



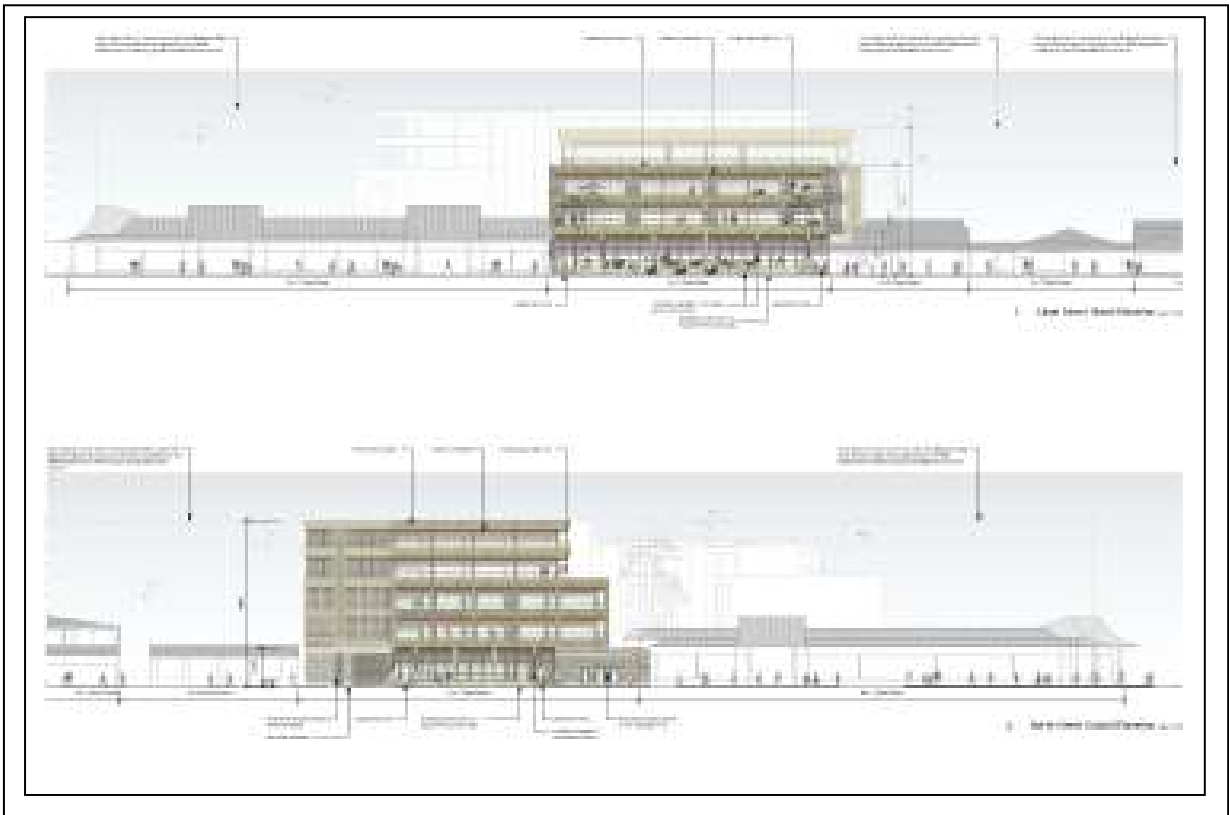
Department of Planning  
Department of Planning

**MIXED USE TOURIST, RESIDENTIAL &  
RETAIL DEVELOPMENT  
3 CLYDE STREET, BATEMANS BAY**

**Proposed by SPD Town Planners on behalf of Mr  
Roy Syne**

Director-General's Environmental Assessment Report  
Section 75I of the  
Environmental Planning and Assessment Act 1979

March 2009



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## EXECUTIVE SUMMARY

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This is a report on an application seeking concept plan approval for a mixed use residential, tourist and retail development pursuant to Part 3A of the *Environmental Planning and Assessment Act, 1979* ('the Act').

SPD Town Planners on behalf of Mr Roy Syne ('the Proponent') is proposing a hotel/serviced apartment, permanent residential apartment, and retail development on Lot 4 DP 585556, 3 Clyde Street, Batemans Bay ('the proposal').

The site has an area of approximately 2,700sqm and is located in the Batemans Bay town centre on the New South Wales south coast. The development will be accommodated in two, 4 and 5 level buildings. It will comprise 46 hotel rooms/serviced apartments with conference room and reception area, 10 permanent residential apartments, 2 ground level retail tenancies, on-site parking for 61 cars, and ground level pedestrian colonnades. The residential units will be strata subdivided. A 4 lot stratum subdivision will subdivide the residential apartments; serviced apartments; restaurant tenancy; and retail tenancy.

The estimated project cost is \$15 million, and the proposal will create 100 full time equivalent construction and 10 full time equivalent operational jobs. The proposal will provide additional tourist and residential accommodation and ongoing economic benefits in terms of tourism and employment for Batemans Bay. The proposal will provide an architect-designed development responsive to the streetscape and the area's natural features.

During the exhibition period, the Department received four submissions from government agencies and two submissions from the public. Key issues considered in the Department's assessment included:

- Car parking and access
- Height/visual impact
- Coastal processes and flooding
- Groundwater/geotechnical
- Acid sulphate soils
- Section 94 contributions

The Department has assessed the merits of the application and is satisfied that the impacts of the proposal development have been addressed via the Statement of Commitments and the Department's recommended conditions of approval. The Department is satisfied those impacts can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. Accordingly, the Department is satisfied that the site is suitable for the proposal and the project will provide environmental, social and economic benefits to the region. The Department recommends the Major Project be approved subject to conditions.

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# 1. BACKGROUND

## 1.1 THE SITE

### 1.1.1 Site Context and Location

The site is located on the corner of Clyde and North Streets, Batemans Bay (**Figure 1**). It lies approximately 25m south of the intersection of Clyde Street and the Princes Highway, on the NSW south coast, in the Eurobodalla local government area. It comprises Lot 4, DP585556 and is owned by the Syne and Imms families.

The site is located in the Batemans' Bay town centre, in a prominent location in proximity to the Clyde River, McLeod's Creek, and the Murra Murra Foreshore Walkway. The site is located in a flood prone area and may be subject to acid sulphate soils. The site has a high watertable located at approximately 0.5m AHD, approximately 1.4m below existing ground level.

Development in the locality is predominantly retail and commercial development ranging from one to four storeys high. The Clyde River estuary to the east of the site supports a variety of commercial activities, including oyster farming, dependent upon the continuation of its existing high environmental values.



**Figure 1: Site Context**

### 1.1.2 Existing Site Features

The site comprises an L-shaped lot with a 30.6m frontage to Clyde Street, a 33.35m frontage to North Street, and a site area of approximately 2,700sqm. The site is generally flat, with no significant vegetation. Views of the site are at **Figures 2 and 3**.

The site is occupied by: a motel comprising two, 2 storey buildings accommodating 29 rooms; a 2 storey building fronting Clyde Street occupied by Domino's Pizza; at-grade car parking for 43 vehicles; and an in-ground swimming pool. Vehicular access to the site is via Clyde and North Streets. The site has historically been used as a motel, since at least 1969. A SEPP 14 wetland (McLeod's Creek), is located 120m west of the site.



**Figure : View of the site from Clyde Street**



**Figure 2: View of the site from North Street**



**Figure 3: Existing parking on the site**

### 1.1.3 Surrounding Development

A Council sewer easement is located at the rear of the site and functions as a public footpath. Surrounding development comprises retail and commercial buildings ranging from one to five storeys high. To the north of the site is a single storey retail building. Further to the north are one and two storey buildings, including a recently completed shopping complex. To the east of the site is a public, hardstand parking area bordering the Clyde River foreshore. To the south of the site is a two storey scale building. Further to the south on Clyde Street are one and two storey retail/commercial buildings. A four to five storey scale shopping complex is located to the south on Perry and North Streets. To the west of the site is a Council sewage easement providing pedestrian access from North Street to retail development (Woolworths) to the north west. Further west, are one and two storey retail/commercial buildings (see **Figures 5 to 10**).



**Figure 5: To the north of the site and foreshore public parking**



**Figure 6: Clyde River Estuary to the east of (opposite) the site**



**Figure 7: Looking south west to Batemans Bay town centre from the Clyde River Estuary**



**Figure 8: North Street looking west**



**Figure 9: Foreshore development to south east, Clyde Street**



Figure 10: Five storey scale mixed use development, Beach Street, to the south of the site



Figure 11: Stockland shopping centre, North & Perry Streets to the south of the site

#### 1.1.4 Zoning

The site is zoned 3(a) Business under the *Eurobodalla Urban Local Environmental Plan (LEP) 1999*. The zoning table to clause 25 of the LEP permits a wide range of uses, including serviced apartments, hotels, residential flat buildings and commercial and retail premises.

### 1.2 SITE HISTORY

#### 1.2.1 Previous Applications

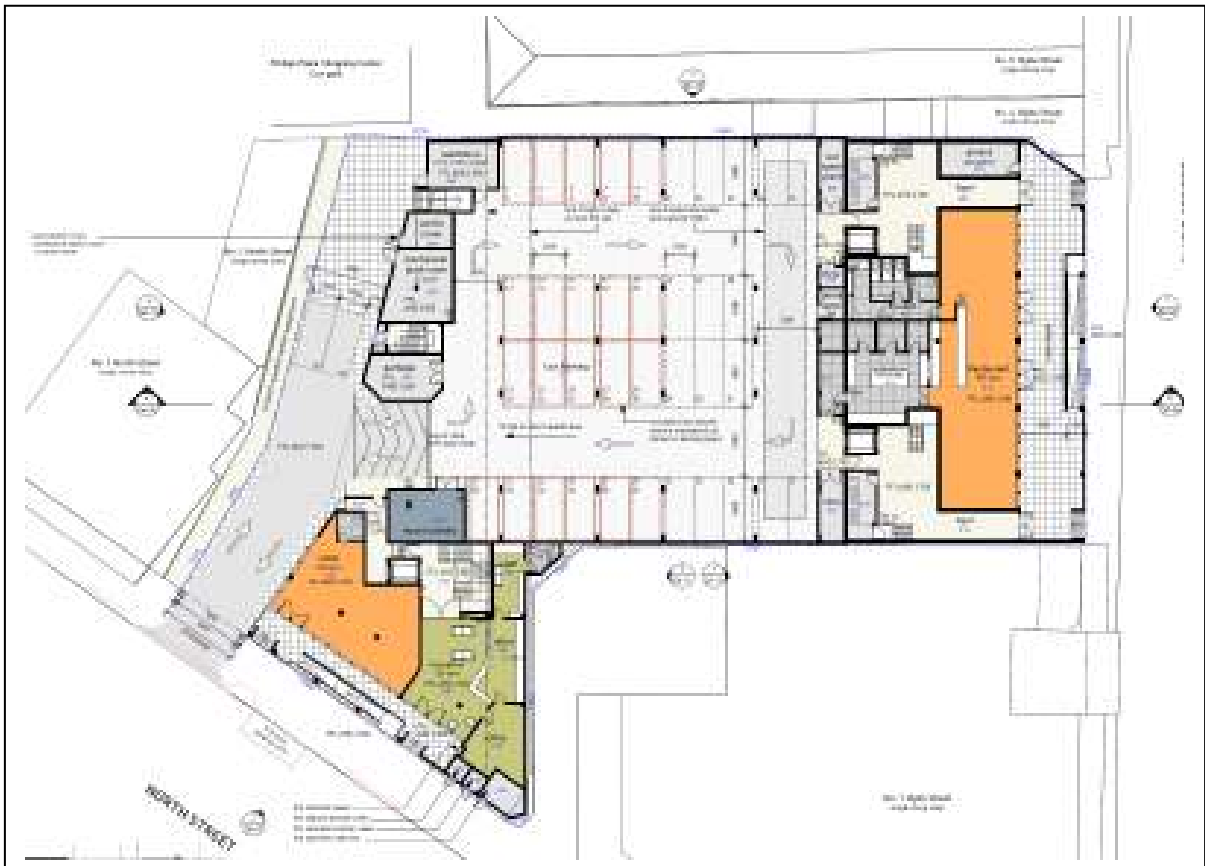
No previous applications have been lodged with the Department.

## 2. PROPOSED DEVELOPMENT

### 2.1 THE PROPOSED DEVELOPMENT

The proposal seeks project approval for a mixed tourist, residential and retail development (**Figures 11 and 12**), comprising:

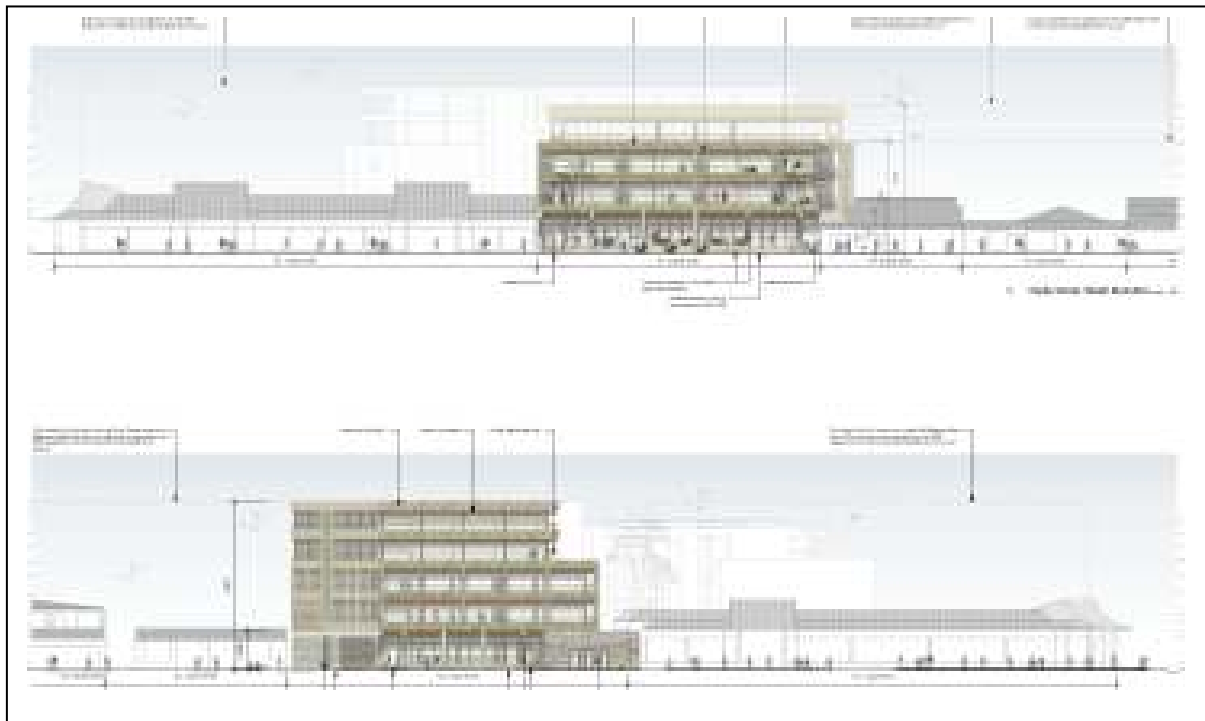
- A hotel/serviced apartment complex in a 5 storey building on the North Street frontage of the site comprising 46 apartments/rooms (27 x studio and 19 x 1 bed), conference room and reception area;
- Permanent residential apartments in a 4 storey building on the Clyde Street frontage of the site comprising 10 apartments (2 x 1 bed, 6 x 2 bed, 2 x 3 bed);
- Ground level restaurant fronting Clyde Street;
- Ground level retail fronting North Street;
- 61 on-site parking, including 22 spaces in a car stacker;
- Stratum and strata subdivision of the proposal comprising four stratum lots (one each for the residential and serviced apartment buildings, and for the restaurant and retail tenancies), and strata subdivision of the residential apartments;
- Total residential gross floor area of 1,407sqm;
- Total tourist gross floor area of 3,024sqm;
- A total FSR of 1.79:1 for the site;
- A landscaped communal courtyard for the tourist and residential uses;



**Figure 11: The proposal - ground floor plan**



**Figure 12: The proposal – looking south west from Clyde River Bridge**



**Figure 13: Proposed street elevations**

## 2.2 SUBDIVISION

The EA proposes stratum subdivided of the development in accordance with the *Conveyancing Act 1909* (NSW) into 4 stratum lots: 1 lot each for the serviced and residential apartment buildings, and the 2 commercial/retail tenancies. The stratum residential lot only will then be strata subdivided in accordance with the *Strata Schemes (Freehold Development) Act 1973* (NSW) to create a strata scheme of 10 residential lots and common property. The EA notes there will be potential to create additional strata subdivisions by dividing the other 3 stratum lots. The strata schemes would be governed by either a strata management statement or a building management statement.

## 2.3 DEVELOPMENT DATA

The *Eurobodalla Urban Local Environmental Plan (LEP) 1999* stipulates general and particular aims relating to orderly development. The LEP zones the site 3(a) Business and has specific objectives for residential development in that zone. The proposed uses are permissible with consent in the zone. The LEP does not contain any development standards applicable to the zone or to the site. A detailed assessment against the provisions of the LEP is provided at Appendix B to this report.

*Lower South Coast Regional Environmental Plan (REP) No. 1 – Height of Buildings* contains aims to conserve scenic and environmental character, and to protect the coast's visual quality.

*Eurobodalla Development Control Plan: Batemans Bay Town Centre Development Guidelines ('Batemans Bay DCP')* contains design and character themes provisions to guide the development of the town centre. The DCP recommends a 3:1 floor space ratio of and a 10m height.

*Batemans Bay Town Centre Structure Plan ('Structure Plan')* has informed the preparation of the proposed *Draft Eurobodalla Comprehensive LEP* and contains a range of controls, including height, FSR, setbacks and design.

*Eurobodalla Development Control Plan: Parking Code ('Parking DCP')* requires on-site parking as set out in **Table 1** below. A detailed assessment against the provisions of those plans and guidelines is provided at Appendix B to this report.

Control	Town Centre Guidelines DCP	Compliance	Structure Plan	Compliance
<b>FSR:</b> 1.79:1;	3:1	<b>Yes</b>	2:1 max;	Yes
<b>Site coverage:</b> 89%			68% max	No <sup>1</sup>
<b>Height</b>				
Clyde Street: 12m street frontage 15.3m at 6m setback	10m	No <sup>2</sup>	Clyde St.: 12 street frontage 16m at 6m setback <sup>3</sup> .	<b>Yes</b>
North Street: 18m			North St: 18m	<b>Yes</b>
<b>Street frontage heights</b>				
12m Clyde Street 18m North Street	N/A		Clyde Street: 16m (where discretionary heights apply) North Street: 8.5m	<b>Yes</b>  No <sup>1</sup>
<b>Setbacks</b>				
North Street: 3.2m ground level 0m top level	N/A		5.5m ground level Min 6m top level Continuous colonnade - frontage setback (Clyde Street)	<b>Yes</b> <b>Yes</b>
Clyde Street: Colonnade; 0m main building			Main building/mid levels 0m	<b>Yes</b> <b>Yes</b>
<b>Accommodation mix</b>				
Studio, 1, 2 & 3 bed; 2 beds 60% of residential component; Permanent residential 22% of total	N/A		Mix of unit sizes; 2 bed units max 75% of residential component; Permanent residential max 25% of total	<b>Yes</b> <b>Yes</b> <b>Yes</b>
<b>Building separation:</b>				
0m from adjacent allotments 24m separation between buildings	N/A		9m side setback from adjacent allotments;  21m separation within allotment	No <sup>4</sup> .  <b>Yes</b>

**Table 1: Policy compliance**

**Notes:**

1. Non-compliance with site coverage is discussed in section 5.1.
2. Noncompliance with building wall height at North Street is discussed in section 5.1 **check**
3. The *Batemans Bay Town Centre Structure Plan* contains an anomaly in the height controls. At section 6.3 of the Plan it allocates a 12m height to the Foreshore Precinct (which includes the site) and a discretionary height to 15m. At section 6.5.2 of the Plan it allocates a 16m street frontage height to Clyde Street where discretionary heights apply. Council has acknowledged that the discretionary height should be 16m..
4. The Structure Plan allows for separation of mixed use buildings to be considered with adjacent uses and the aspect that maximises amenity and view sharing. Adjoining properties are commercial/retail and likely to be redeveloped for mixed uses. The proposal takes advantage of the site's aspect and prevailing breezes by orienting the buildings east-west, affording views for the Clyde Street units.

Moreover, the EA (section 6.2.1.3) states that buildings in the town centre are typically built to the street and side boundaries, providing a strong street address and avoiding gaps in the streetscape.

The proposal complies with the 21m separation within the allotment as there is a 24m separation (excluding balconies) between the 2 residential buildings. The separation between the 2 buildings to balcony line is 20.5m. This issues and the proposed site coverage are discussed in section 5.1 of this report.

## 2.4 PROJECT BACKGROUND

The project has undergone significant design changes since it was first lodged. The proposal originally comprised 80 serviced apartments, 3 retail tenancies and basement parking, to a height of 19.7m making it larger and denser than the current, amended proposal.

In a series of meetings and discussions with the proponent, the Department and Council negotiated amendments to the proposal. Those amendments focussed on improving urban design aspects including setbacks, height, pedestrian access and amenity, and reducing environmental impacts.

One of the most significant amendments is the deletion of the shared access way using Council's sewer easement. The PPR proposes a vehicular driveway servicing the car park wholly within the site boundaries, overcoming Council and public issues about the use of the easement. The basement parking level has been replaced by at-grade parking, reducing building height, the need for excavation, and impacts on water quality.

## 3. STATUTORY CONTEXT

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### 3.1 MAJOR PROJECT DECLARATION

The proposal is subject to assessment under Part 3A of the Act, and the Minister's approval is required to carry out the project. On 26 January 2006, the Director-General, as delegate for the Minister, formed the opinion that the project is one to which Part 3A of the Act applies. Consequently, the proponent sought the Minister's approval for the proposal under Section 75J of the Act.

*State Environmental Planning Policy (Major Projects) 2005* ('Major Projects SEPP') identifies development for tourist facilities wholly or partly in a sensitive coastal location outside the metropolitan coastal zone that provide accommodation for any number of persons as a project to which Part 3A of the Act applies (Schedule 2, clause 1(f)(i) – Coastal areas). The *Major Projects SEPP* also identifies development for buildings or structures that exceed 13m in height wholly or partly in a sensitive coastal location. The proposal achieves both Major Project criteria.

### 3.2 PERMISSIBILITY

The 3(a) Business zoning of the site permits tourist accommodation, residential flat buildings, hotels, restaurants and shops with development consent. The proposal is consistent with the aims of the LEP and the zone objectives.

### 3.3 MINISTER'S POWER TO APPROVE

The Department has exhibited the EA in accordance with section 75H(3) of the Act as described in section 4 of this report. The proposal is permissible and meets the requirements of the Major Projects SEPP. Therefore, the Department has met its legal obligations and the Minister has the power to determine the project.

### 3.4 DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRs)

On 31 October 2007, amended DGRs were issued and required the following issues to be addressed:

- Statutory and other requirements
- Strategic planning
- Urban design and sustainability
- Visual impact
- Traffic
- Hazard management and mitigation
- Water cycle management
- Infrastructure provision, and
- Noise

The amended DGRs are attached at **Appendix A**.

### 3.5 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT (EP&A) ACT 1979 (NSW)

The objects of any statute provide an overarching framework informing the purpose and intent of the legislation and guidance on its operation. The Minister's consideration and determination of a Part 3A project application must be informed by the relevant provisions of the Act, consistent with those objects.

The objects of the Act at section 5 are as follows:

- “(a) to encourage:
- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
  - (ii) the promotion and co-ordination of the orderly and economic use and development of land,
  - (iii) the protection, provision and co-ordination of communication and utility services,
  - (iv) the provision of land for public purposes,
  - (v) the provision and co-ordination of community services and facilities, and
  - (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
  - (vii) ecologically sustainable development, and
  - (viii) the provision and maintenance of affordable housing, and
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.”

Of particular relevance to the assessment of the application is consideration of s 5(a) (i), (ii), (vi) and (vii). Relevantly, the objects under s 5(a) and (c) are significant factors informing the determination of the application. The project does not raise significant issues with regard to the objects of the Act

With respect to ecologically sustainable development (ESD) (s 5(a)(vii)), the Act adopts the definition in the *Protection of the Environment Administration Act 1991 (NSW)*. It also includes the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms.

The Department has considered the objects of the *EP&A Act*, including the encouragement of ESD, in the assessment of the application. ESD is considered in more detail in section 3.6 of this report.

### 3.6 ECOLOGICALLY SUSTAINABLE DEVELOPMENT PRINCIPLES

There are five accepted ESD principles:

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

The Department has considered the proposal in relation to the ESD principles and has made the following conclusions:

- (a) **Integration Principle** – the proposal will provide economic benefits to the Batemans Bay area. The environmental impacts are addressed through the proponent's EA report including the Statement of Commitments, and recommended conditions of approval. The Department's assessment has duly considered all issues raised by the community and public authorities. The proposal as recommended for approval does not compromise a particular stakeholder or hinder the opportunities of others.
- (b) **Precautionary Principle** – Following an assessment of the EA it is considered there is no threat of serious or irreversible environmental damage as a result of the proposal. The site is located in a flood prone area and may be subject to acid sulphate soils. Groundwater is located approximately 1.4m below existing ground level. The proposal adopts raised ground floor levels to mitigate against potential flooding and inundation of the ground level tenancies, including vehicular access and the car park. The at-grade parking will obviate the need for excavation as the piling technique avoids dewatering for footing construction, generates negligible vibration and does not pose a risk of groundwater contamination. The proposed measures, including integrated water cycle management, will minimise impacts on the waters of Batemans Bay and McLeod's Creek. The proposal adopts additional measures to manage the uncertainty of future sea level rise under climate change scenarios.
- (c) **Inter-Generational Principle** – It is considered that the proposal represents a sustainable use of a site which is in an established urban centre, and is a logical use of the site. The development of the site will have positive economic benefits and the environmental impacts are ameliorated with appropriate measures and conditions of approval.
- (d) **Biodiversity Principle** – The proposal has been designed to require minimal excavation to minimise impacts on groundwater and potential acid sulphate soils, and to minimise potential flooding impacts. The proposal will not affect seagrasses in Batemans Bay or McLeod's Creek. Mitigation measures will address storm water, construction, noise and vibration management.
- (e) **Valuation Principle** – The approach taken for this project has been to assess the environmental impacts of the proposal and identify appropriate safeguards to mitigate adverse environmental effects. The mitigation measures include the cost of implementing these safeguards in the total project cost.

### 3.7 SECTION 75I OF THE ACT

Section 75I(2) of the Act and clause 8B of the *Environmental Planning and Assessment Regulation 2000* require the Director-General's report to address a number of requirements. Those matters and the Department's response are as follows:

<b>Section 75I(2) criteria</b>	<b>Response</b>
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA is on the assessment file.
Any advice provided by public authorities on the project	All advice provided by public authorities on the project for the Minister's consideration is set out at Appendix C and Section 4 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project	No statutory independent hearing and assessment panel was undertaken in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project	Every relevant SEPP substantially governing the carrying out of the project, is identified and assessed in section 3.8 below and in Appendix B.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the proposal relative to all environmental planning instruments is provided in section 3.8 of this report.
Any environmental assessment undertaken by the Director-General or other matter the Director-General considers appropriate.	The environmental assessment of the project application is this report in its entirety.

A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The proponent's EA addresses the DGRs and is considered to have satisfied those requirements as addressed in this report. Refer to the Conclusion in section 7 of this report for a statement relating to this requirement.
<b>Clause 8B criteria</b>	<b>Response</b>
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in section 5 of this report.
The suitability of the site for the project	The site is identified in the <i>Eurobodalla Urban LEP 1999</i> as part of the Business zone which permits a wide range of uses, including serviced apartments, hotels, residential flat buildings and commercial and retail premises.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in submissions is provided in Section 4 and Appendix C. The Proponent's response to submissions is provided in Appendix E of this report.

### 3.8 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

#### 3.8.1 Application of EPIs to Part 3A projects

To satisfy the requirements of section 75(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments governing the project and which have been considered in the environmental assessment of the project. A summary of compliance with the relevant EPIs is at **Appendix B**.

The LEP and DCP provisions, including development standards, are not strictly required to be applied in the assessment and determination of major projects under Part 3A of the Act. Nonetheless, those provisions are relevant considerations as the DGRs require the proponent to address them. Accordingly, the objectives and development standards of a number of EPIs, and other plans and policies substantially governing the project are appropriate for consideration in this report, as follows:

#### 3.8.2 State Environmental Planning Policy (Major Projects) 2005

The *Major Projects SEPP* applies to the site and the proposal. The proposal achieves the SEPP's Major Project criteria, being development within the coastal zone for recreational or tourist facilities wholly or partly in a sensitive coastal location outside the metropolitan coastal zone, and that provides accommodation for any number of persons. This is discussed in more detail in Section 3.1 of this report.

#### 3.8.3 State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)

*SEPP 71* applies to the land and development within the NSW coastal zone (clause 4), as defined by the *Coastal Protection Act 1979 (NSW)*. *SEPP 71* provides aims (cl 2) and matters for consideration (cl 8) when assessing development proposals. Clause 8 provides matters for consideration by a consent authority when determining a development application. Those matters generally reflect the key elements of the Coastal Policy with which the proposal generally accords. The proposal satisfies *SEPP71* and provides for the following:

- two separate building forms stepped in height to retain views, provide solar access and breezes, and minimise overshadowing;
- a design which minimises the need for excavation and mitigates impacts on groundwater and potential acid sulphate soils;
- raised ground floor levels in accordance with Council's requirements to minimise potential flooding impacts;
- design provision for installation of flood gates to minimise the potential for flooding and in response to projected maximum sea level rise;
- an articulated design with materials and colours sympathetic with the natural landscape;
- in the event of unforeseen dewatering no discharge of pumped groundwater by dewatering to Batemans Bay, avoiding impacts on seagrasses in Batemans Bay and McLeod's Creek;

- avoids impacts upon the McLeod's Creek wetlands due to the drainage pattern and their distance from the site; and
- measures to manage construction, stormwater, erosion and sediment.

The proposal is considered to be generally consistent with the provisions of *SEPP 71*, and this is discussed in more detail at **Appendix B**.

#### **3.8.4 State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)**

The site has been historically used as a motel, since at least 1969, when a DA was approved (23 September 1969) for extensions to the existing motel. The EA states that apart from approvals for alterations and additions to the motel use issued since that time, investigation of Council's and the Department of Lands' records, including aerial photographs, has not revealed any information in respect of potentially contaminating uses. The EA concludes that the potential for contamination at the site is considered unlikely, and considers that mitigation measures are unnecessary.

The proponent's Construction Management Plan states that the only proposed earthworks are minor surface trimming, and filling to required levels, and sealing of the whole surface with parking and floor slabs. The Statement of Commitments (3) states that disposal of excavated material will be in accordance with DECC's requirements, and that all demolition and excavation will be in accordance with the Construction Management Plan (CMP). A condition of approval (B10) requires the Proponent to lodge a CMP for approval by the Certifying Authority. The Statement of Commitments provides for a full geotechnical site investigation to be undertaken prior to construction and this is included in condition B14. Based on an initial evaluation, and the information provided in the EA, it is considered that the Statement of Commitments and conditions of approval address this issue.

#### **3.8.7 State Environmental Planning Policy No. 65 – Design of Residential Flat Buildings (SEPP 65)**

The proposal has been assessed in accordance with the provisions of *SEPP 65* and in accordance with the accompanying *Residential Flat Design Code* ('the Design Code'). The Design Code supports the SEPP's design quality principles and contains details about how development proposals can achieve those principles.

The SEPP does not apply to the proposed serviced apartments (although it applies whether or not the building includes uses for other purposes, such as shops). Nonetheless, the proponent has applied the Code's Rules of Thumb to the design of those apartments generally. The EA indicates that the proposal is consistent with the SEPP's design quality principles. A Design Verification Statement and an Architectural Design Statement form part of the EA, and certify that the design is generally in accordance with the design quality principles of the SEPP.

The proposal provides a building form responsive to its foreshore location and the desired future character of the area, and a positive contribution to the streetscape. It provides two separate building forms stepped in height away from foreshore, which will assist in retaining views to public places and provide internal privacy and amenity. The building form is articulated with recessed balconies, and varied colours and materials to break up its appearance. Ground floor colonnades will be provided on both street frontages in accordance with Council's flood planning levels and pedestrian access policy for the Batemans Bay town centre. The proposal is based on sustainable design and incorporates passive solar design and water reuse. The proposal is considered to be generally consistent with the provisions of *SEPP 65*, and this is discussed in more detail at **Appendix B**.

#### **3.8.8 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The SEPP aims to ensure the effective introduction and consistent implementation of BASIX in NSW by overriding competing provisions in other environmental planning instruments and DCPs. The SEPP does not apply to the hotel/serviced apartments component of the proposal, however, the EA describes how the design would allow a BASIX certificate to be achieved should those apartments be converted (with minimal modification) to dwellings in the future. The EA is accompanied by a BASIX certificate certifying that the proposal will meet the government's requirements for sustainability if it is built in accordance with the certificate's commitments. The proposal achieves the target scores for thermal and energy, and exceeds the target score for water.

### **3.8.9 Lower South Coast Regional Environmental Plan No. 1 (LSC REP 1)**

The aims of the REP are to conserve scenic and environmental character, and to protect the coast's visual quality by providing interpretation regarding the measurement of height. Height is defined as *'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.'* Natural ground level is defined as *'the actual physical level of a site prior to the commencement of construction work on the site.'* The proposal is consistent with the REP height limit and the issues are discussed in more detail at section 5.1 and **Appendix B**.

### **3.8.10 Lower South Coast Regional Environmental Plan No. 2 (LSC REP 2)**

The REP provides a framework for local planning and development decision making, and government and private investment. It provides councils with regionally relevant guidelines for preparing local plans, in place of the s. 117 Ministerial Directions. The REP also lists matters for Council to consider when assessing DAs, incorporating the policies and guidelines of the NSW Coastal Policy.

### **3.8.11 Eurobodalla Urban Local Environmental Plan 1999 (LEP 1999)**

The LEP sets the broad planning framework for development in the Eurobodalla local government area and establishes permissible forms of development and land use. The objectives of the site's 3(a) Business zone are,

- "(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 people with disabilities to commercial buildings."*

The proposal is consistent with the zone objectives and permissible with consent. Clause 26 of the LEP is relevant and provides that residential development may be carried out in the 3a Business zone only where:

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

The proposal complies with the requirements of clause 26. The issues are discussed in more detail at sections 5.2 and 5.6, and **Appendix B**.

### 3.9 OTHER PLANS AND POLICIES

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

#### 3.9.1 *Development Control Plan (DCP) Batemans Bay Town Centre Development Guidelines*

The DCP provides detailed guidelines in respect of the LEP for land generally zoned 3a Business. It provides guidelines, including site coverage, height, setbacks, flooding and coastal inundation, access, car parking and landscaping. The objectives of the DCP include *"to reinforce the role of Batemans Bay Town Centre as a sub-regional and resort shopping centre."* The DCP provides objectives and acceptable solutions for each development guideline. Although not an EPI, the relevant provisions of the DCP are considered applicable to the current assessment. The proposal is generally consistent with the DCP controls, except for the 10m height guideline (see section 5.1 of this report). The DCP is discussed in more detail in **Appendix B**.

#### 3.9.2 *Eurobodalla Development Control Plan: Parking Code*

The Parking DCP provides requirements and guidelines for the provision of off-street car parking for new developments. The objectives of the DCP include, *"to ensure that, where appropriate, off street car parking is provided in conjunction with development in a uniform manner, whilst ensuring a degree of flexibility."* Generally, the Parking DCP requires that developers provide all parking on-site. However, in the main business districts where it is not possible to provide all or part of the required car parking on-site, it notes that it is preferable to concentrate public parking into centralised facilities. The cost of those facilities is funded from contributions made by developers, pursuant to the Council's Section 94 Contribution Plan.

The proposal provides one parking space for each serviced and residential apartment, with no parking for the retail/restaurant uses or for staff. It only partly complies with the requirements of the DCP, and this is discussed in more detail in section 5.2 and **Appendix B**.

#### 3.9.3 *Batemans Bay Town Centre Structure Plan*

The Structure Plan provides controls to guide and outline the character of future development in the Batemans Bay town centre. Its objectives, strategies and actions address urban design, built form and streetscape. The proposal is generally consistent with the Structure Plan except for some of the height controls. The issues are discussed in more detail in sections 5.1 and 5.2, and **Appendix B**.

#### 3.9.4 *Eurobodalla Development Contributions Plan 2000-2005*

The Plan provides for Council to levy monetary contributions for new development for the provision, extension or augmentation of public amenities and services. Residential, business and tourist development are subject to contributions for services, including open space and recreation, community facilities, waste disposal, cycle ways and pedestrian facilities, roads, car parking and administration. The proposal is subject to a condition of approval requiring a Section 94 contribution in accordance with the Plan and Council's current fees and charges. This is discussed in more detail at section 5.6 of this report.

#### 3.9.4 *South Coast Regional Strategy*

The primary purpose of the Strategy is to ensure that the significant natural and scenic assets which define the region's character and underpin its economy are not compromised by growth. It will do this by ensuring that land is available in appropriate locations to sustainably accommodate the projected population growth and associated housing, employment and environmental needs over the next 25 years. The Strategy sets 'outcomes' and 'actions' for various components, including the natural environment, natural hazards, housing and settlement, economic development and employment growth, rural landscape and rural communities. The proposal is generally consistent with the Strategy. The issues are discussed in more detail at **Appendix B**.

### **3.9.5 NSW Coastal Policy 1997 and NSW Coastal Design Guidelines**

The *NSW Coastal Policy 1997* responds to the fundamental challenge to provide for population growth and economic development without placing the natural, cultural, spiritual and heritage values of the coastal environment at risk. The Policy is based on the principles of ecologically sustainable development, and addresses a number of key coastal themes including population growth, coastal water quality issues and establishes a comprehensive and representative system of reserves. The proposal is considered generally consistent with the policy.

The *NSW Coastal Design Guidelines* aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines provide an urban design focus for the coastal context and are applicable to the site. The proposal is considered generally consistent with the Guidelines. The issues are discussed in more detail at sections 5.1, 5.2, 5.7 and **Appendix B**.

### **3.9.6 Batemans Bay Coastline Hazard Management Plan**

The Management Plan was prepared in accordance with the NSW Government Coastline Management Manual. Its study area includes the foreshore and back-beach areas of the Batemans Bay embankment downstream of the Princes Highway Bridge. The Plan identifies management options for the identified coastal hazards. The Plan identifies the central business district, (which includes the subject site), as being at substantial risk from coastal inundation combined with local catchment runoff. The Plan notes that Council's coastal flooding standard for the CBD which sets minimum commercial floor levels in the foreshore areas of 2.6mAHD, reduces the level of damage during a major flood event; and provides a freeboard allowance of 0.2m in the immediate foreshore zone subject to wave impacts.

The proposal adopts minimum floor levels of 2.7mAHD to Clyde Street (at the foreshore), allowing for a freeboard of 0.3m; and 2.5mAHD to North Street, allowing for a freeboard of 0.3m. The proposal is considered generally consistent with the Plan. The issues are discussed in more detail at section 5.3 and **Appendix B**.

### **3.9.7 Towards 2020 – the NSW Tourism Masterplan**

The Masterplan is a State Government commitment to the future of tourism. It identifies four key outcomes including, "*Tourism in regional and rural New South Wales is strengthened.*" It provides Destination Management Tools (section 3) and Strategies and Actions (section 4). The proposal provides tourist accommodation in a regional town centre close to a range of services and facilities, designed to be responsive to the site's environmental constraints. The proposal is generally consistent with the Masterplan and the issues are discussed in more detail at **Appendix B**.

### **3.9.8 South Coast Regional Tourism Plan**

The *Regional Tourism Plan* is a key delivery mechanism for the objectives of *Towards 2020 – the NSW Tourism Masterplan*. It provides for a coordinated, whole-of-government approach to destination management with implementation the responsibility of government, community and private operators. It comprises a Regional Tourism Action Guide with seventy two actions. The proposal provides regional tourism opportunities integrated with residential and retail development in consideration of the environmental values of the site, and is generally consistent with the *Regional Tourism Plan*.

## 4. CONSULTATION AND ISSUES RAISED

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### 4.1 PUBLIC EXHIBITION DETAILS

The major project application was exhibited from 25 August to 23 September 2008, and was published in the *Bay Post* (Batemans Bay). The EA was made available to the public at the Department's Information Centre and the Southern Regional (Wollongong) Office, Eurobodalla Shire Council, and Council's Batemans Bay and Narooma Branch Libraries.

A Preferred Project Report (PPR) was lodged on 15 January 2009. The PPR incorporates the proponent's response to all of the submissions, including the Department's issues. The PPR was placed on the Department's website and a copy was referred to Council for comment.

### 4.2 SUBMISSIONS RECEIVED ON ENVIRONMENTAL ASSESSMENT

The Department received a total of six submissions following the public exhibition period, comprising two from the public (one from a nearby land owner and one from a Batemans Bay's resident) and four from public authorities. Public authority submissions were received from Eurobodalla Shire Council, Roads and Traffic Authority, Department of Water and Energy, and Country Energy.

### 4.3 PUBLIC SUBMISSIONS

#### 4.3.1 Summary of issues raised in public submissions

The following issues were raised in the public submissions:

- Non-compliance with car parking requirements (discussed in section 5.2 below);
- Valet/car stacker system is impractical, will add to road traffic, and not considered in the traffic report (see section 5.2);
- Traffic generation rates (see section 5.2)
- Access (see section 5.2);
  - Shared access way dangerous and will take over the public walkway\* (see section 5.2);
  - Closure of public walkway during construction unacceptable, inconvenient, with economic and employment impacts on existing businesses in Bridge Plaza;
  - No consultation with adjoining land owners regarding closure of the public walkway; and
  - Plans incorrectly show shared access way as clear pedestrian walkway (see section 5.2).

\* **Note:** The use of the public laneway for access has now been deleted in the PPR.

The above issues, where relevant have been addressed by the proponent (in the PPR) and in the conditions of approval, as documented in this report. Discussion of the key issues of the proposal is contained in section 5 of this report. A summary of all submissions received is at **Appendix C**. The PPR, including a revised Statement of Commitments address the submissions, and are at **Appendix E**.

### 4.4 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following submissions on the EA were received from public authorities following the exhibition:

#### 4.4.1 Eurobodalla Shire Council

Key issues raised by Council include the following:

- Address height compliance with REP 1 Comment: the height limit in the REP has been repealed;
- Provide private open space for permanent residential apartments Comment: see section 5.1 and Appendix B;
- Access Comment – see Note\* above and Section 5.2):
  - Legal right to construct over existing right of way\* required; consent required to use Council owned 'community land'; 6m two-way access required wholly on-site with separate pedestrian and vehicular movements;

- Parking Comment: Parking matters have been resolved after further consultation with Council, see section 5.2
  - Council's Car Parking DCP requires 110 spaces are and only 56 spaces provided
  - Residential parking must be provided on-site with the remainder provided off-site or by Section 94 contribution;
  - On-site delivery/loading zone provision required;
  - Demonstrate sufficient manoeuvring for car stacker and adjoining parking spaces;
  - Disabled parking required;
- Adequate waste storage space and waste management plan required Comment: Waste management is a condition of approval **check**
- Allow for storm events above proposed floor levels by built-in protection measures and management plan Comment: see section 5.3;
- Section 94 rates quoted in the EA are lower than Council's current rates Comment: see section 5.6.

#### 4.4.2 Department of Water and Energy

Key issues raised by DWE include the following:

- Groundwater – a licence is required for any interception or use of groundwater; and
- DWE will not allow permanent or semi-permanent pumping or extraction of groundwater to protect the proposed buildings.
- 

Comment: The above matters have been resolved through conditions of approval. See section 5.4.

The RTA and Country Energy lodged submissions but did not object to the proposal.

## 5. ASSESSMENT OF ENVIRONMENTAL IMPACTS

The key issues considered in the Department's assessment of the proponent's EA, Preferred Project Report (PPR), and Statement of Commitments include the following:

- Height/Visual impact
- Car parking and access
- Section 94 contributions
- Coastal processes and flooding
- Groundwater
- Geotechnical
- Acid sulphate soils

### 5.1 HEIGHT AND VISUAL IMPACT

There is no statutory height limit applicable to the site. The *Eurobodalla* LEP does not contain a height limit, however, Council has advised that its Draft Comprehensive LEP will set 16m height limits for the foreshore area and 18m for North Street.

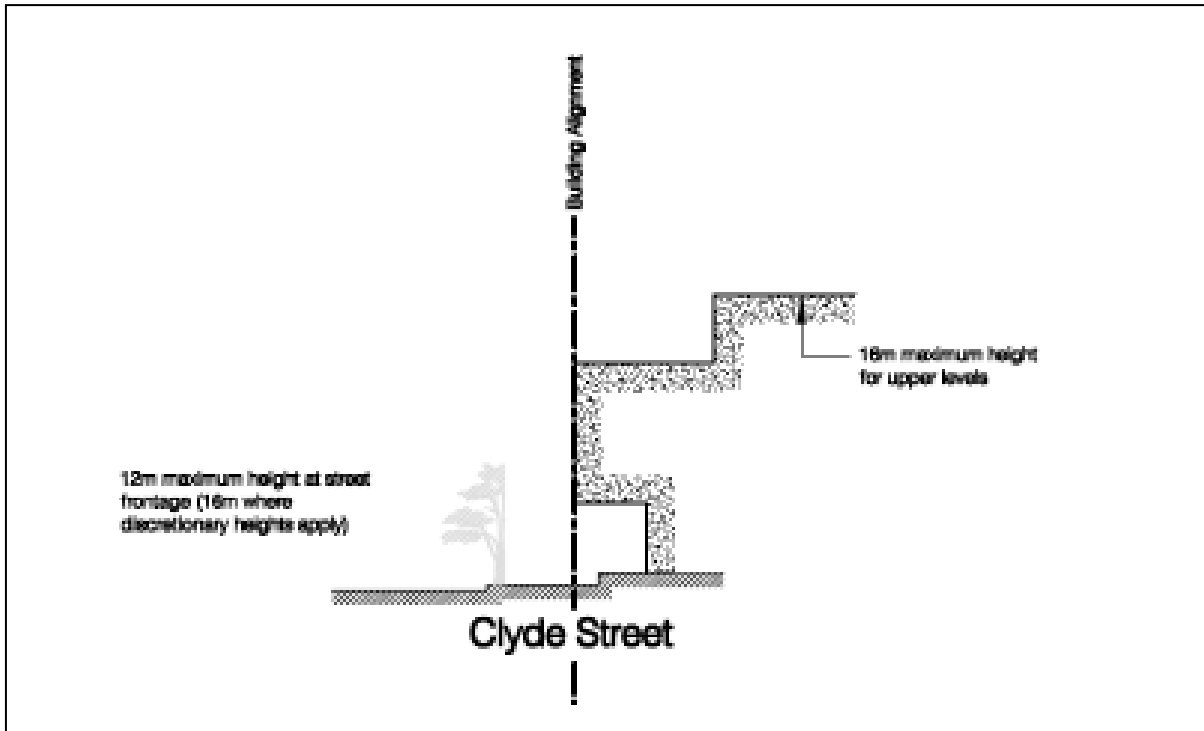
Policy height limits apply to the site pursuant to the *Batemans Bay Structure Plan*: 12m height on Clyde Street (on the street frontage) to 16m height (at 6m setback); and 18m on North Street. The *Structure Plan* provides for discretionary heights for the North Street part of the site subject to design outcomes. (Council officers have confirmed an error in the *Structure Plan* for the Clyde Street setback height: it is quoted in the text as 15m but referred to in illustrations as 16m (see **Figure 14**). They have advised that 16m is the intended height for Clyde Street). The *Structure Plan* also provides for areas affected by flooding and tidal inundation to have increased heights being the differential (not exceeding 1.2m) between natural ground level and Council's flood commercial floor height. It is noted that Council's proposed Draft Comprehensive LEP proposes a 16m height limit for Clyde Street increasing to 18m for other properties in the Batemans Bay town centre.

A 10m policy height limit also applies to the site pursuant to the *Eurobodalla DCP Batemans Bay Town Centre Development Guidelines (Town Centre DCP)*. Although both the DCP and *Structure Plan* are applicable, the latter is the result of more recent analysis, and has informed the proposed Draft Comprehensive LEP and DCP, and represents Council's current strategic thinking for Batemans Bay. **Table 2** sets out the height limits applicable to the site.

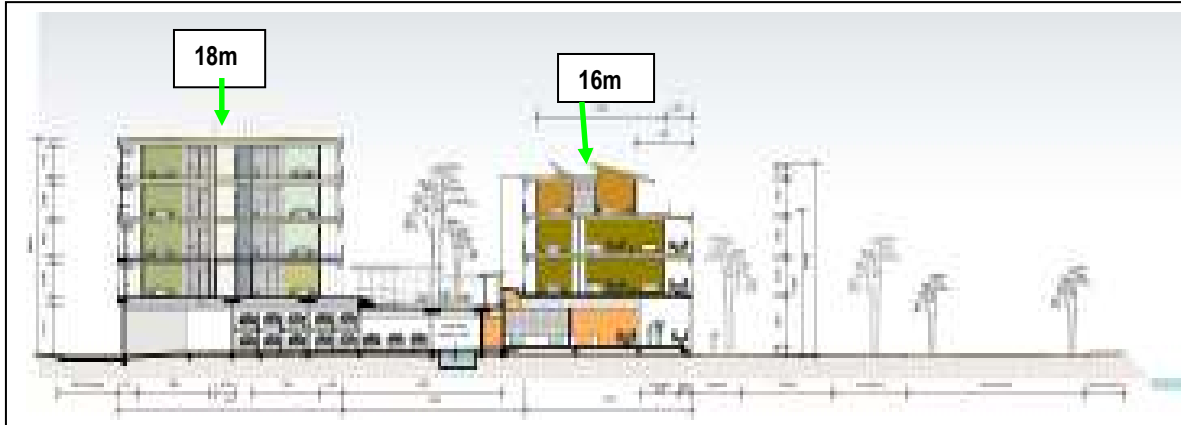
The height of the proposal is 12m on the Clyde Street frontage, increasing to 16m at a 6m setback from the street frontage; and 18m on the North Street elevation (**Figure 15**). The proposal complies with the *Structure Plan* height limits (**Figure 15 and Table 2**). The proposal also complies with the intended height limits in the proposed Draft Comprehensive LEP.

Proposed Height	Structure Plan	Complies	Proposed Draft Comprehensive LEP	Complies
Clyde Street: 12m (street frontage)	12m Clyde St frontage	Yes	Clyde Street : 16m	Yes
16m (setback 6m);	16m Clyde St at 6m setback	Yes	North Street:18m.	Yes
North Street :18m.	18m North St	Yes		

**Table 2: Policy height controls**



**Figure 14 – Clyde Street height controls – Batemans Bay Structure Plan**



**Figure 15: Proposed sections**

### Assessment

The proposal forms two separate building masses, with the front mass stepped in height away from the foreshore (Clyde Street) frontage (**Figure 15**). Although the proposal does not comply with Council's street frontage height, it complies with the overall heights, and provides an appropriate design response to the foreshore location. It provides solar access to the apartments and will not overshadow the public foreshore park. The EA illustrates that most of the overshadowing caused by the proposal on the winter solstice will occur on adjoining roads, with some occurring to the front of commercial properties on North Street (**Figure 16 and 17**).

The proposal provides adequate separation between the two building forms. The apartments are oriented east-west to take advantage of views and prevailing breezes. The proposal is built to the side boundaries continuing the pattern of other development in the town centre. All apartments have balconies providing adequate private open space in addition to a communal courtyard on the car park podium. The residential apartments are dual aspect with two balconies.

Although the proposal exceeds Council's site coverage requirement of 68% - it is 89%, it provides good internal amenity and privacy, and provision of open space, and complies with the FSR requirement.

The site's groundwater, potential acid sulphate soils, flooding and tidal inundation constraints are major influences on the design and height of the proposal. The proposal incorporates Council's flood planning levels for commercial development, and locates a car parking area at grade underneath a podium courtyard.

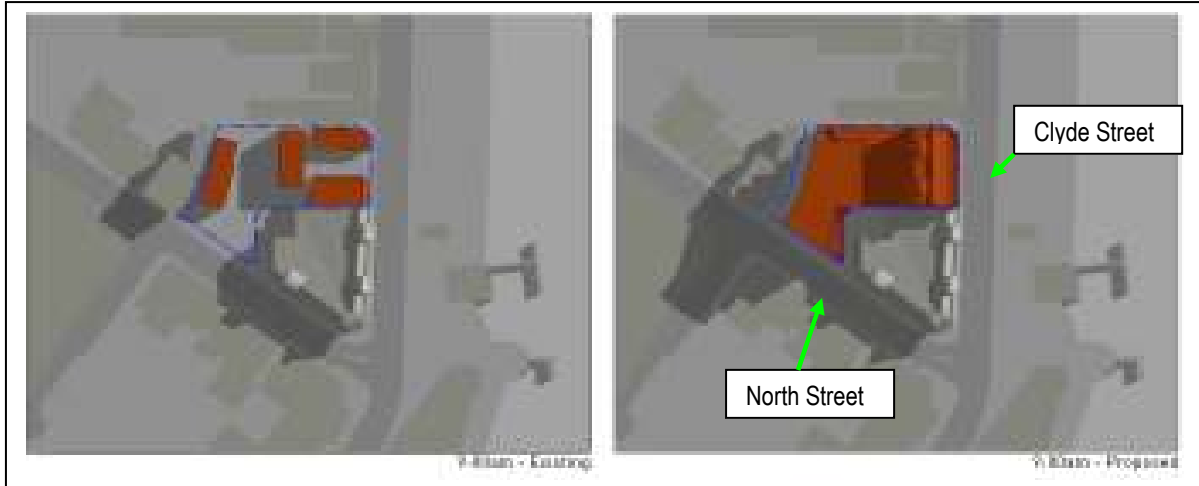


Figure 16: Shadow diagrams – 9am winter solstice

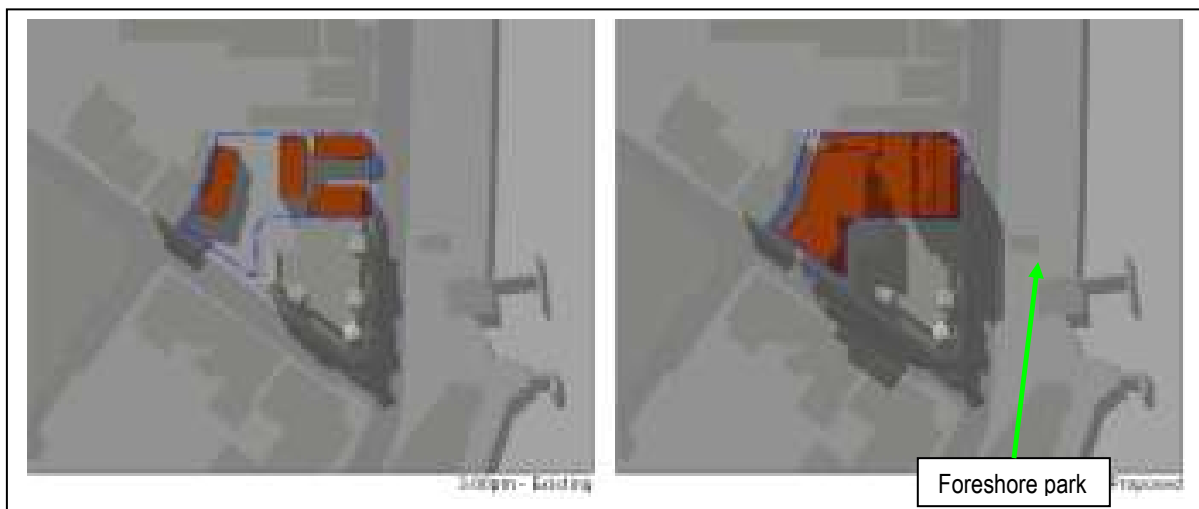


Figure 17: Shadow diagrams – 3pm winter solstice

In addition to the site's constraints, the height of the proposal evolved from consultation with Council and the Department. The collaborative design process focussed on recognition of the site's prominent foreshore location and the common objective for a good urban design outcome. The Department's urban designer prepared sketch plans to guide the proponent in reducing the height and density of the original plans, minimising on-site parking and the need for excavation.

## 5.2 CAR PARKING AND ACCESS

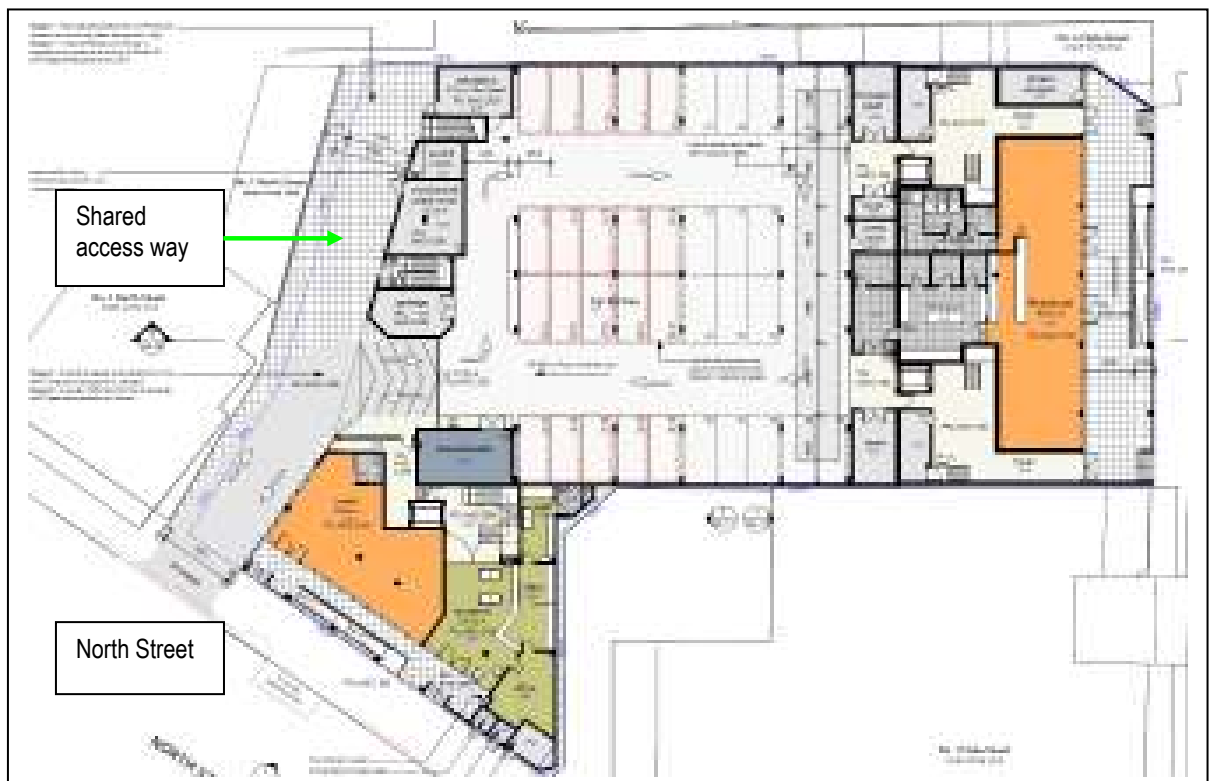
### Vehicular Access

The *Structure Plan* recommends a single entry/shared access driveway to the rear of mixed use developments in the Batemans Bay town centre. Council's Car Parking DCP 130 requires separate entry and exit driveways where parking provision exceeds 50 spaces; and a separated entry on combined driveways if likely to have vehicles entering and exiting simultaneously.

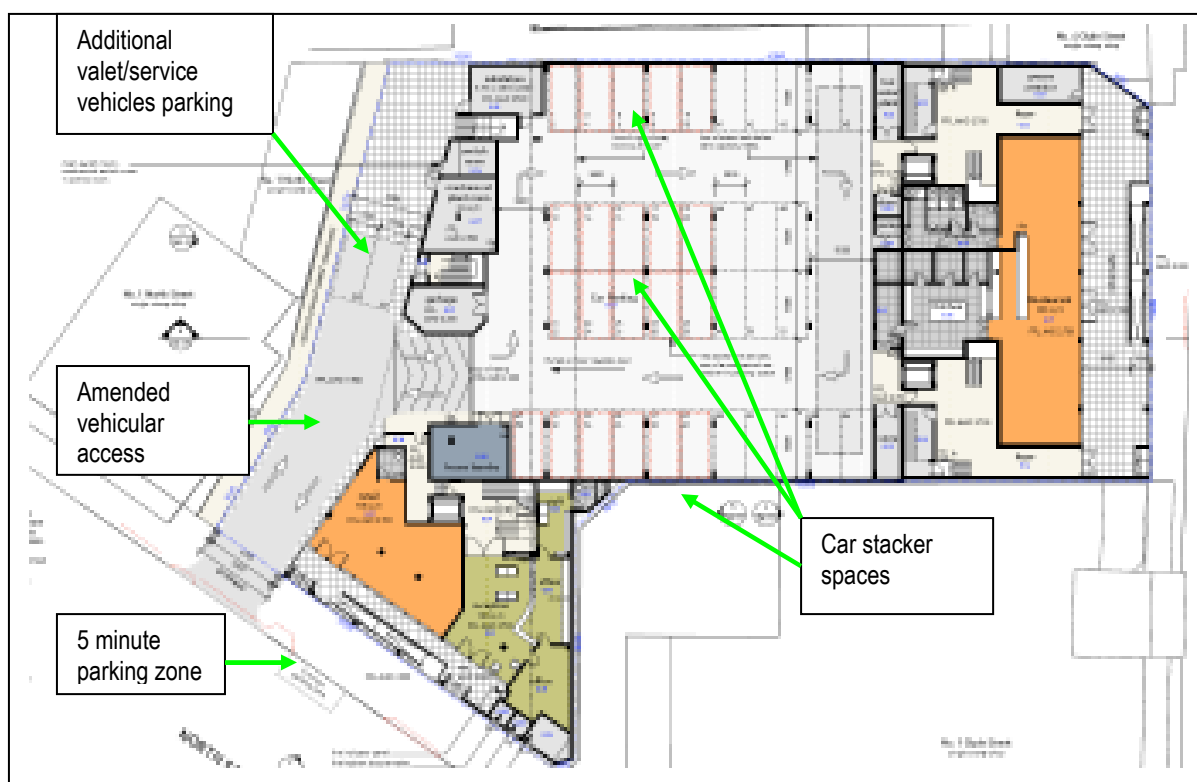
The proposal, as exhibited, provided a shared access way servicing the site from North Street (**Figure 18**). This arrangement combined the rear of the site and Council's sewer easement (currently a public footpath connecting North Street to Woolworths) into a shared vehicular/pedestrian access way. The shared access way was designed to connect to adjoining properties to the north upon future redevelopment to provide common, orderly provision of vehicular/pedestrian access. This conformed to Councils' policy to manage traffic and access in the town centre, and to reduce the number of footpath vehicular crossings, as expressed in the *Structure Plan*. The shared access way formed the basis of the proposal as discussed with Council and the Department since its inception.

The EA states that Council agreed in-principle to the use of the easement, (subject to a formal agreement between Council and the proponent). However, following exhibition of the EA, Council advised it did not consent to the use of its easement. Instead, it required the provision of a 6m unencumbered, two-way access located wholly on the subject site, with separated vehicular and pedestrian movements. Public submissions also raised the issue of private use of the public walkway, pedestrian safety on the shared access way, as well as closure of the walkway during construction.

The PPR amends the site's vehicular access in response to those submissions. The amended proposal replaces the shared access way and use of Council's easement with a vehicular driveway wholly on the site, terminating at the site's northern boundary (**Figure 19**). This involved a minor change: shifting the rear building form (serviced apartments) 800mm to the east, and reducing its floor plate to accommodate the driveway.



**Figure 18 – Rear shared access way – superseded proposal**



**Figure 19 – Amended site vehicular access – wholly on subject site**

The amended vehicular access is two-way and 6.6m wide at its entry on North Street increasing to 8m wide adjacent to the proposed building's car park entry. The driveway will allow for forward vehicular entry and exit from the site, including for service vehicles. The amendment enables the provision of two parking spaces on the driveway (**Figure 19**) to accommodate temporary valet parking and/or service vehicles. The PPR states that the width is adequate for two vehicles to pass simultaneously on the car park entrance, and the entry and approach driveway comply with the Australian Standard. The northern end of the driveway (**Figure 19**) is designated as pedestrian to provide for access via stairs from the car park to the apartments above.

The proposal removes the existing driveway crossing on Clyde Street, improving pedestrian safety and amenity. The North Street driveway width complies with Council's requirement raised in its submission. If Council wishes to pursue a future, common service lane at the rear of the Clyde Street properties using its sewer easement, the subject driveway can be incorporated. Overall, the proposed vehicular access is considered satisfactory and consistent with Council's requirements, and rationalises vehicular access to the site.

An existing right of way traversing the middle of the site and benefitting the adjoining lot at 1 Clyde Street is no longer in use. The proponent has applied to extinguish the right of way to facilitate the proposal.

On-site parking – number of spaces

The proposal requires a total of 111 spaces (including 12 spaces for trailer/caravan/boat parking) in accordance with Council's Car Parking DCP. The proposal, as exhibited, provided a total of 56 spaces, including 20 spaces in a car stacker - a shortfall of 55 spaces. **Table 2** sets out the parking requirements for the proposal.

The PPR increased the number of parking spaces by 5 to a total of 61 spaces: 58 spaces in the car park and 3 valet/service spaces on the driveway, including 1 additional space on the driveway behind the valet spaces, for retail employees (**Figure 19**). This is a shortfall of 50 spaces based on the DCP requirements.

Proposed	Council Parking DCP 130 No. of spaces	Complies	DCP TCG	Complies	Negotiated rates agreed with Council
<b>Permanent residential units</b> 10 spaces	<b>Total required:</b> <b>17.5</b> 1 space/1 bed unit = 2 1.5 spaces/2 bed unit = 9 2 spaces/3 bed unit = 4 Visitors 0.25 spaces/unit = 2.5	No  <b>Yes</b> No No No	1 space/ residential & accomm. unit	<b>Yes</b>	<b>10 spaces;</b> <b>2.5 visitor spaces</b> (via S94 contribution)
<b>Serviced apartments</b> 48 spaces  2 valet spaces on driveway	<b>Total required:79</b> 1 space/unit = 46 1 space/4 units visitors = 11.5 1 space/ managers/ owners residence 1space/employee/full-time equivalent =10 1 space/4 units trailer/caravan/ boat parking = 11.5.	No  <b>Yes</b> No No No	N/A		<b>46 spaces</b> <b>2 valet spaces on driveway</b>
<b>Retail</b> 120sqm GFA 1 space  1 service space	<b>Total required = 4</b> 1 space/30m <sup>2</sup> GFA (min 2 spaces) = 4	No	N/A		<b>1 space on site;</b> <b>2.5 spaces</b> (via S94 contribution)
<b>Restaurant</b> 300sqm GFA 0 spaces	<b>Total required = 10</b> 1 space/30m <sup>2</sup> GFA =10	No	N/A		<b>10 spaces</b> (via s94 contribution)
<b>Total: 61 spaces on site</b>	<b>Total 110.5 (111)</b>	No			<b>Total 59 spaces plus 15 by s94 contribution, <u>Total 72</u></b>

Table 2: DCP parking requirements

The proposed parking provision is consistent with the Structure Plan, and was negotiated with the Department and Council, with agreement for one space per **serviced and residential apartment**, and none for the retail, restaurant and staff components. The Structure Plan identifies the site as one on which on-site parking should be minimised upon redevelopment; and for which parking should be for tourist and residential uses only. The site is located near tourist and long-haul bus routes and a proposed bus interchange (on the corner of Beach Road and Vesper Street). The town centre has substantial areas of car parking, including all day parking (see proposed public parking **Figure 20**). Furthermore, the *Structure Plan* recommends the amendment of Council's Car Parking DCP and Section 94 Plan to remove requirements for commercial parking in the Foreshore (Clyde Street) Precinct.



Figure 20: Proposed public parking, Batemans Bay

The Proponent further argues that the parking provision for the **serviced apartments** is reasonable given they will accommodate only one or two people with a 75-80% capacity occupancy rate. It notes the site's location within easy walking distance of a range of services and facilities, discouraging private vehicle use. It argues that in the unlikely event that more than one space is needed for the serviced apartments, the two (valet) spaces on the driveway can be used. The PPR notes that 2006 Census data indicates an average car parking demand in Eurobodalla of 0.9 vehicles for flats, units and apartments, indicating a need for only one space per unit. It argues that the proposed 10 spaces for the residential apartments reflect such demand, with visitors being able to park on nearby streets or public parking areas.

In terms of the parking for the **retail space and restaurant**, the PPR notes there will be a reduction in the amount of retail floor space on the site from 171sqm to 105sqm, and estimates a moderate to large reduction in traffic generation to approximately 5vtph. The proposed restaurant will result in a marginal increase in traffic generation with no detrimental impact on the surrounding road network. It argues against provision of parking for the non-residential uses on those grounds, that those uses are likely to attract occupants of the building, as well as passing trade, and the surplus of public parking in the town centre. It notes that this approach to retail/commercial uses is consistent with the *Structure Plan*.

Council previously advised the Department there would be no requirement for on-site parking for the proposed commercial/retail uses, in lieu of Section 94 contributions. The Department suggested that the proponent reduce on-site car parking due to site constraints, (including the water table/groundwater, potential acid sulphate soils, and flooding); good urban design outcomes; and the site's town centre location with public parking and a range of services. The Department considered that one space per unit was acceptable, with a Section 94 contribution for parking for the shortfall and the entire retail component.

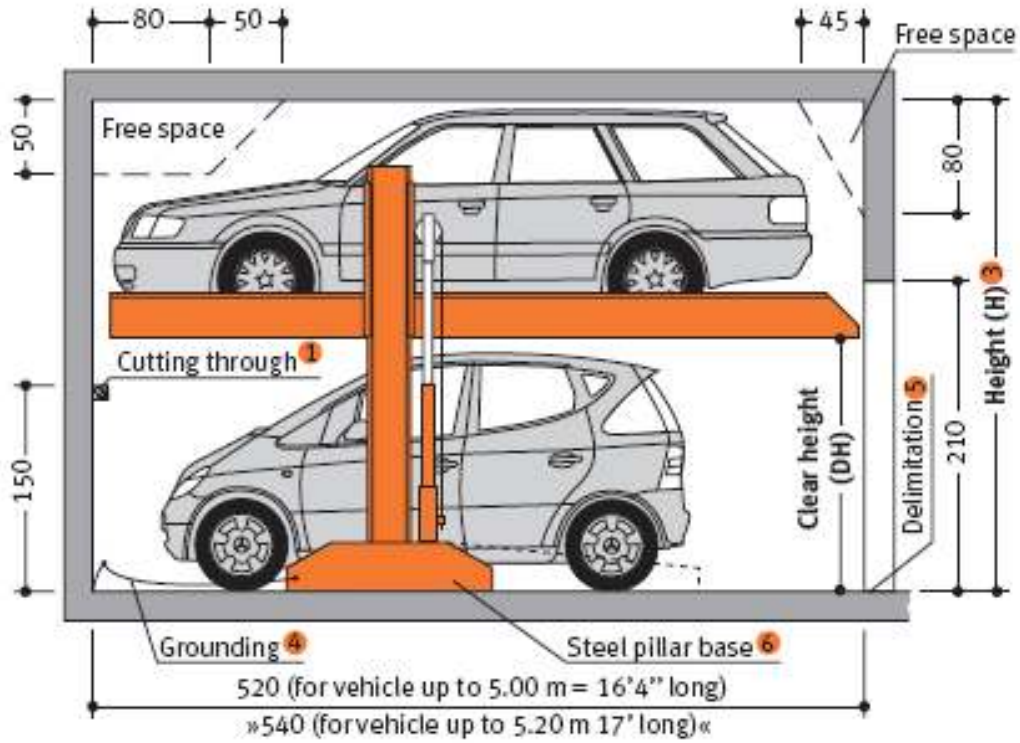
The proposal provides one parking space for each apartment plus 2 each for staff and visitors/servicing and 1 for retail employees. Council does not object to the 61 spaces proposed by the PPR based on a shortfall of 15 spaces for which it would require a Section 94 contribution. The shortfall as agreed by Council comprises: 10 spaces (restaurant); 2.5 (residential apartments visitors); and 2.5 (retail).

#### Car park layout:

The manoeuvring space within the car park can accommodate a 6.4m small rigid truck, the largest vehicle which would access the car park. The car parking spaces and adjacent aisle widths comply with the Australian Standard; and the driveway design accommodates the Australian Standard regarding sight distances to pedestrians on North Street. The PPR states that the two valet spaces on the driveway can be used by disabled patrons of the serviced apartments. It notes that as the permanent residential apartments do not contain adaptable units, no accessible parking spaces are proposed. The Department is satisfied with the car park layout.

#### Car stacker

The proposal incorporates a car stacker (**Figure 21**) as a solution to excavation for multi-level parking. The car stacker will be 24 hour, valet-operated for the serviced apartments only. Cars will not be parked on the stacker unless all at-grade spaces are occupied. As exhibited, 20 of the 56 car spaces (35% of the total parking provision) were car stacker spaces. The PPR increases the number of car stacker spaces to 22 of the 61 spaces (36% of total parking).



Before lowering the platform, the vehicle parked in the lower parking space must be driven off!

Figure 21: Proposed car stacker – serviced apartments only

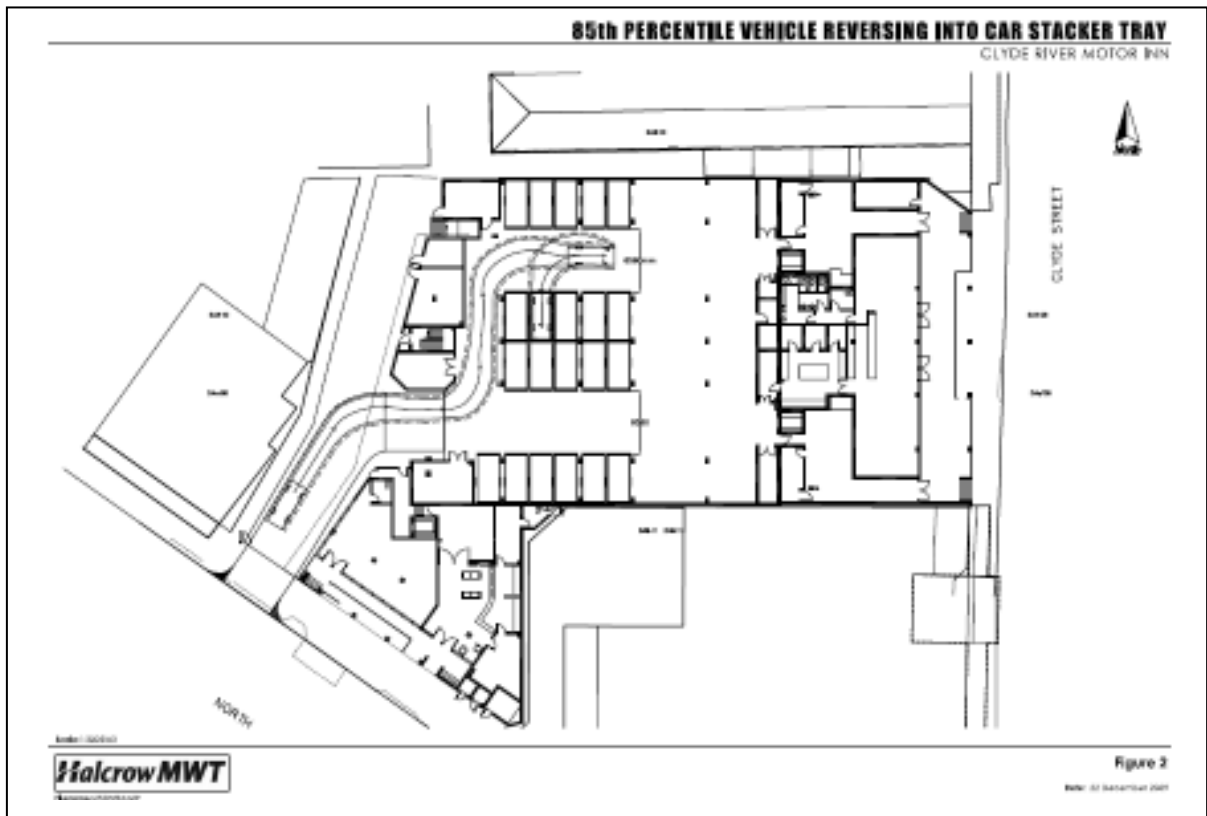


Figure 22: Proposed turning path into car stacker

The car stacker incorporates a 5.2m x 2.3m tray, accommodating one vehicle, and supported on either side by columns. The tray has upturns on each side preventing vehicle travel over the outside edges. Once a vehicle has parked, the tray is elevated to allow another car to park underneath. The car stacker allows vehicles up to 1.8m in height to park on the ground, and up to 1.5m height to park on the tray. The traffic report notes that the car stacker can be accommodated in the proposed car park's 3.5m height clearance. During non-operational times, the upper tray of the stacker would remain in the high position allowing the ground floor spaces to operate as standard spaces.

The traffic report designates the car stacker spaces as small car spaces to account for the greater aisle width required for manoeuvring. Small car spaces require adjacent 5.8m aisle widths under the Australian Standard, and the traffic report notes that the proposed effective adjacent aisle widths of 6.5m are acceptable. The traffic report notes that the turning paths of 85<sup>th</sup> percentile vehicles (Ford Falcons/Holden Commodores) can be accommodated in the car stacker, enabling them to reverse into the car space tray (**Figure 22**).

The Statement of Commitments and a condition of approval require details regarding operation and responsibility for the valet and car stacker system. The car stacker is an acceptable alternative to at-grade parking given the site's constraints. Service vehicles will be able to access the car park, the driveway parking spaces, and a proposed 5-minute standing zone on North Street. The design of the driveway and car park, including the car stacker will accommodate typical vehicle movements. The RTA did not object to the proposal, and the PPR addresses Council's submission in respect of servicing details.

Overall, the quantum of parking accords with Council's policy and the parking and servicing arrangements are considered adequate for the proposal, subject to appropriate conditions of approval, including Section 94 contributions.

#### Servicing

Council's Car Parking DCP No. 130 requires a service and delivery area with loading/unloading space for commercial/industrial developments, or where circumstances necessitate such a facility. The EA provides for use of existing loading zones in the vicinity of the site, and a proposed 5 minute car parking space to be designated on North Street (adjacent to the site's proposed vehicular entry (**Figure 19**)), for use by the valet service (in addition to the driveway valet spaces. This is not expected to affect the provision of parking on North Street.

Following exhibition of the EA, Council requested details of on-site delivery, loading zone and vehicle requirements, and frequency of servicing. The PPR provides those details:

- garbage collection will be via a contractor using a 6.4m small rigid truck with a 2.4m vehicle height requiring a 2.78m operating height clearance for rear loading and unloading of bins;
- the proposed garbage room is adjacent to the rear wall of the building adjacent to the car park;
- the proposed 3.5m height clearance outside the garbage room is adequate for a small rigid truck;
- the car park can accommodate a small rigid truck, with forward entry and exit (**Figure 23**);
- the parking spaces on the driveway (no height restrictions) can accommodate a waste vehicle if required.

Relevant signage and a Plan of Management regarding the car park maximum clearances are required by the Statement of Commitments and conditions of approval. A waste management plan is also required, detailing storage and disposal of waste.





**Figure 24: Commercial floor levels – flood planning**

The EA proposes minimum floor levels of 2.7mAHD (Clyde Street) and 2.5mAHD (North Street), exceeding Council's requirements. Those floor levels incorporate a freeboard 100mm above Council's requirement, representing a freeboard allowance of 300mm compared with the 200mm required by Council. The EA notes the design of the ground floor commercial tenancies provide for the installation of flood gates that may be fitted at short notice. It concludes that standard floodgate heights of 0.9m above the Clyde Street colonnade would attain a suitable level of protection to 3.6mAHD. It notes that the colonnaded Clyde Street elevation would also prevent floodwaters entering the site from the foreshore.

The EA addresses the design of the proposed car parking level. It notes that vehicular access from the higher elevation of North Street will avoid the deeper inundation on Clyde Street. It also notes that the access layout maximises the opportunity to elevate the parking area surface levels to above the 1% flood level (2.2mAHD at the top of the car park ramp with no freeboard required), rendering it free of flooding, provided the crest level is not overtopped by a larger event. It further notes that the car park grading will be free-draining to mitigate this possibility. Allowance has been made in the car park design for fitting of 1.2m high flood gates across the car park entry to flood proof the car park to the likely peak level of 3.3mAHD. A final flood evacuation and emergency response plan would be required prior to issue of the Construction Certificate, and this is included in the conditions of approval.

#### Climate Change

Recent predictions of the overall range of sea level rise towards the end of this century indicate a likely, predicted maximum sea level rise of 0.91 metres by the year 2100. The EA, as exhibited, adopted a median sea level rise figure of 0.6m as agreed between the proponent and Council.

The Department requested the proponent to address the potential impacts of a maximum sea level rise as a precautionary measure, instead of a median sea level rise. The PPR adopts the maximum sea level rise and calculates required minimum floor levels of 3.5mAHD (Clyde Street) and 3.3mAHD (North Street). The proposed 0.9m high flood gates combined with minimum floor levels (2.7mAHD (Clyde Street) and 2.5mAHD (North Street)), address maximum sea level rise. The PPR argues that the floor levels cannot be raised further due to Council's requirement to ensure connectivity of ground floor colonnades with adjoining sites as they are redeveloped, and considers the flood gates an effective response.

The proposed minimum floor levels, combined with flood gates, comply with Council's flood planning level requirements and address maximum sea level rise. Council is satisfied with the proponent's response to coastal processes and flooding, subject to the fitting of flood gates for storm events which exceed the floor level; and a management plan for the operation/maintenance and fitting of the flood gates. Those requirements are addressed in the conditions of approval.

## 5.4 GROUNDWATER

### Groundwater and water quality

The EA (Water Resource Management Estuary and Groundwater Issues report) states that the water table at the site probably occurs at about 0.5m AHD, approximately 1.4m below existing ground level. Protection of groundwater quality is important in this location as the shallow water table would be vulnerable to contamination. The EA recommends construction techniques to limit impacts and avoid dewatering and contamination of the water table. It concludes there will be no adverse impacts on the water table or estuary, and that seagrasses in Batemans Bay and McLeod's Creek will not be affected by the proposal.

The EA (Structural Report) states that due to the possibility that some areas of excavation (for example, for the lift pits) may extend below the water table, dewatering of those areas may be required. The EA notes that the only item that may require local excavation to the water table would be a sump for the submersible pump within the water storage tank. Dewatering if necessary, would be required over a short time frame, with volumes of water insignificant and simply managed. Unforeseen dewatering if required, for example, due to a seasonally shallow water table, would occur early in the site works to allow for on-site discharge of pumped groundwater back into the water table. There would be no discharge of pumped groundwater by dewatering to Batemans Bay, either directly or indirectly via the stormwater system. Any pollution of the water table would discharge from the site through a zone of water exchange to nearby Batemans Bay.

The EA notes that best practice measures recommended for the proposal will address the sensitive receiving waters of the estuary, and the proposal will have no adverse impacts on groundwater during construction and over the long term. The best practice measures comprise a "G-pile" piling system, precast concrete piles installed by hydraulic injection precluding the need for excavation.

Following exhibition of the EA, the Department of Water and Energy (DWE) advised of groundwater, and riparian improvement issues. DWE will not allow any permanent or semi-permanent pumping or extraction of groundwater to protect the proposed buildings. It recommends conditions of approval for any use or interception of groundwater or groundwater works.

DWE notes that the Clyde River is a Category 1 (Environmental Corridor) watercourse but acknowledges given the site's urban location and limited opportunity for direct environmental outcomes for the river. However, DWE recommends site landscaping with local, native plant species, particularly along the Clyde Street frontage to support the Category 1 objectives. The proposal is built to the boundary line on both street frontages with limited scope for frontage landscaping. However, street trees will be planted on the Clyde Street frontage in accordance with Council's requirements, and a central courtyard planted with several large trees and native plants. The PPR, Statement of Commitments and conditions of approval address DWE's issues.

### Estuary issues

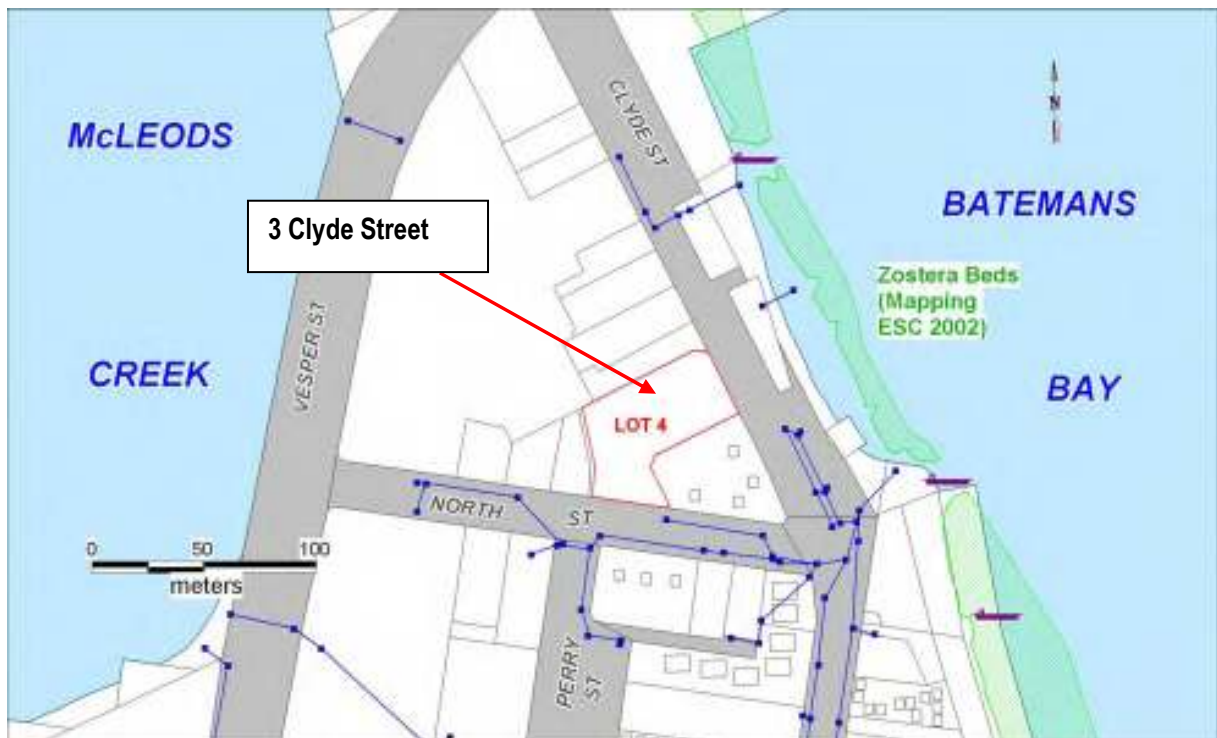
The site is located 120m from a SEPP 14 wetland on McLeod's Creek to the west of the site (**Figure 25**). The catchment of North Street drains eastwards towards a stormwater outlet discharging to Batemans Bay. The EA concludes that the proposal has no potential to impact on the wetland due to the surrounding drainage pattern and the site's distance from the wetland.

The EA identifies potential pollution as the major risk to the Clyde River estuary, with the primary risk for new development being the protection of sensitive receiving waters from changes to stormwater runoff quality. It notes that any additional pollutants from the site's stormwater would potentially impact upon seagrass beds (*Zostera spp*) lining the Clyde Street foreshore beyond the training walls (**Figure 25**).

The EA notes that best practice techniques will address the sensitive, receiving waters of the estuary; and that compared with existing, unmanaged site runoff, the risk of pollutants entering the estuary will be significantly reduced. The best practice techniques, including soil and erosion control during construction and post-construction stormwater management are addressed in the Statement of Commitments and conditions of approval.

#### Integrated water cycle management

The EA proposes an integrated water cycle management (IWCM) system to collect and reuse roof water for non-potable uses on the site, collect litter prior to discharge into Council's drainage network, and improve stormwater quality. Measures include the collection of roof water into first-flush devices; a 100m<sup>3</sup> rainwater tank; a submersible pump system to convey non-potable water; an oversized rainwater tank for greater capacity and flood attenuation; mesh basket pit inserts for collection of litter; and leaf guards. The IWCM system will assist in achieving BASIX targets and reduced water usage and improvements to surface runoff discharging to Council's street drainage network. The IWCM approach is considered acceptable and is addressed in the conditions of approval.



**Figure 25 – Stormwater system, jetties and seagrass beds along Clyde Street frontage**

## 5.5 GEOTECHNICAL

The geotechnical limitations affecting development of the site include a shallow water table, bedrock at a depth of 53m and potential acid sulphate soils. The proposal's design measures obviate the need for excavation, minimise the requirement for dewatering, and the timber framed construction reduces the weight of the structure and associated piling to address those limitations. The Statement of Commitments and conditions of approval require additional, detailed geotechnical and structural design prior to issue of a Construction Certificate.

## 5.6 SECTION 94 CONTRIBUTIONS

Council's *Development Contributions Plan 2000-2005* provides for Council to levy monetary contributions for the provision, extension or augmentation of public amenities and services for new development. The *Contributions Plan* is subject to Section 94 developer contributions in Council's *Fees and Charges 2008-09*. The Plan's Works Program identifies 'Item No. CP1 Car Parking Batemans Bay CBD' with 100% apportionment to new development. It provides for the expenditure of funds in close proximity to the development site.

Council has calculated a credit of 1.75 parking spaces for contributions previously paid; and a 15 space parking shortfall for retail areas, visitors and staff for the proposal. Council's breakdown for the shortfall contribution is as follows:

Use	Parking shortfall (spaces)	Rate per space (\$)	Section 94 contribution (\$)
Residential apartments (visitors)	2.5		53,000.00
Restaurant	10	21,200.00	212,000.00
Retail	2.5		53,000.00
<b>Total</b>	<b>15</b>		<b>\$318,000.00</b>

Council's total Section 94 contribution requirement, including the above parking contribution, is \$351,606.70 as per **Table 3** below.

	Open space	Car parking (\$)	Waste(\$)	Cycleway (\$)	Administration (\$)	Arterial road (\$)
Serviced apartments (tourist)	1,367.65		434.35	118.15	353.60	9,769.05
Residential apartments	2,328.30		739.70	201.20	601.70	16,649.60
<b>Sub total</b>	<b>3,695.35</b>	<b>318,000.00</b>	<b>1,174.05</b>	<b>319.35</b>	<b>955.30</b>	<b>26,418.65</b>
Business (conference, restaurant & retail)			565.50		478.50	
<b>Sub-total</b>	<b>\$3,695.35</b>	<b>\$318,000.00</b>	<b>\$1,739.55</b>	<b>\$319.35</b>	<b>\$1,433.80</b>	<b>\$26,418.65</b>
<b>Total</b>						<b>\$351,606.70</b>

**Table 3: Section 94 Contributions**

Council also levies for water supply and sewerage works, as a multiple of equivalent tenement (ET) (equivalent occupancy) value. The levies for the proposal are based on an ET of 11.79, including a credit of 10.15ET for existing development on the site. The contributions are included in the conditions of approval and are payable prior to the issue of the construction certificate, as follows:

- Water:  $ET12.60 \times \$9,820.00 = \$123,732.00$
- Sewer:  $ET12.60 \times \$8,550.00 = \$107,730.00$

## 5.7 ACID SULPHATE SOILS

The EA notes there is a possibility the site may be affected by acid sulphate soils (ASS) within the depth range of cores drilled (to 57m). The DGRs required the EA to include a strategy and appropriate mitigation measures for managing ASS.

The proposal incorporates best practice design measures to minimise excavation and general site disturbance, including:

- use of a G-Pile piling system installed by hydraulic injection of pre-cast concrete piles obviating the need for excavation; and
- timber framed structural design reducing the building weight by 10 times compared with a similar sized concrete building, reducing the number and depths of foundations.

The Statement of Commitments and the conditions of approval require further soil testing prior to the commencement of construction to determine the full extent of ASS. If ASS are discovered at depths greater than 1m, the conditions of approval require an ASS management plan. The management plan must address the removal and treatment of soils, and prevent the discharge of ASS-contaminated water to Batemans Bay.

## 6. CONCLUSION

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The Department has assessed the EA and considered the agency and public submissions. The key issues raised in the assessment related to parking, servicing and access, height, groundwater, and coastal processes and flooding.

The amended design is reduced in height and density from the original proposal. The Department considers that the EA, Preferred Project Report, conditions of approval and Statement of Commitments satisfactorily address the key issues. The application has largely demonstrated compliance with environmental planning instruments, and relevant plans and policies. The proposal will provide accommodation with a high level of amenity, increase housing supply and tourist facilities and provide economic benefits for regional NSW. It will mitigate environmental impacts by the implementation of best-practice construction and management techniques.

Accordingly, the Department considers the site suitable for the proposal, and the project as in the public interest. The Department recommends the application be approved subject to conditions under section 75J of the Act.

## 7. RECOMMENDATION

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It is recommended that the Minister:

- (A) consider the findings and recommendations of this report;
- (B) approve the project application subject to conditions, under section 75J the *Environmental Planning and Assessment Act, 1979*; and
- (C) sign the Determination of Major Project (**Tag A**).

Prepared by:  
Jane Flanagan  
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Heather Warton  
Director  
Coastal Assessments

## APPENDIX A: DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

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The Environmental Assessment must address the following key issues:

- **Statutory and Other Requirements** – All relevant legislation and planning provisions applying to the site; nature, extent and justification for any non-compliance. Where non-compliance results in environmental impacts, consideration of alternative/compensatory works to address the impacts is required.
  - **Strategic Planning** – Justify the proposal with reference to relevant local, regional and State planning strategies (including the draft *Structure Plan Batemans Bay Town Centre* and *Town Centre Guidelines DCP*). Provide justification for any inconsistencies with these planning strategies.
  - **Traffic** – 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 site 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.
- Urban Design, and Sustainability** – 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).
- 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
  - 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.
  - 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 *Coastal Design Guidelines of NSW (2003)* and the *NSW Coastal Policy 1997*.
  - Provide a detailed justification of any departure from height provisions in: *Lower South Coast REP; Batemans Bay Town Centre DCP* and draft *Batemans Bay Structure Plan* and demonstrate the proposal is consistent with the future strategic intentions for the town centre.
  - In the event that the proposed serviced apartments will be used for permanent residential purposes, demonstrate compliance with SEPP 65 and BASIX.
- Visual Impact** – 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.
- 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.
- Coastal Processes and Flooding** – 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).
- Demonstrate and suitably investigate:
  - 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);
  - impact of flooding on the development (including potential for wave run-up from tidal inundation);
  - impact of the development on flooding to surrounding properties (due to raising floor levels); and
  - 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).
  - impacts of climate change, sea level rise and more frequent and intense storms on flooding.

**Contamination** – Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of SEPP 55 – Remediation of Land.

**Acid Sulphate Soils** – Identify the presence and extent of acid sulphate soils on the site and, where relevant, appropriate mitigation measures.

**Geotechnical** – Provide an assessment of any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations that address these limitations.

**Water Cycle Management** – Address and outline measures for Integrated Water Cycle Management (including best practice stormwater management based on Water Sensitive Urban Design principles).

- 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.
- 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.
- Address and recommend an 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, 4<sup>th</sup> Edition, March 2004'.

**Infrastructure Provision** – 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.

- Address the provision of public services and infrastructure having regard to Council's Section 94 Contributions Plan.

**Noise** – Address potential noise impacts, in particular during the construction of the proposal, and provide appropriate mitigation measures.

## **APPENDIX B: CONSIDERATION OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS**

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## APPENDIX C: SUMMARY OF SUBMISSIONS

<u>Issues</u>	<u>No. of References in Submissions</u>	<u>Summary</u>
1. Car parking/access	2 1 1 1	<ul style="list-style-type: none"> <li>Does not comply with Council and RTA's car parking requirements.</li> <li>6m unencumbered two-way vehicular access required.</li> <li>Lack of public parking in Batemans Bay CBD.</li> <li>Valet system is impractical, will add to road traffic, and was not considered in the traffic report.</li> <li>Restaurant will attract passing trade.</li> </ul>
2. Servicing	1	<ul style="list-style-type: none"> <li>On-site delivery/loading zone and details of servicing requirements required.</li> </ul>
2. Car stacker	1 1 1 1 1 1	<ul style="list-style-type: none"> <li>Reduces proposed parking to 26 spaces.</li> <li>Will be impractical, unrealistic, difficult to use.</li> <li>Demonstrate adequacy of manoeuvring.</li> <li>Does not comply with the Australian Standards' turning circle requirement.</li> <li>Serviced apartment occupants unable to access cars without valet assistance due to dangers of injury.</li> <li>Suitable only for small cars.</li> </ul>
3. Shared access way	1 1 1 1 1 1 1 1 2	<ul style="list-style-type: none"> <li>Consent not granted for use of Council easement in proposed shared access way.</li> <li>Will take over the public owned walkway, intrude onto and misuse public property.</li> <li>Will endanger the public especially parents with children.</li> <li>Is not a clear walkway for pedestrians.</li> <li>Closure to the public during construction is unacceptable and will cause inconvenience. Pedestrians will be forced to take a circuitous route and through a car park to access adjacent shopping facilities.</li> <li>Withdrawal of pedestrian route will cause economic and employment impacts on existing businesses in Bridge Plaza.</li> <li>No consultation regarding closure of the footway.</li> <li>Proposal should be changed to allow footway to remain open.</li> <li>Large development site is 2,500-3,000 metres but needs small 2 metre wide footway to complete the development.</li> <li>Should separate vehicles and pedestrians with a barrier.</li> </ul>
4. Right of way	1	<ul style="list-style-type: none"> <li>Need to establish legal right to construct over existing right of way on the site.</li> </ul>
5. Plans/information	1 1	<ul style="list-style-type: none"> <li>Walkway diagrams on pages 198, 199 and 201 are misleading.</li> <li>Superseded information has been used and is therefore invalid, for example, justification for car parking is based on superseded information on comparison of a small restaurant with Domino's Pizza (page 127 of the EA).</li> </ul>
5. Groundwater	1 1	<ul style="list-style-type: none"> <li>No pumping/extraction of groundwater permitted.</li> <li>Temporary dewatering only, subject to conditions.</li> </ul>
5. Hydrology/flooding	1	<ul style="list-style-type: none"> <li>Allow for storm events exceeding proposed floor level by built-in protection measures and management plan.</li> </ul>
6. Section 94	1	<ul style="list-style-type: none"> <li>Rates in EA need updating to current rates.</li> </ul>

## APPENDIX D: ENVIRONMENTAL ASSESSMENT

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## APPENDIX E: PREFERRED PROJECT REPORT AND STATEMENT OF COMMITMENTS

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