio apartments: 6m³; - one-bedroom apartments: 6m³; - two-bedroom apartments: 8m³; - and - three-bedroom apartments: 10m³.	Storage is provided within each apartment, in excess of the minimum volume requirement.

Rule of Thumb	Response
Daylight access Living rooms are private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight access between 9am and 3pm in mid winter. In dense urban areas, a minimum of two hours may be acceptable. Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed.	All of the apartments achieve in excess of the minimum required daylight access, due to their north easterly orientation. There are no single aspect south-facing apartments.
Natural ventilation Building depths, which support natural ventilation typically range from 10m to 18m. 60% of residential units should be naturally cross ventilated. 25% of kitchens within a development should have access to natural ventilation.	Building depths range between 10.55m and 13.7m. All of the proposed apartments are cross ventilated. All of the kitchens are located within 8m of a window, affording natural ventilation.

Rule of Thumb	Response
Developments which seek to vary from the minimum standards must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	N / A
Waste management Supply waste management plans as part of the DA submission, as per the NSW Waste Board.	Details in relation to waste management are provided in Section 4.4.
Water conservation Rainwater is not to be collected from roofs coated with lead or bitumen based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collection, provided that it is kept clear of leaves and debris.	A 100kL rainwater tank is proposed. The tank will collect rainwater, once it has passed through a first-flush diverter, to remove debris and the like.

6.0 Assessment of key issues

This section of the report assesses and responds to the environmental impacts of the proposal. It addresses the Key Issues for consideration as set out in the DGRs.

The draft Statement of Commitments at **Appendix T** complements the findings of this section.

6.1 Strategic planning

A detailed assessment of the proposal with regard to relevant local, regional and state planning strategies (including the draft Batemans Bay Town Centre Structure Plan and Town Centre DCP) is provided in **Section 5.0**.

Eurobodalla Shire Council has provided support in principle, for the proposed building envelope.

6.2 Urban design and sustainability

The following sections provide a detailed discussion of the design of the proposal and its relationship with the surrounding streetscape. Workshop 1 Dunn + Hillam Architects have prepared an Architectural Design Statement for the proposal, which is included at **Appendix F**. In particular, the following sections provide an assessment of the following:

- | design quality;
- | consistency with the character of development in the locality;
- | environmental impacts;
- | suitability of the proposal with the surrounding area; and
- | height.

6.2.1 Design quality

The design of the proposed development has been the subject of exhaustive site analysis and discussions of various options with both the Department of Planning and Eurobodalla Shire Council. The following sections provide a discussion of the design quality of the proposal in the context of the site.

6.2.1.1 Façade

The exterior of the building has been designed to respond sympathetically to the surrounding environment, in both material selection and building composition. **Appendix D** shows the building elevations and proposed external colours and materials.

Detailed architectural drawings, photomontages and a sample board are provided at **Appendix D**. These items demonstrate how the palette selected for the proposed building create a distinct built form, whilst maintaining a human scale that responds to nearby properties.

The composition of the building comprises a clear base, middle and top, as is accepted as good urban design. Workshop 1 Dunn + Hillam Architects have provided the following discussion of the façade treatment:

“The project incorporates deep three dimensional facades with publicly habitable space at the street level and balconies off all apartments at every level above. The building therefore does not in any instance present a hard or curtain wall façade to the street but establishes an interactive zone between the public street and the private apartments. By providing open living space at the boundary with the street both from the apartments and the commercial spaces, the building façade contributes to the life of the town.

Facades fronting the boundaries, which must be solid for reasons of privacy and fire protection will be articulated with the same materials as the street front facades.

The Clyde Street façade of the building presents three levels to the street with a fourth set back and not visible from the Foreshore park opposite. The street level frontage to the building consists of a colonnade at AHD 2.7 (flood inundation level) and a ramp and stair system from street level (approx AHD 2.0). A proposed

restaurant space is set back 4 metres on this level to allow public access along the colonnade and outdoor eating areas. This ramp and colonnade provides access to the surrounding sites at the required flood inundation level without each site having to provide ramp access.

Levels 2 and 3 above comprise of apartments with deep balconies built up to the boundary and therefore overhanging and providing shelter for the colonnade below. Level 4 is a penthouse level setback 6 metres.

Material choices will change to reflect the three different components of the façade. At street level materials will be a combination of off-form concrete in natural grey, finished hardwoods and glass. Levels 2 and 3 will be wrapped in a grey/green terracotta tile which has a natural variation in colour and an articulated horizontal banding. Balcony spaces will be lined with finished timbers and balustrades will be finished timber and green tinted glass. Level 4 will be clad in timber left to silver to reflect the wharf and jetty structures and to provide differentiation to the top of the building, creating an effect of lightness. The deep setback means this level will be largely invisible from the street.

The colours of green and grey in the façade reflect the changing moods and patterns of the river estuary and sky and make reference to the wharves and rough timber structures of the marine environment.

The module of the terracotta tiles (600mm x 300mm) will be readable on the façade and will give an interest to the façade as each tile varies slightly in colour. Flat tiles and tiles articulated with horizontal banding will be used in composition to create human scale, particularly in the small amount of facade unarticulated by windows and balconies.

The composition of the North Street façade will be of the same language as the Clyde Street façade but will not include the penthouse level. Levels 4 and 5 of this building are differentiated by a change to a more slender timber column set back from the facade, rather than the terracotta tile clad columns of levels 2 and 3 below.”

Section 4.8.1 provides additional details in relation to the proposed external colours, materials and finishes.

6.2.1.2 Massing

The massing of the proposed development has been determined to achieve the following main objectives:

- | to minimise the building footprint on the site and provide opportunities for internal landscaping;
- | to minimise the visual impact of the proposed building, particularly when viewed from the foreshore and Clyde River Bridge;
- | to provide a “human” scale to the Clyde Street elevation, which is located opposite the foreshore;
- | to provide two (2) “slimline” structures which will not visually dominate the Town Centre;
- | to provide adequate separation distances between buildings on the site, so as to achieve natural cross-flow ventilation, solar access and visual and acoustic privacy; and
- | to provide a development typology which will set a precedent for the future redevelopment of other parcels of land within the locality. To this end, the proposed development will not preclude the redevelopment of neighbouring sites, incorporating similar building placement, separation distances and heights.

To this end, the proposed development incorporates the following general design elements, which contribute to minimising the bulk and scale of the proposal:

- | a three (3) storey form to Clyde Street. The uppermost two (2) levels contain residential accommodation, whose balconies are built to the street edge, to provide an appropriate sense of address to this main street. The faces of these levels are setback between 2.4m and 3.8m from the Clyde Street boundary so as to articulate and modulate the elevation;
- | a higher four (4) storey element is proposed at the eastern part of the site. This element is setback 6m from the Clyde Street boundary so as to minimise its level of visibility when viewed from the opposite side of the street and indeed the foreshore. To this end, the uppermost level will appear as a recessive element;
- | a five (5) storey element at the rear of the site, with secondary frontage to North Street. This building contains serviced apartment accommodation at the upper levels, with balconies built to the North Street property boundary (other balconies are setback from the property boundaries). The apartments are setback between 1.5m and 3m so as to create articulation and modulation along this elevation; and
- | the two (2) buildings on the site are separated by in excess of 16m, so as to maximise opportunities for natural solar access and privacy, and minimise the overshadowing impacts of the proposed structure on properties to the south.

The massing of the proposed building responds to the use of the building (i.e. retail at ground floor with serviced apartments above). This enables the creation of a clearly defined base, middle and top to the development. The “base” is designed to comprise primarily timber-framed glazed shopfronts, aimed at creating an inviting and active retail presence in the streetscape.

The “middle” element of the proposed buildings comprises a series of vertical bays, defined by balconies, blade walls and fenestration. The rhythm

established by these vertical bays serves to break the elevation down into a series of “smaller” elements. The “top” of the Clyde Street building is a recessive element, setback from the edges of the building and incorporating interesting roof forms, to complete the built form. The “top” of the North Street building is articulated through the use of timber posts and thin ribbons of terracotta tiles wrapping around the building.

Workshop 1 Dunn + Hiram Architects have provided the following discussion in relation to the massing of the proposal:

The massing of the two buildings on the site reflects a new strategy for the Batemans Bay Town Centre. Buildings are denser and higher than those previously built in the Town Centre, which tended to cover the entire foot print of the site with one to two storey development.

Dividing the mass into two taller buildings allows a large open space between them which provides advantage for the occupants of our site and also the future neighbouring projects. It also presents an appropriate scale when viewed from the Bridge which is the primary entrance to the town. This reflects the small to medium footprint of the developments within the Town Centre that will continue to be relevant in the context of Batemans Bay (with the exception of the recent Stockland development on Perry Street)."

The massing of the proposed development is in accordance with that proposed by the Department of Planning for the site. Eurobodalla Shire Council has also provided its support in principal to the proposal.

6.2.1.3 Setbacks

The site is located within the Batemans Bay Town Centre, where building setbacks are typically nil to the street and side boundaries. These established setbacks provide a strong address to the street and prevent the appearance of “gaps” in the streetscape.

The buildings to the immediate north and south of the site are both single storey buildings, with nil side and front setbacks. Eurobodalla Shire Council’s planning controls encourage the incorporation of nil front and side setbacks, with upper levels setback to minimise their visual impact on the streetscape.

The setbacks adopted by the proposal are generally in accordance with those determined by the Department of Planning in consultation with Eurobodalla Shire Council. Setbacks for habitable spaces are a minimum of 6m from the boundary of the site where boundaries are shared with neighbouring properties, as recommended by the Residential Flat Code. An overview of the proposed setbacks is provided below in **Table 14**.

Table 14: Discussion of proposed setbacks

Level	Setback
Ground Floor	<u>Clyde Street building</u> • street setback - o nil to stairs / ramp - o 1.5m to colonnade - o 5.5m to face of building • side setbacks - o nil <u>North Street building</u> • street setback - o nil to stairs / ramp - o 1.5m to colonnade - o 3.3m to face of building • side setbacks - o nil • rear setback (to Council easement) - o 5m from property boundary or 6m from the centre of the easement

Level	Setback
First and Second Floors	<u>Clyde Street building</u> - street setback - nil to balconies - between 2.4m and 3.8m to face of building - side setbacks - nil <u>North Street building</u> - street setback - nil to balconies - between 1.6m and 3m to face of building - side setbacks - nil to 6m - rear setback (to Council easement) 5m from property boundary or 6m from the centre of the easement
Third Floor	<u>Clyde Street building</u> - street setback 1.5m to balconies 6m to face of building - side setbacks 3m <u>North Street building</u> - street setback - nil to balconies

Level	Setback
	- o between 1.6m and 3m to face of building • side setbacks - o 6m to balcony and 9.2m to the northern face of the building - o 1.8m to the balcony and 3m to the eastern face of the building • rear setback (to Council easement) - o 5m to the balcony from property boundary or 6m from the centre of the easement
Fourth Floor	<u>North Street building</u> • street setback - o nil to balconies - o between 1.6m and 3m to face of building • side setbacks - o 6m to balcony and 9.2m to the northern face of the building - o 1.8m to the balcony and 3m to the eastern face of the building • rear setback (to Council easement) - o 5m to the balcony from property boundary or 6m from the centre of the easement

The proposed setbacks are considered acceptable in the Town Centre context of the site. The setbacks are consistent with the Residential Flat Design Code in terms of building separation, and if similar setbacks are adopted when the neighbouring properties are redeveloped, will ensure adequate separation distances are achieved. The appropriateness of the proposed built form is shown in the photomontage provided at **Appendix D**.

6.2.1.4 Proportion to openings

The serviced and residential apartments within the proposed development have been provided with large expanses of glazing to maximise natural solar access, ventilation and opportunities for views over the Town Centre and Batemans Bay. The proportions of the windows at the upper levels of the buildings serve to create articulation to the structure, and create a high degree of visual interest.

Openings at the ground level of the building are generally quite large, so as to maximise the building's relationship with, and presence within, the established commercial centre. The large expanses are then broken down into a series of smaller elements, through the use of aluminium framed doors and windows. The ground level elevations are also articulated through the use of off-form concrete columns, creating a series of bays which complement the established rhythm of the streetscape. The use of timber-framed glazing to the shopfronts softens the appearance of the proposed built form.

Workshop 1 Dunn + Hillam Architects have provided the following discussion in relation to proportion to openings:

“The building shows a response to the human scale, in treating street level surfaces and spaces differently to floors above. The treatment of the façade will also become ‘lighter’ as the building gets higher to articulate the façade in response to the scale of the building itself.

The building presents a consistent front to the streets of Clyde St and North St. This avoids an uncontrolled, stepped street character developing and encourages clean lines for all future development. This is particularly important given the context of the Clyde St building, having a spatial relationship with the broad expanse of the Bay and Pacific Ocean to the East. It provides an edge to the public ‘room’ of the coastal reserve and boardwalk.”

6.2.1.5 Building articulation

As is evident from **Table 14** above, which provides details of the proposed setbacks at the site, the proposed development is highly articulated and modulated, serving to minimise the perception of bulk and scale associated with the proposed new building. The proposed development also incorporates fenestration, blade walls, fenestration and variations in external colours, materials and finishes, which further “break down” the external elevations of the building, creating an appropriate built form in the local context.

The upper levels of the proposed development, particularly fronting onto Clyde Street, are well setback from the edges of the building below, so as to minimise their visual impact.

Workshop 1 Dunn + Hillam Architects have provided the following discussion in relation to articulation:

“The building shows a response to the human scale, in treating street level surfaces and spaces differently to floors above. The treatment of the façade will also become ‘lighter’ as the building gets higher to articulate the façade in response to the scale of the building itself.

The building presents a consistent front to the streets of Clyde Street and North Street. This avoids an uncontrolled, stepped street character developing and encourages clean lines for all future development. This is particularly important given the context of the Clyde Street building, having a spatial relationship with the broad expanse of the Bay and Pacific Ocean to the east. It provides an edge to the public ‘room’ of the coastal reserve and boardwalk.”

The photomontages and streetscape elevations at **Appendix D** provide further evidence of the highly articulated built form.

6.2.1.6 Amenity

While State Environmental Planning Policy No. 65: Design Quality of Residential Flat Development (SEPP 65) only applies to the permanent residential accommodation component of the proposal, the fundamental design measures of the Policy have been adopted in the design of the proposal in its entirety, so as to achieve a high degree of amenity and sustainability. The design of the proposal has also had regard to the Residential Flat Design Code, as a reference tool.

The proposed development achieves a high degree of amenity both within and adjacent to the site, as follows:

- | opportunities for natural cross flow ventilation and solar access have been maximised;
- | apartments have been sited to maximise opportunities for pleasant outlooks, either over the Town Centre, the central courtyard or towards the Batemans Bay estuary and foreshore generally;
- | all apartments have a generously proportioned balcony, accessible directly from the living room;
- | rooms are sufficiently large as to be able to be furnished in a manner which is appropriate for the short-term accommodation that they will be providing;
- | natural lighting of common circulation spaces will be provided during daylight hours, minimising the need for artificial illumination;
- | the two (2) buildings on the site are separated by more than 20m, which is significantly greater than the minimum separation distances recommended by the RFDC (i.e. 12m for 4 storey buildings and 18m for 5-8 storey buildings). This generous separation will ensure excellent levels of solar access, natural ventilation and both acoustic and visual privacy. The separation distance will also minimise the extent of overshadowing of neighbouring properties;

- | rainwater tanks are proposed, with water to be harvested for reuse for non-potable uses, such as toilet flushing;
- | a large central communal courtyard is proposed at the site. The area will comprise a range of plantings and opportunities for passive recreation, adjoining the proposed reflection pond. Soil depths will ensure that the area is capable of sustaining some substantial planting, to provide shade in summer and filtered sunlight in winter;
- | the site is located within walking distance of all of the local attractions within the Batemans Bay Town Centre. The Murra Murra walkway is also located in easy walking distance of the site;
- | the proposed development has been designed to minimise the potential for noise transmission between rooms. This is achieved through the placement of quiet areas (i.e. bedrooms) and active areas (i.e. living rooms) in one apartment, adjacent to similar uses in the neighbouring apartment;
- | the proposed development has been designed to minimise noise transmission through walls by using a staggered stud construction, to prevent a direct path for noise and vibration, between apartments. Walls will also be fitted with acoustic insulation. Floors will have a discontinuous structure which will work in the same way as the staggered-stud walls. Trafficable floor surfaces will be mounted on shock-absorbing hangers to prevent foot-fall from being heard below. Soft floor surfaces will be used in high traffic areas over apartments, to further dampen noise transfer; and
- | the proposed structure incorporates good levels of thermal mass, so as to minimise the need for artificial heating and cooling.

Workshop 1 Dunn + Hiram Architects have provided the following discussion in relation to amenity:

“The design of all habitable spaces meets and exceeds the minimum standards as set by SEPP 65, even though only the apartments in the Clyde St building are required to do so.

The principles of good access to natural ventilation and light are in keeping with the general intent of the project to provide extremely pleasant spaces that require a minimum of artificial heating, cooling, ventilation and lighting.

All spaces benefit from having natural light and ventilation rather than artificial in that they are more enjoyable spaces to be in, and also in that the building as a whole requires much less energy to run and maintain.

Storage has also been provided in keeping with SEPP 65 for all rooms.”

Workshop 1 Dunn + Hillam Architects have provided the following discussion in relation to climate and sustainability:

The proposal has been driven by strong principles of environmental and sustainable design. The systems used are numerous, integral and across all levels of the design. Some examples of actions taken to respond to and utilise climate, and to maximise the sustainability of the project are as follows:

- *the timber-framed construction system uses a renewable resource and reduces the need for site disturbance, and significantly reduces the number of concrete piers that will be required, therefore limiting ground disturbance in this sensitive coastal area;*
- *the design and layout allows excellent penetration of natural light and air to reduce loads on heating, cooling and lighting ;*
- *large areas are given over to vertical service risers to allow natural stack cooling to occur through all of the apartments and corridors;*
- *careful design of vertical circulation in the building provides equal access to all areas whilst offering users of the building the choice of using naturally-lit stairs or the lifts;*
- *rainwater is to be collected and stored onsite for use in landscaping, toilets and laundries;*
- *introducing permanent residential accommodation into the Town Centre reduces reliance on cars and encourages pedestrian life and movement within the town;*

- *all habitable spaces will be fitted with ceiling fans; and*
- *the design maximises north and eastern aspects by breaking the building into two (2), and therefore providing twice as many facades with reduced depth to the buildings themselves. The building on North Street protects the facades to the west of the Clyde Street building.”*

6.2.2 Consistency with the character of development in the locality

A detailed description of the context and character of the site is provided in **Sections 2.2** and **6.2** of this report. In summary, the context of the site is characterised by the following:

- | buildings of one (1), two (2) and three (3) storeys, with the exception of the Stockland Mall, which has some elements of up to approximately 18m in height;
- | varying floor space ratios (FSRs);
- | generally older style architectural buildings, with retail uses at ground floor and commercial or residential uses above;
- | generally nil front and side setbacks;
- | exterior of buildings comprising facebrick or painted render finishes; and
- | generally flat roof forms with wave forms, barrel vaults and atriums which are ‘add-ons’ to building roofs.

6.2.2.1 Density

The current local planning controls applicable to the site permit a maximum FSR of 3:1 at the site (see **Section 5.14** above). However, as discussed previously at **Section 5.16**, Council’s Draft Batemans Bay Town Centre Structure Plan proposes to remove FSR limitations within the Town Centre, instead replacing them with detailed building envelope controls. This is supported by the Department of Planning, who have worked with Eurobodalla Shire Council to refine the building envelope controls contained

in the Draft Town Centre Structure Plan, which is currently being reviewed. Nonetheless, the proposal has an FSR of 1.87:1, which is significantly less than the maximum 3:1 permitted under the current DCP.

The local and state planning controls of relevance to the site generally promote increased densities within Town Centres, so as to minimise “sprawl” of these areas into outlying areas, creating ribbon developments. The proposed development is generally consistent with the relevant planning controls, with respect to density (see **Sections 5.14** and **5.16**) insofar as the proposal provides four (4) new retail tenancies and a new serviced apartments/hotel complex containing forty-six (46) individual apartments as well as ten (10) permanent residential dwellings.

The proposed development will have a higher density than most of the existing development in the location, however, it aims to set a benchmark for future development by encouraging built form to cluster into higher, more dense forms that allow open space between structures. The density of existing development in the locality is generally around 1:1, with total site coverage, which allows no open space and no setbacks. There is strong justification for the proposed density in the Batemans Bay Town Centre due to its geographical constraints (as discussed in **Section 22**).

There is a high demand for tourist accommodation of this standard in the region.

The proposed number of apartments/hotel rooms and permanent dwellings is appropriate in the context of the site, for the following reasons:

- | they will increase tourism in the locality, contributing to the local economy and opportunities for employment;
- | they will increase the permanent residential population within the Batemans Bay Town Centre, which will have positive impacts in terms of the local economy, casual surveillance and enlivening the area outside holiday times;

- | the infrastructure in the locality is capable of accommodating the proposed new development (see **Section 6.7**);
- | the proposal provides short-term tourist accommodation. As a consequence, the permanent residential population of the Shire will not be increased as a direct result of the proposal; and
- | the proposed built form and nature of the proposed development is consistent with the desired future character of the Town Centre and the fundamental planning parameters determined by the Department of Planning in consultation with Eurobodalla Shire Council (see **Section 3.2**).

6.2.2.2 Street frontage

The proposal addresses the North and Clyde Street frontages with the incorporation of colonnades and retail tenancies setback, so as to permit the provision of a covered pedestrian thoroughfare and opportunities for outdoor dining. The proposed street frontages have been designed with the intention of “marrying in” with the adjoining sites, when they are developed in the future, so as to provide a continuous colonnade along both the Clyde and North Street frontages.

Workshop 1 Dunn + Hiram Architects have provided the following discussion in relation to street frontages:

“The street frontage of this development shows the model to be followed by all future development. Both street fronts set the façade at the street level back from the boundary of the site, giving a covered colonnade that will be continuous across all sites. This zone also contains ramps giving access to a platform that is equal to the level required for flood inundation precautions. The site will generously provide these ramps and access to other smaller site either side of it which, because of their width would not be able to comply with these requirements.

This colonnade zone will be occupied by outdoor tables associated with shops and cafes giving a liveliness to the street.

The development also provides a new street frontage by widening the current council pedestrian laneway. This provides vehicle access to the site and to other

sites further to the north (subject to their future development.) The retail space on North Street will wrap around into this laneway and the conference room to the north of the new building will look over this lane and have pedestrian access to it from the lane by a wide stair.”

6.2.2.3 Scale

The scale of the proposed development, which varies between four (4) and five (5) storeys, is greater than most other development in the Batemans Bay Town Centre, with the exception of the Stockland development on North and Perry Streets, which has elements of a commensurate scale. However, as discussed previously in **Section 5.16**, Council’s strategic vision for the Town Centre, is the development of higher built forms, so as to enliven the Town Centre and maximise opportunities for views over the Batemans Bay estuary and Clyde River.

The building envelope controls developed by the Department of Planning in consultation with Eurobodalla Shire Council seek to promote additional heights, in accordance with those proposed by this application. The scale of the proposal is similar to the Stockland development on Perry Street, although the proposal has been broken-up to minimise the bulk and mass of the proposed structure.

The appropriateness of the height and scale of the proposal is depicted in the photomontages at **Appendix D**. Furthermore, the drawing/model prepared by Workshop 1 Dunn + Hillam Architects, depicting the proposed development having regard to the building envelopes envisaged by the Department and Council on adjoining properties, provides further evidence of the appropriateness of the scale of the proposal in the locality which is currently undergoing transformation.

6.2.2.4 Built and roof form

A discussion of the proposed built form in the context of the prevalent built forms in the Town Centre, is provided above in **Section 2.2**.

Buildings within the Town Centre generally contain flat roof forms comprising zincalume, colorbond or a similar material. The proposal seeks to complement the existing Town Centre, and adopts a simple skillion style roof form on the Clyde Street building, which provides visual interest to the skyline, and allows opportunities for the incorporation of highlight windows, to provide further solar access to the uppermost apartments. The proposed North Street building comprises a flat roof form so as to minimise the height of this building and maximise opportunities for views over the top of the building, from buildings to the west.

Workshop 1 Dunn + Hillam Architects have provided the following discussion in relation to built and roof forms:

“There is little notable built form within the Batemans Bay Town Centre. Attempts in the past have been made to create ‘wave-form’ roof lines (presumably because of the proximity to the ocean) and other ad hoc expressions of theme park style architecture. This has not been successful in creating a townscape of beauty. The built form of this development will set new standards of regional architecture of which this geographic location is deserving.”

The proposed roofs are simple and attractive, whilst minimising the height of the proposed new built form. To this end, they are considered acceptable in the context of the site.

6.2.2.5 Aesthetics

Section 4.8.1 provides a detailed discussion of the proposed external colours, materials and finishes. **Appendix D** contains photomontages of the proposed new development. As discussed previously, and in the Architectural Design Statement at **Appendix F**, it is considered that the aesthetics of the proposed development will make a significant positive contribution to the character of the Batemans Bay Town Centre, by virtue of their relationship with notable aspects of the Town Centre (eg timber and terracotta cladding).

Workshop 1 Dunn + Hillam Architects have provided the following discussion in respect of aesthetics:

“Aesthetically we aim to reflect the older fishing village style tectonics of timber, deep verandahs and simple pragmatic forms. There are some remnants of this style within the Town Centre and surrounds, such as the Innes family fish shop and wharf, the jetties and the waterfront restaurant to the north of the bridge. The new work in the coastal reserve also aims to return to these aesthetics in order to create a character for the town that reflects its history and its future as a marine park destination.

The building also provides a sophisticated presentation of a resort style that is specific to the temperate coastal climate of the south coast region”

6.2.2.6 Safety

The proposed development has been designed having regard to Crime Prevention Through Environmental Design (CPTED) principles, which are as follows:

- | surveillance;
- | access control;
- | territorial reinforcement; and
- | space management / maintenance.

To this end, the following measures are proposed to maximise safety and security both within and around the proposed development:

- | active retail frontages are provided to Clyde and North Streets. Outside retail hours, retail tenancies will be locked to prevent unauthorised access;
- | the proposed reception for the serviced apartments/hotel complex will be staffed 24 hours a day, ensuring a visible staff presence at the site, to deal with matters pertaining to safety, security and the like;
- | the introduction of permanent residential accommodation at the site will add to the life and vitality of the area, outside holiday times;

- | circulation areas, lobbies and the common courtyard within the proposed new complex will be well-lit and secure, to ensure the safety and security of the guests and other persons is maintained;
- | the proposal incorporates apartments which will permit casual surveillance over the public domain in the vicinity of the site;
- | the entrances to the complex enjoy excellent visibility from both Clyde and North Streets;
- | off-street parking spaces proposed within the site will be secured by a roller-door. Access to the parking area will be limited to authorised persons only, and access will be controlled by an intercom system. It is proposed to instigate a valet parking system, which will further contribute to the safety and security of vehicles parked at the site;
- | the building will incorporate conspicuous street numbering;
- | the external walls of the building have been appropriately fenestrated in order to minimise large expanses of blank walls, which provide opportunities for graffiti; and
- | the proposed shared vehicular / pedestrian accessway on the western side of the site will be appropriately lit to maintain a high degree of visibility. Surveillance of this area will be provided by the serviced apartments on the upper levels of the building.

Workshop 1 Dunn + Hillam Architects have provided the following discussion in relation to safety:

“The provision of a new private shared driveway to the west of the building, which maintains pedestrian access to other sites and gives vehicle access to this developments car parking and eventually to the neighbouring sites, vastly improves the safety and amenity of the existing council pedestrian laneway.

This laneway is currently unlit and has no visibility from one end to the other. The owners of the building will take responsibility for providing lighting, hard surfaces and some landscaping to this new shared zone. There will be very little vehicle activity in this lane compared with the anticipated and current use by pedestrians.”

6.2.2.7 Pedestrian access and existing right-of-way

As discussed previously in **Section 2.1**, the site is adjoined to the immediate west by a Council-owned sewerage easement, with a width of approximately 1.8m. This easement currently provides an informal pedestrian thoroughfare, linking North Street with the rear of the properties to the north of the site, which front onto Clyde Street. This linkage is important in the hierarchy of pedestrian pathways in the Batemans Bay Town Centre, and is identified in the Draft Batemans Bay Town Centre Structure Plan.

During consultation with the Department of Planning and Eurobodalla Shire Council, the issue of the continuation of the provision of a linkage adjoining the site's western boundary was discussed at some length. During the preparation of the preliminary development/building controls by the Department in consultation with Council, discussions were undertaken in respect of the potential for formalising this linkage, and enhancing it so as to provide a shared pedestrian/vehicular accessway. The intention was to retain this important pedestrian linkage, whilst also:

- | locating vehicular access to the site as far from Clyde Street, as possible;
- | providing opportunities for the continuation of the accessway, to provide for access to the properties to the north of the site, in the event that they are developed in the future; and
- | minimising the need for additional driveway openings to Clyde Street, when the properties to the north are developed, as this would have impacts on the provision of a continuous retail strip, traffic along Clyde Street and the amenity of the pedestrian environment on Clyde Street.

Council has indicated its support in principle for the proposed shared accessway, subject to their approval of the final design of the proposal.

6.2.2.8 Provision of a public precinct

The proposed development will make significant improvements to the public precincts, adjoining both the North and Clyde Street frontages of the site, as well as the proposed shared accessway to the west of the site. In addition, the proposed colonnades along both street frontages, will enhance the pedestrian environment in the locality, and provide opportunities for outdoor dining, in association with the proposed retail tenancies.

Workshop 1 Dunn + Hillam Architects have provided the following discussion in relation to the provision of a public precinct:

“As discussed in more detail in the section titled Street Frontage, we are designing in a covered colonnade that will be continued along the street fronts, effectively giving a 4m extension of width to the public precinct of the footpath. The new wider shared zone laneway will also allow much more amenable public access around the Town Centre, improving what is already a much used path.”

6.2.2.9 Disabled access

Disabled access is provided into and throughout the site, in the following manner:

- | three (3) adaptable apartments are proposed within the serviced apartment complex;
- | disabled access ramps between the Clyde and North Street footpaths and the proposed elevated colonnades on both street frontages;
- | level access between the colonnades and adjoining retail tenancies and reception area;
- | lift access between all levels in the North Street building, including access to the proposed conference room;
- | disabled access between all levels in the Clyde Street building, via two (2) pedestrian lifts;
- | disabled access between the two (2) buildings and the communal courtyard via a disabled access ramp.

Relevant signposting, tactile tiles, tactile lift buttons and the like will be provided throughout the site, as required by the Building Code of Australia and AS1428.1.

6.2.3 Environmental impacts

The following sections provide an assessment of the potential environmental impacts of the proposal.

6.2.3.1 Privacy

The proposal has been designed to minimise the potential for adverse privacy impacts with respect to the complex itself as well as neighbouring properties. The following design measures have been adopted to minimise opportunities for adverse acoustic and visual privacy impacts within the complex itself:

- | the two (2) buildings on the site are separated by some 20m, which is significantly greater than the separation distances recommended by the RFDC (i.e. 12m separation for four (4) storey / 12m high buildings and 18m for five (5) to eight (8) storey buildings up to 25m in height);
- | balconies comprise blade walls, so as to minimise opportunities for overlooking into neighbouring apartments;
- | the majority of the proposed apartments are “outward” looking, so as to minimise opportunities for overlooking within the complex;
- | the proposed method of construction will incorporate adequate insulation so as to minimise the transmission of noise through walls, ceilings and floors of apartments; and
- | any potential noise complaints within the complex once operational, will be dealt with by management, if required.

The following design measures have been adopted to minimise potential privacy impacts in respect of neighbouring properties (both now and in the future, in the event that they are redeveloped):

- | the proposed western setback (to the Council easement) is 6m from the centre of the easement. This setback envisages that a similar setback would be adopted on the adjacent property, so as to achieve a total separation distance of 12m between the two (2) buildings;
- | the proposed northern setback to the North Street building is 6m. This setback envisages that a similar setback would be adopted on the adjacent property, so as to achieve a total separation distance of 12m between the two (2) buildings; and
- | the Clyde Street building has side setbacks to the north and south which vary between nil at the lower levels and 6m at Third Floor level. These setbacks are proposed to provide an appropriate address to Clyde Street. The proposed setbacks are considered acceptable given that there are no windows or balconies on the side elevations of the proposed development, resulting in no opportunities for overlooking between the site and neighbouring properties.

The proposed setbacks are generally consistent with the provisions of SEPP 65 and the Residential Flat Design Code. If similar setbacks are adopted with neighbouring sites are developed, separation distances to habitable rooms will be generally in accordance with these controls.

Workshop 1 Dunn + Hillam Architects have provided the following additional discussion in relation to privacy:

“The habitable spaces of this development are largely inwards looking, that is, they look into the open space between the two buildings on the site, or they look over the street. In the case of the Clyde Street building the apartments do not have buildings across the street facing them but only the open Bay and ocean.

Where there are some apartments looking north over neighbouring properties there is a 6m setback in accordance with the Residential Flat Design Code.

Where the apartments look into the courtyard from the two buildings the floor levels are different thus never encouraging a view straight across into another apartment. The distance between these apartments is approximately 16m, much in excess of that required by the Residential Flat Design Code.”

6.2.3.2 Views

The proposal has been designed to minimise impacts on views between the Batemans Bay Town Centre and the foreshore. A detailed discussion of the view-related impacts of the proposal is provided below in **Section 6.3.2**.

Workshop 1 Dunn + Hillam Architects have provided the following discussion in relation to views:

“All apartments in this building have views either to the distant mountains to the west, to the Bay and ocean to the east, up the Clyde River to the north and across the Town centre and to the escarpment to the south.

Apartments facing into the courtyard will have intimate views into the courtyard and foliage of a large tree and some on the top levels will be able to see over the Clyde St building to the ocean’s horizon.

The buildings have been designed so that views can be retained and controlled over time and very few will be adversely affected by development of neighbouring properties.”

6.2.3.3 Overshadowing of adjoining and surrounding development and adjacent open space/coastal reserve

As discussed previously in **Section 4.8**, the proposed built form has been designed to incorporate two (2) separate elements, which minimises the building footprint of the complex, and the subsequent overshadowing impacts. The design also maximises solar access to apartments within the proposed complex, through the generous separation between the two (2) structures on the site.

Shadow diagrams have been prepared by Workshop 1 Dunn + Hillam Architects (see **Appendix D**). The diagrams demonstrate the overshadowing impacts of the proposed development with respect to neighbouring properties and the foreshore area, when compared to the shadows cast by the existing development on the site. The diagrams also show the level of solar access achieved to apartments within the proposed complex. A discussion of the overshadowing impacts is provided below.

To the north (side)

The site is adjoined to the north by a series of retail buildings fronting onto Clyde Street. The proposal does not give rise to any overshadowing to any properties to the north at any time of the day throughout the year.

To the east (primary frontage)

The site is adjoined to the east by Clyde Street. On the opposite side of Clyde Street is a public car park and the Clyde River foreshore area, comprising a narrow grassy strip, the Murra Murra Walkway and jetties.

The proposal will not give rise to any overshadowing of the public reserve or the waters of Batemans Bay at any time of the day throughout the year.

To the south (secondary frontage)

The site is adjoined to the immediate south by North Street as well as the single storey retail building located on the corner of North and Clyde Streets. On the opposite side of North Street are a number of two (2) storey retail buildings.

The proposal will create additional overshadowing of the properties on the southern side of North Street at 9am and 3pm on 21 June, however these properties will generally receive solar access in the middle part of the day, which is acceptable given their commercial usage.

To the west (rear)

The site is adjoined to the immediate west by the Council-owned sewage easement. On the opposite side of the easement are several two (2) storey retail buildings.

The proposal will create overshadowing of these properties at 9am on 21 June, however, they will receive unobstructed solar access for the remainder of the day.

As is evident from the preceding discussion, the proposed development does not have any significant overshadowing impacts in respect of neighbouring properties or the foreshore area.

The diagrams also demonstrate that good levels of solar access will be enjoyed by both the serviced and permanent residential apartments proposed within the site, in accordance with the Rules of Thumb contained in the Residential Flat Design Code.

6.2.4 Suitability of the proposal with the surrounding area having regard to the Coastal Design Guidelines of NSW (2003) and the NSW Coastal Policy 1997

A detailed analysis of the proposal having regard to the Coastal Design Guidelines of NSW (2003) and the NSW Coastal Policy 1997 is provided above in **Sections 5.18** and **5.19** respectively.

6.2.4.1 Bulk and scale

The Desired Future Character objectives specified in the Coastal Design Guidelines of NSW (2003) of relevance to the issues of bulk and scale are as follows:

- *“generally heights of up to 4 storeys in town centres; and*
- *heights are subject to place-specific urban design studies. New development is appropriate to the predominant form and scale of surrounding development (either present or future), surrounding landforms and the visual setting of the settlement. Buildings avoid overshadowing of public open spaces, the foreshore and beaches in town centres before 3pm in mid-winter and 6:30pm Summer Daylight Saving Time. Elsewhere, avoid overshadowing of public open spaces, the foreshore and beaches before 4pm mid-winter and 7pm Summer Daylight Saving Time.”*

The main Goal contained in the NSW Coastal Policy 1997 of relevance to bulk and scale is as follows:

- *“to protect and enhance the aesthetic qualities of the coastal zone.”*

The proposed development incorporates a part four (4) and part five (5) level complex, incorporating two (2) separate structures, aimed at minimising the perception of bulk and scale. The proposal acknowledges the planning codes and policies of relevance (see **Section 5.0**), with particular regard to the Coastal Design Guidelines of NSW (2003) and the NSW Coastal Policy 1997, and responds to these in a manner which is appropriate in the context of the site and the strategic vision promoted by Eurobodalla Shire Council and the Department of Planning with respect to development in the Batemans Bay Town Centre.

The bulk and scale of the proposal are considered acceptable having regard to the Coastal Design Guidelines of NSW (2003) and the NSW Coastal Policy 1997, for the following reasons:

- | the perception of bulk and scale has been minimised through the incorporation of two (2) slimline structures, providing for good building separation on the site (in the order of 20m);
- | bulk and scale have been minimised through the incorporation of a range of design measures, including articulation and modulation, variations in external colours, materials and finishes, façade detailing, proportion of openings and the like;
- | the proposal reads as three (3) storeys to Clyde Street, with the uppermost level set 6m back from the front of the site, to minimise its visual presence. To this end, the proposal has a three (3) storey scale to Clyde Street, which is consistent with the context of the site and Coastal Design Guidelines of NSW (2003) which discusses building heights of four (4) storeys in Town Centres;
- | the proposed development has a maximum height of five (5) storeys at the rearmost part of the site. This higher element has been located as distant from the Clyde Street frontage of the site as possible, so as to minimise its visual impact, and to retain a low-scale relationship with the foreshore. The location of the five (5) storey element also ensures that view-sharing occurs, with lower buildings set closer to the foreshore, consistent with the Draft Batemans Bay Town Centre Structure Plan;
- | the Coastal Design Guidelines of NSW (2003) Desired Future Character objectives with regard to height suggest a maximum height of four (4) storeys in Town Centres, however, also state that “heights are subject to place-specific urban design studies.” As discussed throughout this report, the Department of Planning and Eurobodalla Shire Council have undertaken detailed urban design studies with respect to building envelopes in the precinct within which the site is located. These studies concluded that building heights of between three (3) storeys (to the Clyde Street boundary) with a four (4) storey

element setback 6m from the Clyde Street boundary, and a five (5) storey element at the westernmost part of the site would be appropriate. The proposed development is consistent with the findings of this study;

the proposed bulk and scale of the proposal is consistent with that envisaged by the Department of Planning and Eurobodalla Shire Council on other sites within the block bounded by North and Clyde Streets and the Princes Highway (see **Appendix D**); and

the proposed development does not give rise to any significant overshadowing impacts in respect of neighbouring properties or the foreshore (see **Section 6.2.3.3** and **Appendix D**).

6.2.4.2 Amenity (including noise and visual amenity)

The Coastal Design Guidelines of NSW (2003) contain built form guidelines for all sites, which state that when designing a building in a coastal context, the design should ensure developments and neighbouring properties have access to:

- daylight;
- natural ventilation;
- visual and acoustic privacy;
- private open space; and
- a pleasant micro-climate.

The Guidelines also stated that achieving amenity relates to the design of individual buildings, and in particular, to the following:

- building orientation and depth;
- the size of the lot;
- open space location, size, connection with the inside of the building;
- car parking, location and access;

- | pedestrian access from the street;
- | street edge configuration and building separation; and
- | mature trees, vegetation and soil areas.

The proposed development has been designed in a manner consistent with the built form guidelines specified in the Coastal Design Guidelines of NSW (2003), and the Goals contained in the NSW Coastal Policy 1997, and achieves a satisfactory level of amenity, as follows:

- | daylight access within the proposed development has been maximised through generous building separation distances and orientation of windows, balconies and the like. Daylight access to neighbouring properties and foreshore areas is also maximised, as discussed in detail above in **Section 6.2.3.3**;
- | natural ventilation to the proposed apartments is achieved and maximised, through the provision of dual aspect apartments where possible. The site's location and design will take advantage of summer breezes (see **Section 4.8** above);
- | visual and acoustic privacy have been dealt with satisfactorily, as discussed in **Section 6.2.4.2**;
- | private open spaces are provided to each proposed apartment in the form of a balcony directly accessible from the living room. Balconies are typically a minimum of 2.4m deep, however are generally in excess of this, to maximise their functionality and provide for increased opportunities for indoor / outdoor living;
- | building depths vary between 14m and 19m, which are generally consistent with building depth controls contained in the RFDC (notwithstanding that this document is not applicable to the proposal);
- | the proposed development has an east / west orientation to maximise natural solar access and minimise potential for overlooking of properties to the sides of the site, in the event that they are redeveloped in the future;

communal open space is provided in the form of a courtyard located within the centre of the site, providing a pleasant internal outlook for inward-facing apartments. The communal courtyard is accessible to all proposed apartments via three (3) passenger lifts. A disabled access ramp is also proposed to maximise equitable and convenient access to all occupants of the proposed complex;

car parking is provided in a covered at-grade car parking area, accessible from the proposed new shared accessway on the site's western boundary. The proposed parking area will not be visible from the public domain, as it is located within the centre of the site and will be accessible by a driveway (with roller door to provide further security and screening) on the site's western side. A valet parking system is proposed to be adopted to maximise safety and security;

the proposed development will be inviting to pedestrians, due to the inclusion of a new retail tenancy and restaurant, both of which will be accessible from the adjoining public domain. Furthermore, there are two (2) residential lobbies proposed on the Clyde Street frontage, which will present an attractive form to the public domain. The North Street elevation comprises a retail tenancy and reception area for the proposed serviced apartments, which will also appear as an attractive element in the streetscape. Pedestrian access to the building is via steps and ramps from the adjoining footpaths. Covered colonnades are proposed to provide protection from the weather as well as opportunities for outdoor dining;

the proposed development is built with minimal setbacks to the public domain at Ground Floor level, so as to maintain an active presentation to the street. The incorporation of the covered colonnade will contribute to achieving this objective. Furthermore, the upper levels of the proposed development are setback from property boundaries, so as to provide adequate separation distances from neighbouring properties, so that their future development is not jeopardised; and

landscaping is proposed within the communal courtyard. Soil depths will ensure that the area can accommodate large trees and other plants.

On the basis of the discussion above, it is considered that the proposal is suitable in terms of its consistency with the desired future character of the surrounding area and the relevant provisions of the Coastal Design Guidelines of NSW (2003) and the NSW Coastal Policy 1997.

6.2.5 Height

The following sections provide a detailed discussion of the height of the proposed development, in the light of relevant planning codes and policies, and the strategic intentions for the Batemans Bay Town Centre.

6.2.5.1 Justification for departures from height provisions in Lower South Coast REP, Batemans Bay Town Centre DCP and draft Batemans Bay Town Centre Structure Plan

The height controls applicable to the site under the Lower South Coast REP, Batemans Bay Town Centre DCP and draft Batemans Bay Town Centre Structure Plan are as follows (as outlined in **Appendix Z**):

- | discussion of the height controls contained in REP No. 1 is provided in **Section 5.12**;
- | Batemans Bay Town Centre DCP permits a maximum height of 10m with punctuations by tower elements which do not exceed 10% of the building area or 30% of the maximum height (i.e. maximum height of 13m permitted); and
- | the draft Batemans Bay Town Centre Structure Plan permits the following heights at the site:
 - | maximum height of 10m (3 storeys) to Clyde Street, with the third level setback approximately 3m from the Clyde Street boundary, in the Waterfront Precinct (i.e. fronting onto Clyde Street); and
 - | maximum height of 18m (5 storeys) in the Marketplace Precinct (i.e. fronting onto North Street.

As outlined in **Appendix Z**, the proposal incorporates the following heights:

- | maximum height of 12m above existing ground level with a tower element to a height of 16m, setback 6m from the front boundary fronting onto Clyde Street; and
- | maximum height of 18m above existing ground level fronting onto North Street.

In this regard, the proposal exceeds the maximum height permitted under the current Town Centre DCP.

The proposal is also non-compliant with the 10m (3 storey) height control applicable to the Clyde Street elevation, under the draft Town Centre Structure Plan, having a height of 11.64m to the building at this point. The main reason for the non-compliance is the need to raise the ground floor of the building to adequately mitigate potential flooding and tidal inundation issues, as discussed in **Section 6.5**). Notwithstanding, the proposal has a three (3) storey presentation to Clyde Street (due to the setting back of the uppermost level), consistent with the number of storey provisions contained in the Draft Structure Plan.

The proposed North Street building has a height of 18m and five (5) storeys, consistent with the provisions of the Draft Town Centre Structure Plan.

The heights of the proposed development have been determined as a result of a detailed urban design analysis undertaken by the Department of Planning in consultation with Eurobodalla Shire Council, and have been agreed to in principle by these parties, as discussed below in **Section 6.2.5.2**. This is consistent with the Coastal Design Guidelines for NSW, which state that building heights are subject to place-specific urban design studies that consider a response to the local context.

6.2.5.2 Discussion of consistency with future strategic intentions for the Town Centre

As discussed above in **Section 3.2**, the heights of the proposed development have been determined as a result of a detailed urban design analysis undertaken by the Department of Planning in consultation with Eurobodalla Shire Council. The study focussed on the building envelope controls applicable to the Town Centre block generally bounded by North and Clyde Streets and the Princes Highway.

The urban design study aimed to determine appropriate building envelope controls for the entire precinct, so as to achieve an integrated approach to the control of developments in the locality. The objective was to ensure that the precinct can be developed in an integrated manner, so that development of individual parcels will not jeopardies or adversely affect the development potential of adjoining land.

The building envelope controls which arose as a result of the study involve the following general parameters relating to height, which apply to the site:

- | provision of above ground car parking, to minimise the requirement for excavation and associated impacts in relation to acid sulfate soils, groundwater and the like;
- | provision of two (2) separate built forms;
- | maximum building height of 12m above existing ground level with a tower element to a height of 16m, setback 6m from the front boundary (i.e. to Clyde Street – Precinct 1); and
- | maximum building height of 18m above existing ground level to the North Street building (Precinct 2).

The proposed development complies wholly with these building envelope controls, demonstrating consistency with the desired future character for the area, as envisaged by both the Department of Planning and Eurobodalla Shire Council. It is noted that Council has confirmed that it is generally supportive of the heights proposed by the Application, and it is understood that Council

is in the process of further reviewing the Draft Town Centre Structure Plan, to accord with the abovestated controls.

6.2.5.3 Permanent residential accommodation: consistency with SEPP 65 and BASIX

The proposal incorporates ten (10) permanent residential dwellings, located in the eastern part of the site. A discussion of the proposal's consistency with SEPP 65 is provided above in **Section 5.7**. A discussion of the proposed permanent residential accommodation with regard to SEPP (BASIX) is provided above in **Section 5.8**.

6.3 Visual impact

The following sections provide a discussion of the visual impact of the proposal

6.3.1 Impacts on foreshore amenity

The site is located approximately 75m west of the Batemans Bay foreshore. This area comprises an open public car park, a narrow strip of turfed open space and the Murra Murra foreshore walkway, which is currently being upgraded. Eurobodalla Shire Council's Batemans Bay Foreshore Park Conceptual Plan envisages the following main improvements to this foreshore area (in the vicinity of the site):

- | conversion of some areas of public car parking into a new landscaped area with paved walkway;
- | upgrade of existing public toilets;
- | reinstatement of the rock wall and construction of a 4m wide promenade walkway;
- | provision of new rear-to-kerb angled parking on the eastern side of Clyde Street and parallel parking on the western side of Clyde Street; and

- provision of four (4) new street trees adjacent to the Clyde River frontage of the site.

Figure 28 below, provides an extract of the Batemans Bay Foreshore Park Conceptual Plan.

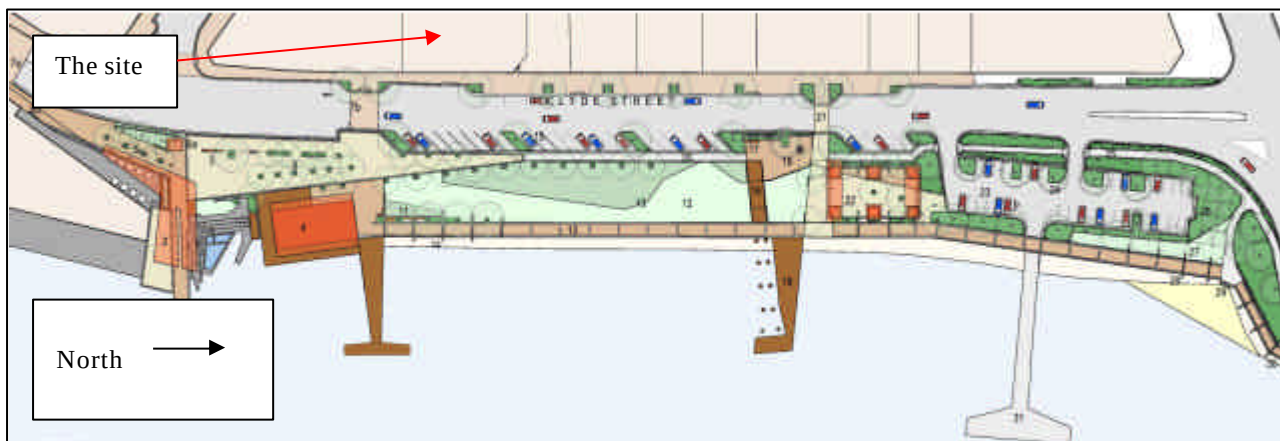


Figure 28: Plan showing the proposed Batemans Bay Foreshore Park beautification works

The proposed development will not result in any adverse impacts in respect of the amenity of the foreshore area, either as it currently exists or following Council's proposed upgrade works, for the following reasons:

- the proposal will significantly improve the appearance of the site, making a positive contribution to both the visual amenity of the streetscape and the foreshore area;
- the proposed built form is highly articulated and modulated, and comprises a range of external colours, materials and finishes, so as to provide a visually interesting and attractive presentation to the public domain and foreshore area. The proposed external colours and materials are also consistent with those proposed in the foreshore park. This can be seen in the photomontages at **Appendix D**;
- the proposed development has been designed to “step-up” in height away from the foreshore, so as to minimise the visual impact of the

higher elements on the foreshore and Batemans Bay estuary (see **Section 6.3**);

the proposed development will provide opportunities for outdoor dining, as an attraction to users of the foreshore reserve area;

the proposed development will increase tourism to the area, and contribute to the ongoing use of the foreshore reserve area; and

the proposed development will not result in any significant overshadowing of the foreshore reserve (see **Section 6.3** and **Appendix D**).

6.3.2 Loss of views from public places (including nearby foreshore and from the Clyde River) and amelioration of visual impacts (including visual aids, schedule of materials and finishes, landscaping and buffer areas)

The Draft Batemans Bay Town Centre Structure Plan indicates three (3) major viewpoints within the Town Centre, namely:

one Hill Street, approximately 450m south west of the site, providing a view arc over the Town Centre, taking in the Clyde River to the north and north west the Town Centre itself and views towards the Clyde River Bridge. This view arc incorporates views over the site. The Draft Structure Plan indicates that filtered views are provided over the site, from developments to the west;

one on Bent Street, approximately 550m south of the site, providing views over Flora Crescent towards Beach Road and the Batemans Bay estuary; and

one near South Street, approximately 1.25km south east of the site, providing views to the north and north east over the Town Centre and towards the Batemans Bay Estuary.

Visual representation of these vantage points is provided in **Figure 29** below.



Figure 29: Primary view corridors and vantage points in the Batemans Bay Town Centre

The design of the proposal has been undertaken to minimise view-related impacts. The main design elements include the following:

- | the provision of two (2) separate buildings on the site, to maintain view corridors between them, in a north / south direction;
- | the provision of setbacks of between 3m and 6m from boundaries of the site at the upper level, to maintain view corridors through the site;
- | keeping the proposed buildings as low as possible, whilst still maintaining adequate floor levels to minimise flooding impacts, and sufficient floor to ceiling heights so as to ensure a high level of internal amenity within the proposed new apartments;
- | incorporating a flat roof on the North Street building; and

using a variety of earthy neutrally-toned external colours, materials and finishes, so as to soften the visual impact of the proposal, and assist in it blending into its surrounds.

A detailed visual representation of the appearance of the building within the locality is provided in the photomontages prepared by Workshop 1 Dunn + Hillam Architects (see **Appendix D**). It is considered that the proposal will not give rise to any significant impacts in relation to views from public places.

6.4 Traffic

The proposed development has been designed in consultation with Masson Wilson Twiney Traffic Consultants (MWT). MWT have undertaken an assessment of the proposed access and car parking arrangements and consideration of the proposal having regard to Section 2.1 of the RTA's Guide to Traffic Generating Developments. A copy of MWT's Traffic and Parking Assessment is provided at **Appendix H**. The main issues raised in the report are discussed in the following sections.

6.4.1 Capacity of road network to cater for additional traffic

MWT have calculated that the proposal will result in a net increase of six (6) morning peak hour and thirteen evening peak hour car trips, which is marginal and will not give rise to any discernible adverse impacts on the surrounding road network. As a consequence, it is considered that the existing road network is adequate and capable of accommodating the minor additional traffic which will be generated by the proposal.

6.4.2 Access to and within the site

As discussed previously in **Section 6.2.2.7**, the proposed development incorporates the provision of a new shared accessway on the western side of the site, also encompassing the Council sewage easement which currently provides an informal pedestrian linkage between North Street and the properties to the north of the site.

The proposed accessway has a width of approximately 7m, 5m of which is located within the site. The accessway is proposed to provide two (2) way traffic in the initial phase of the operation of the serviced apartment complex. It is envisaged that once the properties to the north of the site are developed, that the accessway will be converted to provide one-way access, in a northerly direction, accessed from North Street.

Vehicular access into the site will be obtained via the accessway. The driveway to the site has a width of 5.8m, and provides access to the onsite car parking area which accommodates fifty-six (56) vehicles, including twenty (20) car stackers. It is proposed that a valet parking system will be employed in association with the operation of the serviced apartment complex, so as to provide a high degree of safety and security within the car parking area and shared accessway.

The configuration of the access and parking area have been assessed by MWT, having regard to relevant Australian Standards (see **Appendix H**). The report concludes that the proposed access and circulation arrangements are satisfactory and can accommodate a 99th percentile vehicle. The report concludes that the proposed use of car-stackers is acceptable in the circumstances, on the basis of the design of the car park and the fact that a valet car parking system will be employed (see Statement of Commitments at **Appendix T**).

Further details in relation to the proposed car stackers (dimensions and the like) are provided in a memorandum prepared by MWT (see **Appendix Y**).

6.4.3 Servicing and parking arrangements

As discussed previously in **Section 4.4**, loading, unloading and servicing will be undertaken using the proposed shared accessway and loading zones located in the vicinity of the site.

Garbage storage is provided at Ground Floor level, close to the shared accessway. It is proposed that garbage and recycling bins will be transferred from the bin storage areas to the North Street kerb by the operator of the premises, for collection by a private waste contractor. Once the bins have been emptied, the operator of the premises will return the bins to the various bin storage rooms proposed within the site.

6.4.4 Intersection sight distances

Masson Wilson Twiney have undertaken an assessment of sight-lines in their Traffic and Parking Assessment (see **Appendix H**). Their assessment concludes that sightlines are satisfactory, and that the access point into the site will operate in a safe and efficient manner. It is important to note that a valet parking system is proposed to be employed at the site, so that only drivers who are familiar with the configuration and operation of the vehicular access and circulation arrangements of the area, will drive into and out of the site.

6.4.5 Connectivity to existing developments

Figure 30 below shows the existing road network in the vicinity of the site.

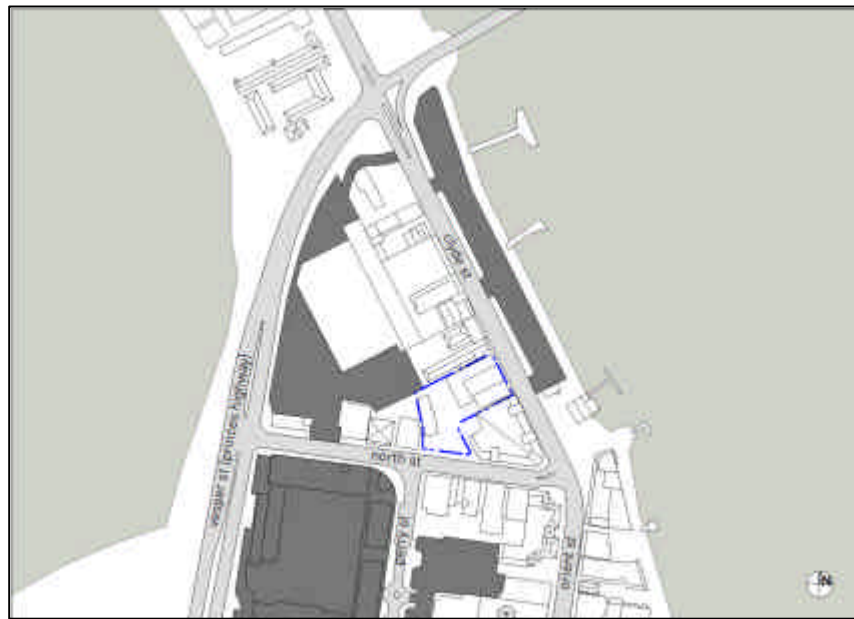


Figure 30: Plan showing existing road networks in the vicinity of the site

The proposed development has been designed having regard to the future development of neighbouring properties. To this end, the design of the proposal makes provision for connection with both existing and future developments in the locality, in the following manner:

- | colonnades are provided on both the North and Clyde Street frontages of the building, to provide a covered pedestrian area. These colonnades are proposed to provide linkages to neighbouring properties, once they are developed, so as to provide a continuous covered precinct, along both street frontages; and
- | the shared accessway on the western side of the site (as discussed above in **Section 6.2.2.7**) ensures that the existing informal pedestrian

route between North Street and the properties to the north of the site is maintained and enhanced.

Figure 31 below provides a graphical representation of the local road network, following construction of the proposed development.

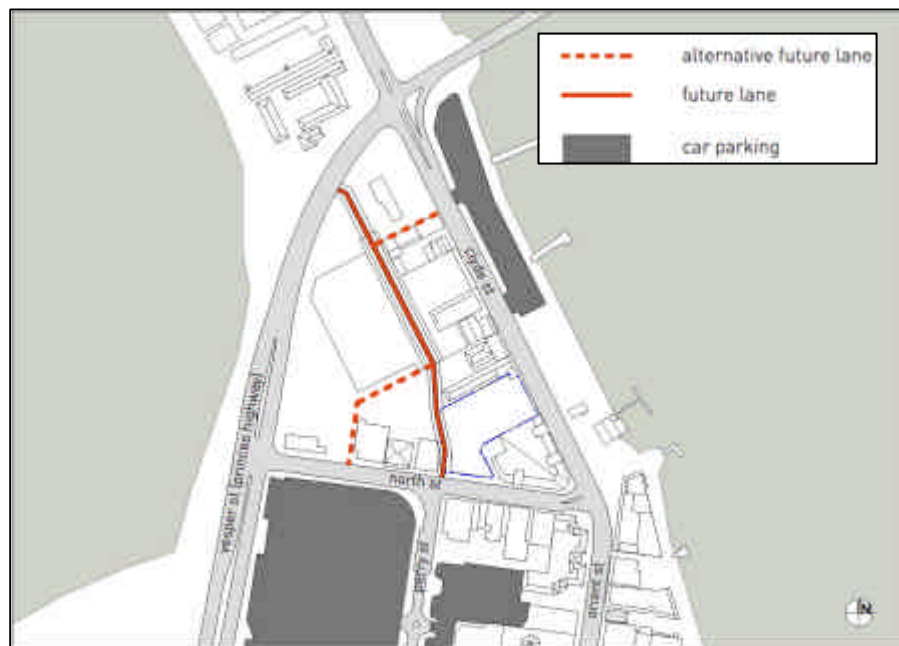


Figure 31: Future road network, including the proposed shared accessway to the west of the site

6.4.6 Impact on public transport (including school bus routes)

It is not envisaged that the proposal would have any discernible impact on public transport in the locality.

6.4.7 Identification of pedestrian movements and appropriate treatments

Figure 32 below shows the main pedestrian movement corridors in the locality of the site. The diagram shows that the main pedestrian routes in the immediate vicinity of the site, are located within the sewer easement adjoining the site's western boundary (where the proposed new shared accessway is proposed to be located), and along the foreshore pathway system.

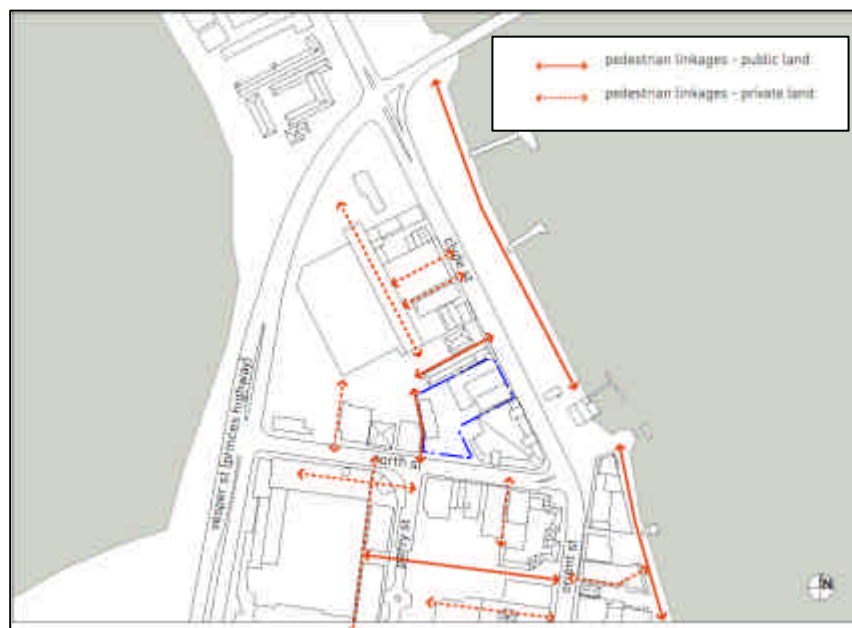


Figure 32: Plan showing existing pedestrian linkages in the vicinity of the site

The site currently has two (2) vehicular access points, one (1) each from North and Clyde Streets. The proposed development will consolidate access so that only one (1) driveway (i.e. the proposed shared accessway from North Street) is required. In this regard, the proposal will significantly improve the pedestrian environment along the site's Clyde Street frontage.

Figure 33 below provides a graphical representation of the proposed pedestrian environment in the locality, following construction of the proposed development and properties to the north of the site.

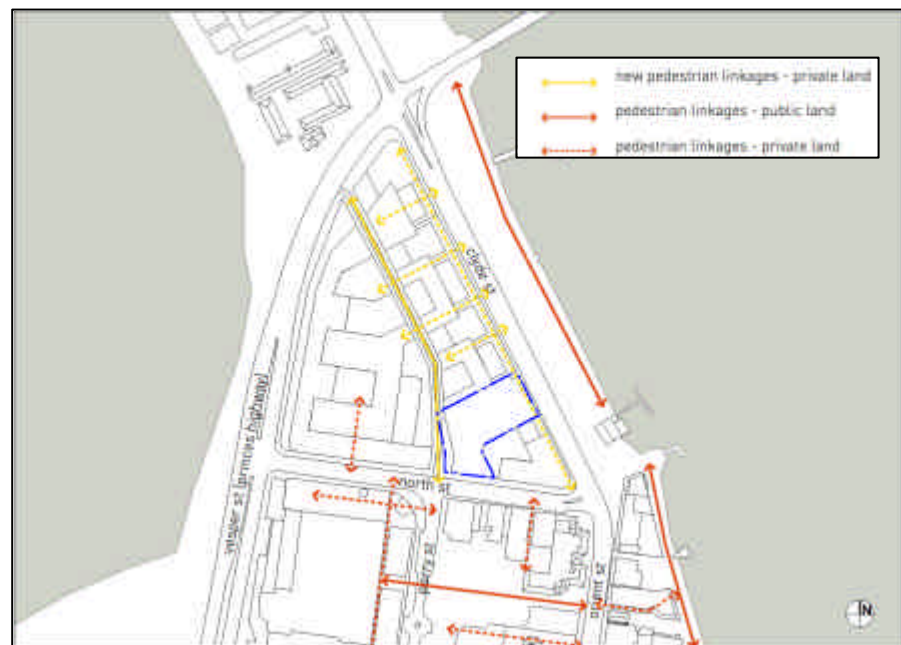


Figure 33: *proposed future pedestrian networks in the locality*

As is evident, the integrated redevelopment of the properties to the north of the site will allow for the consolidation of the pedestrian network, and provide a series of linkages from the proposed shared accessway to a new pedestrian route, along the western side of Clyde Street. This will also improve connectivity with the foreshore walkway, which is consistent with Council's strategic objectives for the Town Centre.

6.4.8 Identification of suitable mitigation measures, if required, to ensure the efficient functioning of the road network

As outlined in the report prepared by Masson Wilson Twiney (see **Appendix H**), the following mitigation measures are proposed in order to ensure the efficient functioning of the road network in the locality of the site:

- | incorporation of one (1) 5-minute parking zone on North Street, in the vicinity of the site for vehicle drop-off/pick-up by persons staying in the serviced apartment complex; and
- | utilisation of a valet parking system to ensure the safe and efficient movement of cars into and out of the site.

6.5 Hazard management and mitigation

Peter Spurway & Associates have prepared a detailed Coastal Processes and Flooding Review to accompany this application (see **Appendix N**). The report considers the following main issues:

- | coastal processes (eg coastal inundation, catchment flooding, tidal inundation and wave run-up); and
- | climate change considerations.

6.5.1 Coastal processes and flooding

The following sections address the requirements of the DGRs with respect to coastal processes and flooding, based on the Coastal Processes and Flooding Review prepared by Peter Spurway & Associates (see **Appendix M**).

6.5.1.1 Discussion of flood investigation report, including an assessment of flood risk having regard to the NSW Floodplain Manual (2005) and recommendations from the Batemans Bay Coastal Hazard Management Plan

The Coastal Processes and Flooding Review report provides an assessment of the risk of flooding at the site, having regard to the NSW Floodplain Manual (2005) and the Batemans Bay Coastal Hazard Management Plan. The review undertaken by Peter Spurway & Associates makes the following comments in this regard:

- | in order to mitigate against potential flood inundation at the site, minimum floor levels of AHD 2.7m to Clyde Street and AHD 2.5m to North Street (allowing for a freeboard of 300mm) should be adopted, in accordance with Eurobodalla Shire Council Policy; and
- | the access ramp to the proposed car park should be set at AHD 2.2m and provision should be made for the future installation of an 800mm high flood gate, to minimise the potential for flooding of this area, in the event that sea levels rise.

The design of the proposed development is consistent with these recommendations.

6.5.1.2 Discussion of flood investigation report, including an assessment of flood risk having regard to the NSW Floodplain Manual (2005) and recommendations from the Batemans Bay Coastal Hazard Management Plan and discussion of the impact of flooding on the development (including potential for wave run-up from tidal inundation)

The Coastal Processes and Flooding Review report provides an assessment of the risk of flooding at the site, having regard to the NSW Floodplain Manual (2005) and the Batemans Bay Coastal Hazard Management Plan. The review undertaken by Peter Spurway & Associates makes the following comments in this regard:

“The Batemans Bay Coastline Hazard Management Plan (CHMP) defines coastal inundation and catchment flooding combinations, and deduces design inundation events for the Batemans Bay CBD. The main coastal hazards affecting the Batemans Bay CBD are inundation as a result of wave overtopping of the foreshore training wall together with wave impacts along the immediate foreshore during major storm/tide events. Coastal inundation of the Batemans Bay CBD could occur with a frequency around once in twenty years.

*For severe storms, the Batemans Bay CBD is predicted to receive storm waves of about 1.0 metres maximum wave height. These storms elevate normal tidal water levels along the immediate foreshore. In addition barometric pressure is typically low and strong onshore winds would be expected. The resultant cumulative setup water levels adopted by CHMP for the training wall near the Batemans Bay CBD are shown in **Table 1**.*

Note these figures incorporate allowances for Sea Level Rise of 0.2m and for a coincident 10 year Clyde River catchment flood of 0.1m at locations downstream of the Princes Highway bridge.

The setup levels exceed the height of the foreshore training wall which CHMP report at 1.7 to 2.2m AHD. Waves would overtop the wall and encroach into the Batemans Bay CBD foreshore area. The CHMP calculates a 1% peak overtopping rate over the whole 300 meters length of CBD foreshore training wall estimated at 360 cu.m / sec.

Batemans Bay CBD Foreshore - Design Setup Water Levels (CHMP Table 12)

<i>AEP</i>	<i>Astronomic Tide & Storm Surge (m)</i>	<i>Allowance for Clyde River Flooding (m)</i>	<i>Sea Level Rise Allowance (m)</i>	<i>Wave Setup (m)</i>	<i>Cumulative Foreshore Water Level (m AHD)</i>
5%	1.4	0.1	0.2	0.1	1.8
2%	1.45	0.1	0.2	0.15	1.9
1%	1.5	0.1	0.2	0.2	2.0

These factors elevate water levels in the immediate foreshore area subject to wave attack as predicted by CHMP for the 1% event at 2.4m AHD (Table 2). In the backshore zone, 1% inundation levels are slightly less at 2.2m AHD.”

Batemans Bay CBD Design Water Levels (CHMP Table 13) - Foreshore and Backshore Zones

<i>AEP</i>	<i>Overtopping Flows (cu.m/sec)</i>	<i>Inundation Level Clyde St Foreshore (m AHD)</i>	<i>Inundation Level North St Backshore (m AHD)</i>
5%	240	2.2	2.0
2%	300	2.3	2.1
1%	360	2.4	2.2

6.5.1.3 Discussion of appropriate floor levels and suitable protection for underground car parks

Based on the investigations undertaken by Peter Spurway & Associates, and in accordance with Council requirements, a freeboard of 0.3m has been added to the 1% event outlined above, to determine minimum floor levels for commercial development. As a consequence, the following minimum floor levels are considered acceptable:

- | AHD 2.7m to the commercial tenancies fronting onto Clyde Street;
and
- | AHD 2.5m to the commercial levels fronting onto North Street.

The proposed development has been designed to accommodate these minimum requirements.

The report also notes the following in respect of the future protection of the commercial tenancies, having regard to global warming and potential sea-level rises:

“The design of the ground floor commercial development makes adequate provision for the fitting of floodgates. Commercially available floodgates would suit the entrances to commercial premises by way of appropriately-placed installation support columns. For instance a commercial floodgate system similar to that manufactured by Floodgate Australia would be suitable to the proposed layout. Floodgates would be capable of being fitted at short notice and with a rapid response time.

Standard floodgate heights of 0.6 meters above the colonnade (2.7m AHD) would attain a suitable level of protection. This system has been proven to be effective in the protection of large apertures and structures. In this way, should inundation in future decades attain higher levels than the current design level, inconvenience and flood damages could be proactively managed.”

The Peter Spurway & Associates report makes the following comments in relation to the mitigation of potential flooding of the proposed car parking level:

“The redevelopment of the site focuses vehicle entry / egress and parking access from North Street to avoid the deeper inundation on Clyde Street. It proposes access from the property’s western corner at the highest available point on North Street. Indeed this access lane is proposed to service all future redevelopment along Clyde Street, and its use in flood response access or egress is improved by its higher elevation at the North Street intersection.

This access layout maximises opportunity to elevate parking area surface levels to above the 1% flood level of 2.2m AHD. Levels in the rear access lane would meet the 1% design level, rendering the remainder of the car park free of flooding provided the crest level was not overtopped by a larger event. The car park shall be graded to be free draining in response to this possibility.

*Resultant minimum design commercial floor levels are shown in **Table 3**. Eurobodalla Shire Council staff confirms that Council does not require a freeboard component for the proposed above-ground car park, provided that the car park entrance is at or above the Backshore inundation level for North Street and that the car park is of a free draining design.*

The report also notes the following in respect of the protection of the car park, having regard to potential sea-level rises, associated with global warming:

“In future it is feasible that the current 1% design entry level of the car park could be exceeded. The car park would drain to the North Street entrance if design inundation levels were exceeded. This would permit efficient drainage once the tide and storm peak had passed.

Allowance has been made for the fitting of commercial floodgates across the car park entrance. A suitable installation support point is shown on design plans at the car park entry from the proposed service laneway. Based on a proposed pavement level of 2.2m AHD, an 800mm high floodgate would flood proof the car park to the likely peak level of 3.0m AHD. A suitable floodgate system is commercially available.”

It is considered that the design of the proposal is adequate having regard to current environmental conditions. The proposed building is capable of being retro-fitted with floodgates in the future, should the need arise.

6.5.1.4 Discussion of the development of flooding to surrounding properties (due to raising of floor levels)

The Coastal Processes and Flooding Review contained in **Appendix M** makes the following comments in respect of potential impacts of the proposal on flooding of surrounding properties:

“We conclude from the above discussion that the impacts of wave run-up on this development will be insignificant. Run-up would be confined to the Clyde Street foreshore area, with wave run-up energies spent over the width of the foreshore landscaped area and car park. Therefore the development as sited would not produce any diversion of wave run-up flows. There is no scope for adverse impacts of this development on adjoining lots by diverting run-up flows.

Raised floor levels for the proposed development would have no impact on ponded water levels. Hence no adverse impacts on adjoining development currently or in the future are foreseen.”

6.5.1.5 Discussion of adequate egress and safety in a flood event, including a Flood Management Plan

The Coastal Processes and Flooding Review contained in **Appendix M** comments that active flood-proofing responses are not considered necessary at this time, given that the design of the proposal satisfies the minimum floor level requirements specified by Eurobodalla Shire Council.

Notwithstanding, the report contains a preliminary Flood Emergency Response Plan, as required by the DGRs. It is proposed that the Plan be amended and finalised prior to occupation of the building, following consultation with prospective tenants of the building. In the interim, the preliminary Flood Emergency Response Plan proposes the following guidelines, which will inform the preparation of the more detailed document:

“A Flood Emergency Response Plan should define the following:

- 1. Overall responsibilities for co-ordination of emergency responses*
- 2. Storeroom areas for storage of floodgate racks for commercial shops on Clyde Street and the car park access floodgates*
- 3. Procedures and responsibilities for erection of floodgates*
- 4. Link to State Emergency Services personnel and warning system*
- 5. Means of notification of motel residents of impending event and timeframe*
- 6. Timing of response from receipt of inundation warning*
- 7. Need for evacuation of shops is not relevant*
- 8. Evacuation of vehicles from car park is not necessary but would be southbound via North Street up until floodgate installation*
- 9. Road closures and traffic direction beyond the site would be by emergency services personnel*

This emergency response plan outline is included in this report to guide a final plan, which should cover all actions required for the active management of inundation risk. A practical final plan would be prepared within 12 months of the completion and occupation of the development.”

It is considered that this methodology is acceptable in the context of the site and the proposed flood planning levels. The Statement of Commitments contains a recommended condition pertaining to the preparation of the final Flood Emergency Response Plan (see **Appendix M**).

6.5.1.6 Discussion of impacts of climate change, sea level rises and more frequent and intense storms on flooding

The Coastal Processes and Flooding Review contained in **Appendix M** provides a discussion of the impacts of climate change, sea level rises and storm events on flooding, as follows:

“On the one hand, this issue is a major one for low-lying areas such as the Batemans Bay CBD, and broad scale solutions to issues of this magnitude are beyond one development. Yet on the other hand, individual developments could consider and incorporate feasible ways to manage uncertainty if possible.

The following additional measures have been adopted in the final design to manage the uncertainty of future sea-level rise under climate change scenarios.

Section 3 discussed the latest projections of sea level rise for the Batemans Bay area. Sea level rise is the major climate change impact for Batemans Bay - effects of small changes in storm wave height, period and direction, and small variations in storm surge, are out-weighed by SLR possibilities. As summarised in this section, a median SLR figure would require water levels (including a freeboard) up to about **3.2m AHD** (Clyde Street frontage) and **3.0m AHD** (North Street frontage) to be addressed.

Commercial Areas

We note that the design of the ground floor commercial development makes adequate provision for the fitting of floodgates. Commercially available floodgates would suit the entrances to commercial premises by way of appropriately-placed installation support columns. For instance a commercial floodgate system similar to that manufactured by Floodgate Australia would be suitable to the proposed layout. Floodgates would be capable of being fitted at short notice and with a rapid response time.

Standard floodgate heights of 0.6 meters above the colonnade (2.7m AHD) would attain a suitable level of protection. This system has been proven to be effective in the protection of large apertures and structures. In this way, should inundation in future decades attain higher levels than the current design level, inconvenience and flood damages could be proactively managed.

Vehicle Access and Carpark

In future it is feasible that the current 1% design entry level of the car park could be exceeded. The car park would drain to the North Street entrance if design inundation levels were exceeded. This would permit efficient drainage once the tide and storm peak had passed.

Allowance has been made for the fitting of commercial floodgates across the car park entrance. A suitable installation support point is shown on design plans at the car park entry from the proposed service laneway. Based on a proposed pavement level of 2.2m AHD, an 800mm high floodgate would flood proof the car park to the likely peak level of 3.0m AHD. A suitable floodgate system is commercially available.

Flood Emergency Response Plan - Climate Change

The proposals for management of flood risk to the current 1% flood design level are by passive means (Section 5.3). Management of climate change impacts requires an active response - installation of floodgates on the commercial frontages and to the car park entrance for instance would be the most important aspects. These responses require those responsible to be aware of their individual and shared responsibilities.

The need for such a plan would not be required for many decades. As discussed and agreed with Eurobodalla Shire Council staff, development of this plan would be premature without relevant personnel being involved. We would propose that an outline emergency response plan would suffice at this stage.

*An outline of the requirements of a **Flood Emergency Response Plan** is developed for these non-passive mitigation measures to outline reactions and responsibilities - see **APPENDIX 1**. A Final Response Plan should be provided upon completion and occupation of the development. A practical final plan would be prepared within 12 months of the completion and occupation of the development.*

These proposed controls are noted to exceed Council's current planning requirements in recognition of the need to manage SLR uncertainty."

It is considered that the proposal is acceptable with respect to its design and the ability of the building to be adapted in the future, to deal with potential sea-level rises and the like.

The Department of Planning requested that the assessment of the proposal should be undertaken against the range of sea-level rise, rather than the median. The Department also advised that if the assessment was undertaken on the basis of the median, that a detailed justification for this methodology would be required. To this end, Peter Spurway and Associates have provided the following detailed explanation as to the methodology associated with the use of the median in their assessment:

“The range of predicted sea level rise is fairly broad. Whilst any design could account for the maximum SLR, the median SLR component is generally adopted as a design level. Sea level rise will be a gradual process and an approach of ‘planning for uncertainty’ with some flexibility is generally favoured over more inflexible responses.

Sea Level Rise implications are discussed in Section 3.1 of our Coastal Processes and Flooding Review. The range of potential SLR as reported is from 0.28m to 0.91m. When planning a development's responses to SLR, a 'real' number is needed. In deriving the median SLR value for our response, guidance was sought from the Batemans Bay Vulnerability Study (median SLR utilised) and the Batemans Bay Coastline Hazard Management Plan. The latter document used the 'most likely' increase over a 50 year planning period, which was a median value of 0.2m from IPCC 1996.

We note that our adopted 0.6m SLR value utilises a 100 year planning period, which exceeds the standard 50 year period adopted by BBCHMP and indeed by most coastal plans.

Additionally, the use of a 0.6m median SLR value was discussed with Royce Toohey of Eurobodalla Shire Council, and was utilised with his full support.

Also notable is the flexible approach taken to managing the uncertainty of SLR. The adopted approach with floodgates could respond to a 'maximum' SLR of 0.91 meters with a floodgate height increase of 0.3m. We note that floodgate modules are available up to 1.2 m high that would provide protection above the 'maximum' SLR level.

In line with the required flexibility associated with managing uncertainty, if the next round of SLR scenario models were to increase or decrease the current estimates, floodgate heights could simply be readjusted.”

6.5.2 Contamination

As discussed previously in **Sections 2.5** and **3.2**, a search of Council's files relating to the site reveals the following previous applications in respect of the site:

- | Development Application (DA) approved on 23 September 1969, permitting extensions to the existing motel at the site;
- | Building Application (BA) No. 320/70 approved on 19 November 1970, permitting brick additions to the existing motel at the site;
- | BA No. 45/71 approved on 19 March 1971, permitting the construction of a swimming pool;
- | DA approved on 26 June 1978, permitting extensions to the existing motel;
- | BA No. 641/79 approved on 8 November 1979, permitting improvements to the existing motel;
- | BA No. 548/81 approved on 21 July 1981, permitting construction of a garage and stairs;
- | DA No. 3028/84 approved on 27 February 1984, permitting an illuminated advertising sign;
- | DA approved on 21 June 1985, permitting internal alterations to create two (2) additional motel units;
- | Building Certificate issued on 9 February 1988;
- | DA No. 7245/88 approved on 30 June 1988, permitting additions to a restaurant, study and office;
- | BA No. 462/88 approved on 27 September 1988, permitting additions to the existing motel;
- | DA No. 7640/88 approved on 10 March 1989, permitting an illuminated flush wall sign;
- | Building Certificate issued on 18 February 1992;

- | DA/CC No. 2017/99 issued on 28 January 1999, permitting alterations and additions to the existing motel; and
- | DA No. 468/04 approved on 15 April 2004, permitting two (2) additional motel units, garage and store.

The search reveals that the site has been used as a motel for some thirty (30) years, and to this end, the potential for contamination at the site is considered to be unlikely. As a consequence, mitigation measures in accordance with SEPP 55: Remediation Land are not considered necessary in this instance. Research was also conducted with the Department of Lands, in respect of historic aerial photos of the site, however, this research did not bring any additional information to light.

In the event that the Department requires any further information to confirm the suitability of the site for the use proposed (which is a continuation of the existing tourist usage), copies of the relevant approvals referred to above, could be provided.

6.5.3 Acid Sulfate soils

The site may be affected by acid sulfate soils (see **Figure 34** below). The issue of acid sulfate soils at the site is discussed in the report prepared by Douglas Partners (see **Appendix G**).

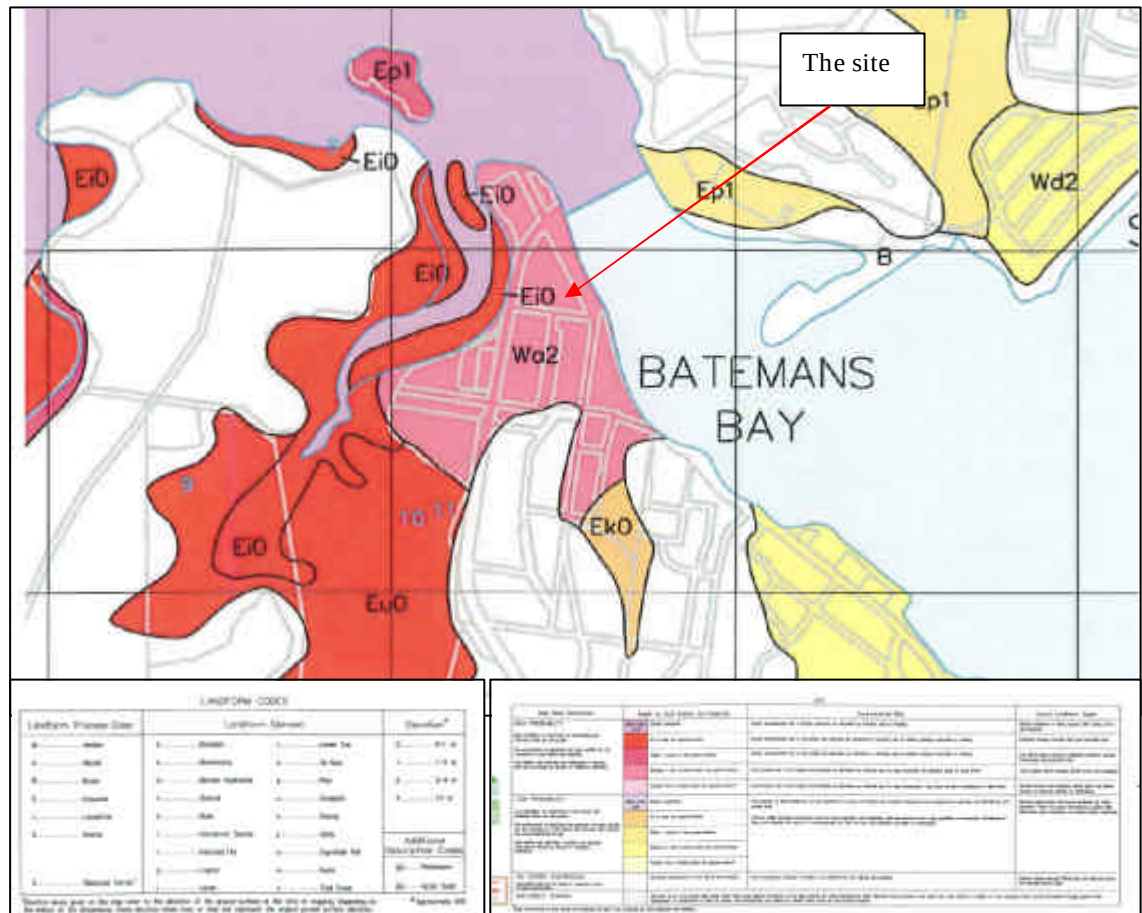


Figure 34: extract from the Nelligen Acid Sulfate Soils Map (prepared by the Department of Land and Water Conservation)

6.5.3.1 Discussion of acid sulfate soils report and appropriate management measures, if required

As discussed in **Section 4.6**, in order to appropriately manage acid sulfate soils, the following management measures are proposed, as recommended by BDA Consultants (see **Appendix I**):

- 1. the development applies “best practice” to reflect the importance of avoiding contamination of the watertable. Impacts on the water table during construction have been limited through the selection of the “G-Pile” piling system, comprising pre-cast concrete piles installed by hydraulic injection, eliminating the requirement for excavation. This technique avoids de-

watering for footing construction, generates negligible vibration and does not pose a risk of groundwater contamination; and

- | unforeseen dewatering (if any were required due to a seasonally shallower water table) would occur early in the site works to allow for onsite discharge of pumped groundwater, back into the water table. This would require a shallow return pond to accept dewatering line discharge. There would be no discharge of pumped groundwater by dewatering, to Batemans Bay, either directly or indirectly via the stormwater system.

Furthermore, the Department of Planning has provided written confirmation that detailed acid sulfate soils testing will be required to be undertaken prior to the commencement of construction at the site.

Workshop 1 Dunn + Hillam Architects have provided the following discussion in respect of previous consultation and investigations pertaining to potential acid sulfate soils:

“The Department of Climate Change advised that the only map available is a 1:25 000 map that indicates the degree of probability that ASS will be found in a particular area. The degree of probability is based upon suspected depths that ASS might be found in that particular area. The map does not provide any site specific details and is not at a scale at which site specific information can be drawn.

We note that the geotechnical survey of the site carried out by Douglas Partners and the report that they prepared which is contained within the EA, identifies that it is possible that ASS are present on the site within the depth range of the cores drilled (to depths of 57 m) . The report recommends further soil testing to be carried out prior to the commencement of construction to determine the full extent of the ASS.

We reiterate that we have identified the possible presence of ASS across the site. We have also taken significant steps in the design to minimise excavation and general disturbance to the site as a result of these findings and provided a best practice plan of management that outlines how we intend to deal with any ASS soils should their presence be confirmed. The structural design of the building (timber frame) reduces the weight of the building by 10 times when compared to a concrete framed building of a similar scale. This means that the number and depth of foundations is dramatically reduced.

The further tests are necessary and we are committed to undertaking the further tests prior to the commencement of construction, however our client would like to delay undertaking the tests until he receives development approval for the following reasons:

- 1. The geotechnical report recommends several further tests including the tests for ASS, not all of the tests can be conducted at this stage as they need to be done closer to the commencement of construction.*
- 2. The testing is not compatible with the existing hotel operations as it requires significant disturbance to the site.*
- 3. The cost to undertake the further tests are significant and not one which our client wishes to undertake without development consent for the project. We note also that it is not cost effective to have the geotechnical team on site twice to do a set of tests that would normally only require one visit.*

In conclusion; we have identified that it is possible that ASS will be present on the site (based on councils ASS maps and the geotech report). We have clearly outlined how ASS are to be managed and dealt with should it be found to be present on site. We have also agreed on 07.11.2007, with Alan Bright from the NSW Department of Planning that this approach would be accepted by the department for this application.”

The Statement of Commitments at **Appendix T** makes reference to the fact that an Acid Sulfate Soils Management Plan will be prepared in association with the proposed development.

6.5.4 Sediment and erosion control

As outlined in the Sediment and Erosion Control Plan prepared by Whippswood (see **Appendix K**), potential stormwater and erosion impacts during construction will be managed through the installation of the following:

- | sediment fencing around the boundaries of the site;
- | a stabilised vehicle accessway;
- | controlled stockpile locations; and
- | placement of sandbags sediment traps in the gutters adjoining the site, to prevent sediment from entering the stormwater drainage system.

6.5.5 Geotechnical

A geotechnical report has been prepared by Douglas Partners (see **Appendix G**). This report was prepared in 2005, at the inception of planning and design of the redevelopment of the site. The purpose of the report was to provide detailed information on the geotechnical characteristics of the site, so as to guide the design and construction of the proposed new building, and minimise impacts on the local environment and neighbouring properties. The report was prepared in conjunction with Simpson Design Associates, the project Structural Engineers. Both Douglas Partners and Simpson Design Associates have been involved with the project since 2005 to the present day.

Section 4 of the geotechnical report makes mention of an earlier built form proposal, including three (3) options, involving buildings with at grade, semi-basement and basement car parking arrangements. Based on these options, the report made a preliminary assessment of the likely floor and column loads. The report also provides general design options in relation to the construction of the proposed building, having regard to the three (3) options pertaining to the level of the proposed car parking.

Section 5.2 of the report then provides a discussion as to the implications of constructing the at-grade, semi-basement and basement level car parks. It is

evident, from the report, that all three (3) car parking options are feasible, from a geotechnical perspective, subject to suitable detailed design.

The current proposal has at-grade car parking (at RL2.2). Section 5.2 of the Geotechnical report (which relates to Option A, which involves the provision of car parking at or about ground level), notes that construction of car parking at this level would result in a "relatively straight forward design and construction approach (notwithstanding the requirement for piles to rock) without the need for expensive excavation support and retaining wall construction." Section 5.3 of the report then proceeds to provide suggested design parameters.

The proposed development has been designed having regard to the geotechnical characteristics of the site and the recommendations contained in the geotechnical report, with respect to the construction of a new building with car parking at or about ground level. Additional detailed geotechnical and structural engineering input and design will be undertaken prior to the issue of a Construction Certificate.

The following sections provide additional particulars in relation to the report.

6.5.5.1 Discussion of geotechnical report

The Geotechnical report submitted with this application indicates the following sub-surface profile at the site:

- | concrete to depths of approximately 300mm;
- | medium to very dense sand between depths of 4.1m to 5.8m;
- | loose silty sand between depths of 6.8m to 7m;
- | firm clay between depths of 26.5m and 30.6m, becoming stiff to very stiff thereafter; and
- | weathered rock was inferred to occur at depths of between 53.1m and 56.7m (with the refusal of the cone at these levels).

Free groundwater was observed at depths of 1.45m to 1.55m (i.e. RL 0m AHD to 0.4m AHD).

6.5.5.2 Discussion of any geotechnical limitations that may occur and appropriate design considerations, if required

The main geotechnical limitations affecting the site are as follows:

- | groundwater is encountered at depths of around 1.45m below existing ground level;
- | bedrock is not encountered until a depth of 53.1m; and
- | the site may be affected by acid sulfate soils.

The following design measures have been adopted to address the geotechnical factors affecting the site, consistent with the design options presented in the Geotechnical Report prepared by Douglas Partners:

- | the proposed car parking level is located above ground level, so as to minimise the requirement for soil disturbance associated with excavation;
- | it is proposed to adopt the “G-Pile” piling system, comprising pre-cast concrete piles installed by hydraulic injection, eliminating the requirement for excavation. This technique avoids de-watering for footing construction, generates negligible vibration and does not pose a risk of groundwater contamination;
- | the building (with the exception of ground level) will be a timber-framed structure, so as to reduce the weight of the structure, and the associated number of piers required to provide structural support; and
- | the requirement for dewatering will be minimal due to the proposed piling technique. However, unforeseen dewatering (if any were required due to a seasonally shallower water table) would occur early in the site works to allow for onsite discharge of pumped groundwater, back into the water table. This would require a shallow return pond to accept dewatering line discharge. There would be no discharge of pumped groundwater by

dewatering, to Batemans Bay, either directly or indirectly via the storm water system.

6.6 Water cycle management

6.6.1 Discussion of measures for Integrated Water Cycle Management (based on Water Sensitive Urban Design principles)

As discussed previously in **Section 4.6**, Stormwater Drainage Concept and Erosion and Sediment Control Plans have been prepared by Whipps-Wood Consulting (see **Appendices J and K**). The design of the proposal is also in accordance with the recommendations provided in the Coastal Processes and Flooding Review report prepared by Peter Spurway and Associates Pty Ltd (see **Appendix N**), so as to mitigate against potential flooding and inundation of the ground level tenancies and parking area.

In essence, an Integrated Water Cycle Management system is proposed. To this end, the following will be adopted:

- | roofwater will be collected from gutter channels and downpipes, and directed to first-flush devices at ground level, where fine pollutants can be stored and removed from the drainage system;
- | the relatively clean water from the roof will then be collected in a 100m³ rainwater storage tank and employed primarily for non-potable uses, such as toilet flushing;
- | a submersible pump system is proposed to be installed to convey non-potable water to the points of use, with a back-up supply provided by a direct water main connection via an automatic rainwater diversion valve if electrical power is lost during a storm or if no rainwater remains in the tank;
- | an oversized rainwater tank is proposed to permit greater capacity and flood attenuation when the tank is partly empty;

- | mesh basket pit inserts are to be installed for the collection of litter from surface runoff prior to discharge into the Council street drainage network; and
- | leaf guards and first flush devices will be installed to improve rainwater quality.

Furthermore, the report prepared by Peter Spurway & Associates concludes that the proposal will not give rise to any adverse impacts on the water table or estuary either during construction or in the long-term. It also concludes that seagrasses located within the Batemans Bay estuary and the wetlands within McLeod's Creek will not be affected by the proposal.

6.6.2 Assessment of impacts of the proposal on surface and groundwater quality during construction and occupation, including impacts on Batemans Bay and Clyde River

Peter Spurway & Associates have prepared a Water Resource Management – Estuary and Groundwater Issues Report which accompanies this application (see **Appendix M**). The objective of the report is to review the proposal having regard to relevant policies and guidelines relating to water cycle management, with particular regard to mitigating impacts of the proposal on surface and groundwater during construction and operation of the proposed development.

Stormwater Concept and Sediment/Erosion Control Plans have been prepared by Whipps-wood (see **Appendices J and K**). These plans aim to manage stormwater during construction and in the long-term, so as to minimise impacts on local waterways and groundwater.

As outlined above in **Section 6.5.5.1**, the geotechnical investigations undertaken by Douglas Partnership note that free groundwater was observed at depths of 1.45m to 1.55m (i.e. RL 0m AHD to 0.4m AHD).

The report prepared by Peter Spurway & Associates makes the following comments in respect of groundwater and potential impacts in this regard:

“The shallow coastal aquifer system in the Batemans Bay CBD is not a recognised drinking or irrigation resource. There are no Groundwater Management Plans in place for this aquifer.

Nonetheless protection of groundwater quality is important in this location, as the shallow water table in the area would be vulnerable to contamination. Any pollution of the water table would discharge through a zone of water exchange to nearby Batemans Bay from the subject site, and opportunities for water quality improvement via riparian vegetation are very limited due to the commercial land uses. Hence point source protection of groundwater quality is an issue that can be closely related to estuary health.

The water table at the site is thought from preliminary investigations (Douglas Partners 2005) to occur at a level of about 0.5m AHD, approximately 1.3 meters below existing ground level.

The development applies ‘best practice’ to reflect the importance of avoiding contamination of the water table. Impacts on the water table during construction are managed by appropriate structural design using driven steel G-piles that do not require pumping of the water table for dewatering.

Dewatering for water storage tank excavation is also planned to be unnecessary by suitable tank dimensioning.

Dewatering (if any were unexpectedly required due to a seasonally shallower water table) would occur early in the site works to allow for on site discharge of pumped groundwater back into the water table. This may require either a return pond or injection wells.

If ultimately it were found impractical to recharge the water table on site, groundwater would be removed from site by tanker. There would be no discharge of pumped groundwater by dewatering to Batemans Bay, either directly or indirectly via the stormwater system.”

The report prepared by Peter Spurway & Associates makes the following comments in respect of potential impacts on local waterways:

*“The nearest wetlands to the subject land are some 120 meters to the west. **Figure 2** depicts SEPP 14 Wetland No. 212 on McLeods Creek, west of Vesper Street (Princes Highway).*

The stormwater system servicing this part of the Batemans Bay CBD is also shown by blue lines. The catchment of North Street drains eastwards towards a stormwater outlet discharging to Batemans Bay.

The subject development does not have the potential to impact on these wetlands in any way. Consequently the NSW Wetlands Policy is not considered further.

Development Responses to EMP Management Strategies

Strategy Reference	Response
High Priority	
WQ 1 Water Quality Objectives	The development recognises the excellent quality of receiving waters. A number of protective measures will be in place during construction and following the development to protect receiving water quality. Outlined elsewhere in this report, these comprise: • No discharge of pumped groundwater from dewatering activity (if found necessary) to the estuary or wetlands. • Carpark has been designed to be totally under cover and unaffected by rainfall events. • Runoff via the stormwater system to the Bay is solely surplus roof water.
Medium Priority	
VA 1 Visual Amenity	The issues of development controls and how the proposal addresses visual amenity are addressed in the SEE.
SSM 1 Estuarine Habitats	Existing <i>Zostera</i> sea grass beds (Figure 3) form a sensitive estuarine habitat along the Clyde Street frontage. This sea grass would be sensitive to local changes in stormwater quality. Stormwater discharges to the foreshore from the North Street catchment. Considerations under WQ1 above would also apply directly to protection of these sea grass beds.
FHOI 2 Sea Level Rise	Potential impacts of coastal inundation and future sea level rise on the development have been considered in full. Proposed controls exceed Council's current planning requirements. See Coastal Processes and Flooding Review (PSA 2007) for details.

The development has addressed the estuary's sensitive receiving waters by maximising the reuse of stormwater collected from the roof. Surplus stormwater passes through a storage tank to discharge to the stormwater system in Clyde Street. Only roof water would be discharged from the site, ensuring water quality is not compromised. The car park is under cover and flood proof to the current 1% flood level.

As such car parking spaces and attendant pollutants would be unaffected by rainfall events. In fact the quality of runoff from the site's roof would instinctively be improved compared to the runoff from the existing car parks on the site."

On the basis of the design of the proposal it is considered that potential impacts in respect of groundwater and nearby waterways will be minimised. The Statement of Commitments contains recommended conditions to deal with these issues (see **Appendix T**).

6.6.3 Discussion of consistency of proposal with NSW Wetlands Management Policy, NSW Estuary Management Policy, NSW State Rivers and Estuaries Policy and Batemans Bay and Clyde River Estuary Management Plan

The Water Resource Management – Estuary and Groundwater Issues Report at **Appendix M** provides a detailed appraisal of the proposal, demonstrating its consistency with the following policies:

- | NSW Wetlands Management Policy;
- | NSW Estuary Management Policy;
- | NSW State Rivers and Estuaries Policy; and
- | Batemans Bay and Clyde River Estuary Management Plan.

6.6.4 Address and recommend appropriate sediment and erosion control during and post construction, demonstrating compliance with the guidelines provided by the Landcom reference “Soils and Construction – Managing Urban Stormwater, 4th Edition, March 2004”

The Sediment/Erosion Control Plan prepared by Whipps-wood and contained in **Appendices J** and **K** recommend a number of measures to minimise impacts during and post-construction on the site. These measures are as follows:

- | roofwater will be collected from gutter channels and downpipes, and directed to first-flush devices at ground level, where fine pollutants can be stored and removed from the drainage system;
- | the relatively clean water from the roof will then be collected in a 100m³ rainwater storage tank and employed primarily for non-potable uses, such as toilet flushing;
- | a submersible pump system is proposed to be installed to convey non-potable water to the points of use, with a back-up supply provided by a direct water main connection via an automatic rainwater diversion valve if electrical power is lost during a storm or if no rainwater remains in the tank;
- | an oversized rainwater tank is proposed to permit greater capacity and flood attenuation when the tank is partly empty;
- | mesh basket pit inserts are to be installed for the collection of litter from surface runoff prior to discharge into the Council street drainage network;
- | leaf guards and first flush devices will be installed to improve rainwater quality;
- | the potential for impacts on the wetland located 120m west of the site (McLeod's Creek), is limited by a combination of the distance to the wetland, the intervening Vesper Street and the natural fall of the landscape and the stormwater system, to the east;

- | the development applies “best practice” to reflect the importance of avoiding contamination of the watertable. Impacts on the water table during construction have been limited through the selection of the “G-Pile” piling system, comprising pre-cast concrete piles installed by hydraulic injection, eliminating the requirement for excavation. This technique avoids dewatering for footing construction, generates negligible vibration and does not pose a risk of groundwater contamination;
- | unforeseen dewatering (if any were required due to a seasonally shallower water table) would occur early in the site works to allow for onsite discharge of pumped groundwater, back into the water table. This would require a shallow return pond to accept dewatering line discharge. There would be no discharge of pumped groundwater by dewatering, to Batemans Bay, either directly or indirectly via the stormwater system; and
- | the proposed car parking area has been designed to be covered, and thereby unaffected by rainfall events, with any wash-down runoff passing through gross-pollutant traps with hydrocarbon filters. Runoff via the stormwater system to Batemans Bay is either surplus roof water or water that has been treated by gross pollutant pits.

The report concludes that the proposal will not give rise to any adverse impacts on the water table or estuary either during construction or in the long-term. It also concludes that seagrasses located within the Batemans Bay estuary and the wetlands within McLeod’s Creek will not be affected by the proposal.

Furthermore, and as outlined in the Sediment and Erosion Control Plan prepared by Whipps-wood, potential stormwater and erosion impacts during construction will be managed through the installation of the following:

- | sediment fencing around the boundaries of the site;
- | a stabilised vehicle accessway;
- | controlled stockpile locations; and
- | placement of sandbags sediment traps in the gutters adjoining the site, to prevent sediment from entering the stormwater drainage system.

The Statement of Commitments contains recommended conditions to deal with these issues (see **Appendix T**).

6.7 Infrastructure provision

GHD have prepared a detailed Engineering Services Brief which discusses the provision of infrastructure (among other items) in respect of the proposed development (see **Appendix Q**).

6.7.1 Sewerage

The Engineering Services Brief prepared by GHD confirms that sewerage from the site will discharge to the existing gravity sewer main connection on the site. Council has confirmed that the sewer infrastructure in the locality can accommodate the proposed development (see **Appendix V**).

6.7.2 Water

Council has confirmed that the water infrastructure in the locality can accommodate the proposed development (see **Appendix V**). The Engineering Services Brief prepared by GHD confirms that the site's water will be provided from the existing 150mm town water main located in North Street. The Brief confirms that this main has adequate pressure and flow to supply the proposed development.

6.7.3 Electricity

The Engineering Services Brief prepared by GHD (see **Appendix Q**) confirms that electricity supply to the building will be taken from an onsite kiosk substation, proposed to be located on the western side of the site (see **Appendix D**). Furthermore, consultation with Mr Hank Jansen from County Energy on 2 April 2008 confirmed that with the provision of a new substation, with a capacity of approximately 800 amps, it would be possible to service the proposed development.

6.7.4 Waste disposal

A detailed discussion of the proposed method of waste disposal is provided above in **Section 4.4**. The Statement of Commitments at **Appendix T** contains further specifics in relation to ongoing waste management at the site.

6.7.5 Telecommunications

The Engineering Services Brief prepared by GHD (see **Appendix Q**) contains details of consultation with Telstra in relation to telecommunications infrastructure to service the proposed development. The report notes that Telstra have confirmed that there are no major issues associated with the provision of telecommunications lines to service the proposed development.

6.7.6 Gas

There is currently no gas supply to Batemans Bay. The proposal does not propose to utilise any bottled gas.

6.7.7 Discussion of provision of public services and infrastructure having regard to Council's S94 Contributions Plan

A discussion of Council's S94 Contributions Plan is provided above at **Section 5.17**. The Plan requires the payment of contributions per head of population, for the provision of a range of local services and infrastructure. Monetary contributions are also levied in respect of parking deficiencies in the Batemans Bay Town Centre.

Section 4.5 of the Plan notes that Council may accept an offer by the Applicant, to make a contribution by way of an "in kind" contribution or a material public benefit, where the following criteria are satisfied:

- | payment of the contribution in accordance with the provision of the
- | Plan is unreasonable or unnecessary in the circumstances of the case;
- | and

- | the in-kind works will satisfy the demands for public facilities for which the contribution was sought; and
- | the in-kind contribution will not prejudice the timing or the manner of the provision of the public facility for which the contribution was required; and
- | the value of the works to be undertaken are at least equal to the value of the contribution assessed in accordance with this plan; or
- | where the value of the proposed works in-kind is less than the monetary value of contribution, the difference shall be made by way of a monetary contribution; and
- | where the contribution relates to the provision or embellishment of open space, a landscape concept must initially be submitted to Council for approval; and
- | where the contribution relates to the embellishment of open space, the Council will only accept a maximum of 90% of the total contribution as a work in-kind, with the balance being by way of a monetary contribution.

The proposed development incorporates the provision of a shared pedestrian/vehicular accessway along the site's western boundary. This is proposed to provide access to the rear of the properties to the north of the site, in the event that they are developed in the future. The details of the design of the proposed accessway will be the subject of detailed discussions with, and the approval of, Eurobodalla Shire Council, prior to construction, as discussed above in **Section 5.17**.

The proposed provision of the shared accessway represents a significant public benefit, as it will assist Council in achieving its strategic vision for the precinct, which involves the provision of an integrated accessway to the rear of properties fronting onto Clyde Street, so as to minimise the need for additional driveways to this main thoroughfare.

To this end, the Applicant seeks to discuss the potential of undertaking the construction of the shared accessway as a work in-kind, with Council following determination of this application, so as to resolve the specifics of this aspect of the proposal, as discussed above in **Section 5.17**. This is reflected in the draft Statement of Commitments at **Appendix T**.

6.8 Consultation

A detailed discussion of the consultation undertaken in association with the proposal is provided above in **Section 3.2**. Copies of notes and meeting minutes are provided at **Appendix V**.

Consultation has also been undertaken with the RTA, Telstra, County Energy and Stockland, as discussed throughout this report.

7.0 Statement of commitments

In accordance with the Director-General's DGRs, a draft statement of commitment has been prepared to accompany this application. The purpose of the Statement of Commitments is to:

- | commit to environmental outcomes; and
- | commit to management and mitigation measures to be employed to achieve relevant environmental outcomes.

The draft Statement of Commitments is provided at **Appendix T**. It identifies those measures that will need to be implemented during the pre-construction and construction phases as well as once the development is complete in order to minimise impacts on the environment. The Applicant undertakes to carry out the development in accordance with the commitments contained therein.

8.0 Suitability of the site and the public interest

This report and the accompanying documentation provide a comprehensive analysis of the environmental constraints affecting the site, which generally are as follows:

- | potential impacts associated with coastal processes (i.e. flooding, tidal inundation and the like);
- | possible presence of acid sulfate soils;
- | proximity of groundwater;
- | potential for impacts on water quality in the Clyde River and Batemans Bay estuary;
- | potential for visual impacts, particularly when the site is viewed from foreshore areas;
- | potential view loss in respect of neighbouring properties;
- | potential for adverse impacts in respect of neighbouring properties (i.e. overshadowing, privacy and the like);
- | traffic and parking issues, given the site's location within the Batemans Bay Town Centre;
- | the appropriateness of the height and bulk of the proposal in the context of the site and the strategic vision for the Batemans Bay Town Centre; and
- | geotechnical issues.

The constraints affecting the site have been investigated and the resultant design of the development displays a comprehensive and integrated approach to the management of these issues.

As a consequence, the site is suitable for the proposed development, for the following reasons:

- | there is an acknowledged shortage of high quality tourist accommodation within the Batemans Bay Town Centre, which this proposal seeks to redress;
- | the site is located within the Batemans Bay Town Centre, and the provision of a mix of tourist and retail accommodation is appropriate in this context. The varied uses will assist in enlivening the site and will improve safety and security in the Town Centre by introducing residential population into the area, which will afford casual surveillance in the locality;
- | the design of the proposal has been undertaken having regard to the site constraints, generally as follows:
 - | minimal excavation is proposed, so as to minimise impacts associated with groundwater and potential acid sulfate soils;
 - | the proposal has been designed to minimise potential visual impacts, particularly when viewed from Batemans Bay, by keeping the building as low as possible;
 - | the ground floor building design has been derived so as to minimise potential flooding impacts; and
 - | onsite car parking has been minimised as far as is practical, so as to minimise the impact of the proposal on the local road network.

The proposal is consistent with the public interest by virtue of the provision of a high quality architecturally designed building, within the Batemans Bay Town Centre. The proposed new building will set the benchmark for future development in the locality.

Furthermore, the proposed development is expected to provide additional employment opportunities for the local workforce, both associated with the construction and ongoing operation of the proposed new complex. The proposal will also boost the local economy by attracting additional tourists to the Batemans Bay Town Centre.

9.0 Conclusions and recommendations

The proposed development involves the construction of a building containing a new serviced apartment complex, permanent residential accommodation, retail accommodation and a restaurant on the site. It is also proposed to construct a shared pedestrian/vehicular accessway along the site's western boundary, linking the site with the adjoining properties to the north. Shared public colonnades are also proposed. The colonnade along the Clyde Street frontage incorporates a shared ramp which can be connected to adjoining sites when they are developed, in the future. The proposal has environmental planning merit and is justified in the following respects:

it generally promotes/implements the planning principles, aims and objectives of the following planning policies and guidelines:

- Coastal Protection Act 1979;
- State Environmental Planning Policy No. 71: Coastal Protection (SEPP 71);
- State Environmental Planning Policy No. 65: Design Quality of Residential Flat Development (SEPP 65);
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy No. 11: Traffic Generating Development (SEPP 11);
- State Environmental Planning Policy No. 55: Remediation of Land (SEPP 55);
- Draft State Environmental Planning Policy No. 66: Integration of Land Use and Transport (Draft SEPP 66);
- Lower South Coast Regional Environmental Plan No. 2 (REP No. 2);
- Eurobodalla Urban Local Environmental Plan 1999 (LEP 1999);

- | Development Control Plan: Batemans Bay Town Centre Development Guidelines (Town Centre DCP);
- | Eurobodalla Development Control Plan: Parking Code;
- | Draft Batemans Bay Town Centre Structure Plan (draft Structure Plan);
- | Batemans Bay S94 Contributions Plan;
- | Coastal Design Guidelines for NSW (2003);
- | NSW Coastal Policy 1997;
- | Draft Nature Coast Design Guide;
- | Residential Flat Design Code;
- | South Coast Regional Strategy;
- | it will provide a new high quality tourist facility within the Batemans Bay Town Centre, addressing the current shortage for this type of development on the region;
- | it will contribute to increasing tourism in the area, adding to the local economy;
- | it will provide opportunities for additional employment, associated with both the construction and ongoing operation of the complex;
- | management measures and design techniques have been derived so as to mitigate against potential adverse environmental impacts;
- | the proposed development has been designed having regard to issues associated with coastal process (i.e. flooding, tidal inundation and the like);
- | the proposal has been designed to be capable of being retro-fitted with flood-gates in the future, should sea level rises occur, so as to minimise flooding of the development;
- | the height, bulk and scale of the development are consistent with the desired future character of the area, as determined in the recent urban design study

undertaken by the Department of Planning in consultation with Eurobodalla Shire Council;

- | the proposed development does not give rise to any unreasonable amenity impacts in respect of the foreshore or waterways in the locality (i.e. overshadowing, visual amenity, water pollution and the like);
- | the proposal will provide a high degree of internal amenity to the proposed new apartments, as a consequence of the maximisation of cross-flow ventilation, solar access, generous apartment sizes, provision of private open space and the like;
- | the proposal incorporates a communal landscaped courtyard within the centre of the site, which will add to the amenity of the site;
- | the proposal will enliven the street frontages adjacent to the site, with the provision of new retail tenancies and pedestrian colonnades;
- | a Construction Management Plan will be prepared in conjunction with the builder, prior to works commencing, to manage potential impacts of construction activities in accordance with relevant standards, including site security and safety, noise and vibration, construction traffic, soil and water management, dust and construction waste; and
- | a Draft Statement of Commitments has been prepared with respect to providing surety in terms of management of potential impacts at the site.

In light of the significant merits of the proposal and the absence of any unreasonable adverse environmental impacts, the proposed new serviced apartment complex/hotel with associated road-works warrants the approval of the Minister for Planning.

APPENDIX A

CORRESPONDENCE DATED 1 FEBRUARY 2006 FROM
THE MINISTER, CONFIRMING THE PROPOSAL IS A
MAJOR PROJECTS APPLICATION

APPENDIX B

CORRESPONDENCE DATED 31 OCTOBER 2007 FROM
THE MINISTER CONTAINING AMENDED DIRECTOR
GENERAL'S REQUIREMENTS

APPENDIX C

SURVEY PLAN (DWG. NOS. 1 AND 2 ISSUE A) DATED 1
JANUARY 2005 AND PREPARED BY LAWRENCE
GROUP SURVEYORS

APPENDIX D

SITE ANALYSIS, ARCHITECTURAL PLANS, SECTIONS
AND ELEVATIONS, SHADOW DIAGRAMS, ESD AND
LANDSCAPE DRAWING AND PHOTOMONTAGES (DWG.
NOS. DA 03-00 - 16) DATED 28 APRIL 2008 AND
PREPARED BY WORKSHOP 1 DUNN + HILLAM
ARCHITECTS

APPENDIX E

DESIGN VERIFICATION STATEMENT DATED 7
FEBRUARY 2008 AND PREPARED BY WORKSHOP 1
DUNN + HILLAM ARCHITECTS

APPENDIX F

ARCHITECTURAL DESIGN STATEMENT PREPARED BY
WORKSHOP 1 DUNN + HILLAM ARCHITECTS

APPENDIX G

GEOTECHNICAL REPORT (PROJECT NO. 40385)
DATED MAY 2005 AND PREPARED BY DOUGLAS
PARTNERS

APPENDIX H

TRAFFIC AND PARKING ASSESSMENT REPORT DATED
21 APRIL 2008 AND PREPARED BY MASSON WILSON
TWINEY

APPENDIX I

CONSTRUCTION MANAGEMENT PLAN DATED 8
FEBRUARY 2008 AND PREPARED BY BDA
CONSULTING

APPENDIX J

STORMWATER DRAINAGE STATEMENT DATED 19
FEBRUARY 2008 AND PREPARED BY WHIPPS-WOOD
CONSULTING

APPENDIX K

STORMWATER CONCEPT AND SEDIMENT AND
EROSION CONTROL PLANS (DWG. NOS. HDA01/P2-
HAD05/P2) DATED DECEMBER 2007 AND PREPARED
BY WHIPPS-WOOD CONSULTING

APPENDIX L

STRUCTURAL REPORT DATED 4 MARCH 2008 AND
PREPARED BY SDA CONSULTING ENGINEERS

APPENDIX M

WATER RESOURCE MANAGEMENT – ESTUARY AND
GROUNDWATER ISSUES DATED FEBRUARY 2008 AND
PREPARED BY PETER SPURWAY & ASSOCIATES

APPENDIX N

COASTAL PROCESSES AND FLOODING REVIEW DATED
DECEMBER 2007 AND PREPARED BY PETER SPURWAY
& ASSOCIATES

APPENDIX O

LANDSCAPE PLAN (DWG. NO. ADS-D0802-01 AND O2)
DATED 8 FEBRUARY 2008 AND PREPARED BY AYLING
+ DRURY LANDSCAPE ARCHITECTURE

APPENDIX P

QUANTITY SURVEYOR'S REPORT DATED 20
FEBRUARY 2008 AND PREPARED BY BDA
CONSULTANTS PTY LTD

APPENDIX Q

ENGINEERING SERVICES BRIEF DATED APRIL 2008
AND PREPARED BY GHD

APPENDIX R

CORRESPONDENCE FROM BANNERMANS DATED 8
APRIL 2008 IN RELATION TO THE PROPOSED STRATA
AND STRATUM SUBDIVISION OF THE PROPOSED
DEVELOPMENT

APPENDIX S

CONSTRUCTION TRAFFIC MANAGEMENT PLAN DATED
21 FEBRUARY 2008 AND PREPARED BY JOHN
CONDON & ASSOCIATES

APPENDIX T

STATEMENT OF COMMITMENTS

APPENDIX U

CORRESPONDENCE FROM BANNERMANS DATED 8
APRIL 2008 IN RELATION TO THE PROPOSED SHARED
ACCESSWAY

APPENDIX V

CONSULTATION MEETING NOTES AND
CORRESPONDENCE

APPENDIX W

ABSA CERTIFICATE NO. 11613954 DATED APRIL 2008
AND BASIX CERTIFICATE NO. 189916M DATED 22
APRIL 2008

APPENDIX X

BCA ASSESSMENT REPORT (DOCUMENT NO. 101024-R2/JD) DATED 1 JULY 2008 AND PREPARED BY BCA LOGIC

APPENDIX Y

MEMORANDUM DATED 17 JULY 2008 AND PREPARED
BY MASSON WILSON TWINEY

APPENDIX Z

COMPLIANCE TABLE