

## JOINT REGIONAL PLANNING PANEL REPORT

### DEVELOPMENT APPLICATION No. 0751/16, HOTEL (80 ROOMS INCLUDING RESTAURANT, POOL/RECREATION AREA), ADDITIONAL OFFICE SPACE, CAR PARKING, RECONFIGURATION/RECONSTRUCTION OF APPROVED SHOP AREAS

63 Harbour Drive (Lot 1 DP 796866), 31 Vernon Street (Lot 1 DP 421199) and 35 – 61 Harbour Drive (Lot 6 DP 721353, Lot 1 DP 43845, Lot 6 Section 7 DP 758258 and Lots 1 - 3 & Part Lot 4 Section 8 DP 758258), Coffs Harbour

#### PURPOSE:

This report provides an assessment of Development Application 0751/16DA for construction of a hotel (80 rooms including restaurant, pool/recreation area) additional office space, car parking and reconfiguration/reconstruction of approved shop areas at 63 Harbour Drive (Lot 1, DP796866), 31 Vernon Street (Lot 1, DP421199) and 35-61 Harbour Drive (Lots 1/3, Part Lot 4, Section 8, Lot 6, Section 7, DP 758258, Lot 6, DP 721353 & Lot 1, DP 43845) Coffs Harbour.

The development proposes variation to the height standard and floor space ratio standard specified under Coffs Harbour Local Environmental Plan 2013.

It is recommended that the application be refused.

#### THE PROPOSAL

##### The Site:

The proposed development lots are 63 Harbour Drive (Lot 1, DP 796866) and 31 Vernon Street (Lot 1, DP 421199), Coffs Harbour. As the application proposes to incorporate the proposed new building into the existing Coffs Central Shopping Centre, the application includes lots that form the Coffs Central Shopping Centre; that is 35-61 Harbour Drive (Lots 1/3, Part Lot 4, Section 8, Lot 6, Section 7, DP 758258, Lot 6, DP 721353 & Lot 1, DP 43845).

63 Harbour Drive (Lot 1, DP 796866) has a land area of 725.5m<sup>2</sup> and 31 Vernon Street (Lot 1, DP 421199) has a land area of 360.4m<sup>2</sup> giving a combined total development area of approximately 1085.9m<sup>2</sup>. Development construction approved under Development Consent 0960/13DA is currently occurring on the site. The site is zoned B3 Commercial Core under the Coffs Harbour Local Environmental Plan 2013.



### Proposed Development:

Development Consent 0960/13DA provides approval on the site for two levels of shops and a basement car park. Development Application 0751/16DA proposes nine additional building levels to those approved under Development Consent 0960/13DA, to provide a total finished development that consists of eleven above ground levels and one basement level. The development can be described level by level as follows:

|                 |   |
|-----------------|---|
| Level 02        | car parking (45 car parking spaces)   |
| Level 03 and 04 | offices (1792.9 m <sup>2</sup> ), shop (back of house, 260 m <sup>2</sup> ) |
| Level 05        | hotel lobby, restaurant, outdoor pool/lounge, offices/board rooms           |
| Level 06        | hotel rooms (12 rooms)  |
| Level 07 to 10  | hotel rooms (17 rooms per floor – Total 68 rooms)                           |

The car parking at Level 02 will connect with existing car parking currently located at the top of Coffs Central. Part of the additional car parking will be constructed where there is an existing department store 'back of house'. This is currently located above Big W. It is proposed to relocate this area to Level 03. The new area is larger than the area it is replacing; it will result in an additional 260 m<sup>2</sup>.

The application also proposes to modify the shops at Level 01, approved under Development Consent 0960/13DA, so that they form an extension to the existing discount department store of Coffs Central (currently Big W) rather than consist as separate retail tenancies. A service lift will connect this level with the 'back of house' area at Level 03. As a result of this reconfiguration (and other minor modifications at Ground Floor Level) there will be a reduction in shop floor space of 18.6m<sup>2</sup>.

A total of 80 rooms are proposed for Levels 06 to Level 10. The rooms vary in size, bed number and inclusions. The hotel will operate 24 hours a day, seven days per week. Plans with the application indicate that the restaurant will have 110 seats (490 m<sup>2</sup>) and that there will be seating areas for ten hotel staff plus a receptionist and a concierge.

The highest point of the development (top of the plant room) will be 43 metres from existing ground level. The majority of the roof height (top of the roof slab) will be 41.4 metres from existing ground level.

On 27 October 2016 Coffs Harbour City Council approved Development Application 0043/17DA (subject to a number of conditions). Development Application 0043/17DA proposed three additional building levels to those approved under Development Consent 0960/13DA, to provide a total finished development that consists of five above ground levels and one basement level. This approved development proposal was essentially the current development proposal without Levels 05 through to Level 10 (the hotel component of the current development).

## **CONSULTATION:**

### **Statutory Advertising and Notification**

The application was advertised and notified in accordance the Council's Development Control Plan 2015 from 26 May 2016 to 08 June 2016. Forty-four submissions were received with forty-three being in support and one was against the proposed development.

A summary of the matters raised in submissions in the Section 79C assessment appended to this report.

### **State Government Departments**

This application does not require consideration by any state government departments and no responses have been requested.

### **Council Departments**

Council internal departments have provided comment on the development proposal and their recommendations have been incorporated into the assessment process.

## **STATUTORY MATTERS:**

The following Environmental Planning Instruments are relevant to assessment of this application.

- State Environmental Planning Policy No 55 - Remediation of Land;
- State Environmental Planning Policy No 71 - Coastal Development;
- State Environmental Planning Policy (State & Regional Development) 2011;
- Coffs Harbour Local Environmental Plan 2013.

Coffs Harbour Development Control Plan 2015 is also relevant to the assessment of this application.

The application is identified as 'regional development' under State Environmental Planning Policy (State and Regional Development) 2011 and as a consequence the application is to be determined by the Joint Regional Planning Panel (Northern Region).

Section 79C of the Environmental Planning & Assessment Act 1979 specifies the matters which a consent authority must consider when determining a development application. The consideration of matters is limited in so far as they must be of relevance to the particular application being examined. All of the planning instruments and development control plans specified above are considered in detail in the Section 79C Evaluation appended to this report.

**ISSUES:****Traffic and Parking:**

The proposed development is considered acceptable and within the capacity of the existing road system in terms of total traffic generation, but the development as proposed is not considered acceptable with respect to car parking for private vehicles or provision for, and access to, other transport modes. These matters are addressed in detail in the Section 79C Assessment of this report. In summary the following are issues with the development as proposed.

The development as proposed does not propose additional car parking for the hotel component; neither the hotel rooms nor the restaurant. This is contrary to the provisions of DCP 2015. The application does not provide documentation that an alternative solution to the DCP controls provides a better response to meeting the objectives of the control nor is there a car parking study of a similar development in a similar location. In the circumstances this is considered a substantial variation to the car parking requirements of DCP 2015. Approval of the development as currently proposed is likely to result in an unacceptable impact to car parking within the Coffs Harbour City Centre.

Apart from private motor vehicles, users of the hotel will require access to bus and taxi services for connection to other rail, road and air transport services. The hotel does not incorporate a “port cochere” entry arrangement. Development application plans show an indented section of kerb in the centre of Gordon Street as a ‘New Drop Off Area’. This arrangement is considered unsuitable for this purpose because of appropriate length requirements for coach and bus parking and because the road carriageway in this area will be approximately one metre below the footpath and principal entry area into the development.

**Height of Development:**

The highest point of the proposed development is 43 metres above existing ground level. The height limit for the development site is 17 metres. While the application includes a variation to this development standard under Clause 4.6 of Local Environmental Plan 2013, the variation is not considered well founded. This matter is addressed in detail in the Section 79C Evaluation appended to this report.

## RECOMMENDATION:

1. **That Development Application No. 0751/16 for a hotel (80 rooms including restaurant, pool/recreation area), additional office space, car parking, reconfiguration/ reconstruction of approved shop areas at 63 Harbour Drive (Lot 1 DP 796866), 31 Vernon Street (Lot 1 DP 421199) and 35 – 61 Harbour Drive (Lot 6 DP 721353, Lot 1 DP 43845, Lot 6 Section 7 DP 758258 and Lots 1 -3 & Part Lot 4 Section 8 DP 758258), Coffs Harbour be refused on the following grounds:**
  - (a) The Clause 4.6 variation submitted to support the proposed variation to the development standards contained within clauses 4.3 and 4.4 of the Coffs Harbour Local Environmental Plan (LEP) 2013 , relating to building height and floor space ratio, has not satisfactorily demonstrated that:
    - the standards are unreasonable or unnecessary in the circumstances of the case;
    - there are sufficient environmental planning grounds to justify contravening the development standard; and
    - the proposed development is in the public interest.
  - (b) The objection is not well founded and does not satisfy the requirements of Clause 4.6 of the LEP.
  - (c) The development does not exhibit design excellence, as required by Clause 7.12 of the Coffs Harbour Local Environmental Plan (LEP) 2013. The variations proposed to the building height and floor space ratio controls, as specified in the LEP, results in a building that has a bulk and mass that is inconsistent with the existing and desired urban form for the locality.
  - (d) Insufficient on site car parking has been provided and this is likely to result in an unacceptable impact on traffic movement within the Coffs Harbour City Centre.
  - (e) The site does not allow for appropriate connection to transport services due to the distance to existing public transport nodes and differences in levels at Gordon Street between the road carriageway and the principal place of the entry to the development,
  - (f) The proposed Gordon Street drop off and pick up area is seriously constrained and the design layout and difference in road and entry levels have not presented a workable solution as proposed. In addition no parking controls have been suggested to support the operation as intended.

## Plans of Proposed Development



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**PROJECT**  
DEVELOPMENT APPLICATION  
COPPS CENTRAL SHOPPING  
CENTRE EXTENSION  
**STREET ADDRESS**  
63 Harbour Drive &  
31 Vernon St

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Suite 21 Jones Bay Wharf  
26 - 32 Pirrama Road  
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**DATE** MARCH 2016

**TITLE** VIEW SHEET 01

**SCALE**  
N.T.S.

**DRAWN** DW MZW  
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**Job No.**  
1130

**DRAWING No.**  
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**TITLE** VIEW SHEET 02

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**DRAWN** DW MZW  
**VERIFIED** DW

**Job No.** 1130  
**DRAWING No.** DA 910  
**REV.** O



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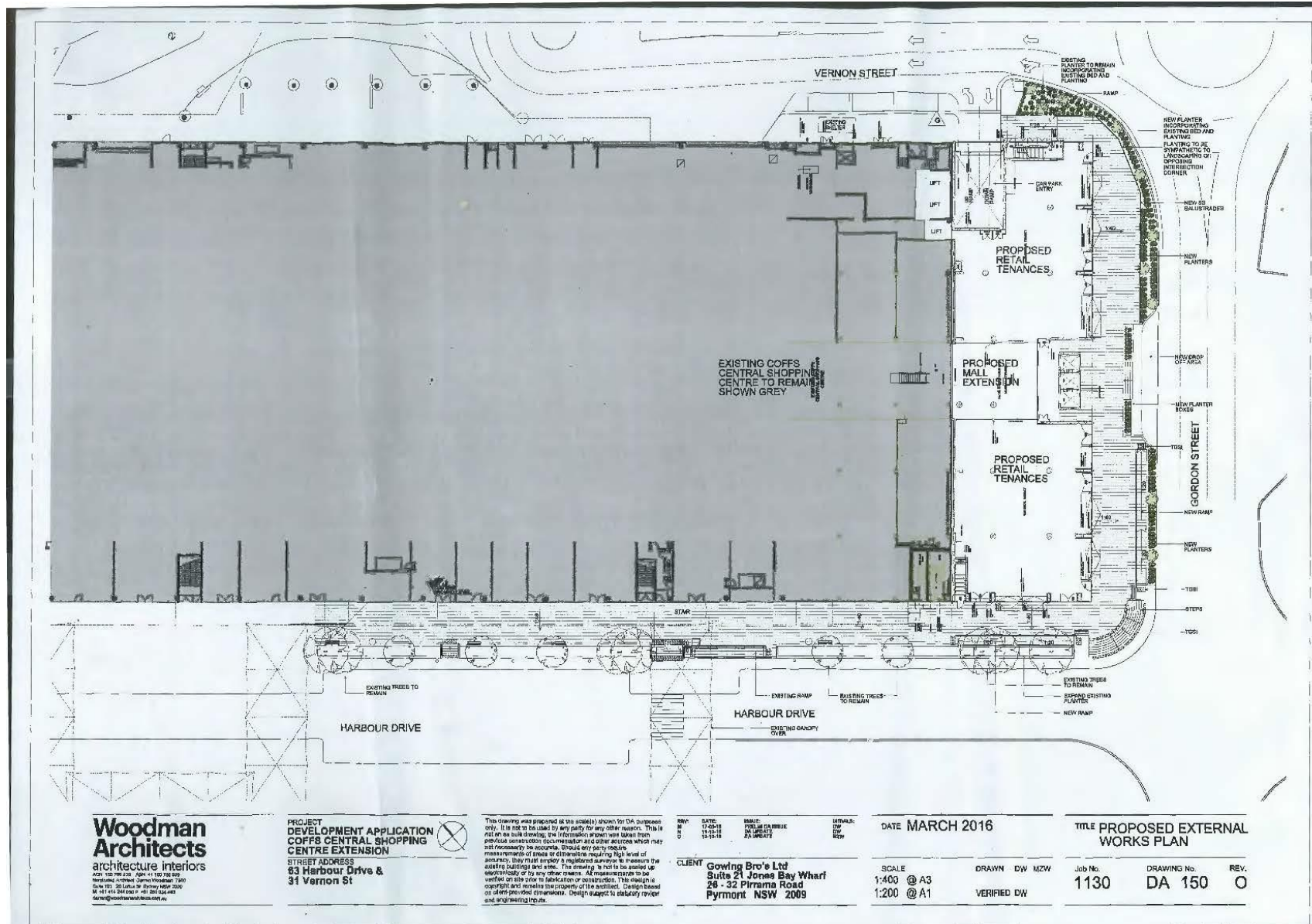
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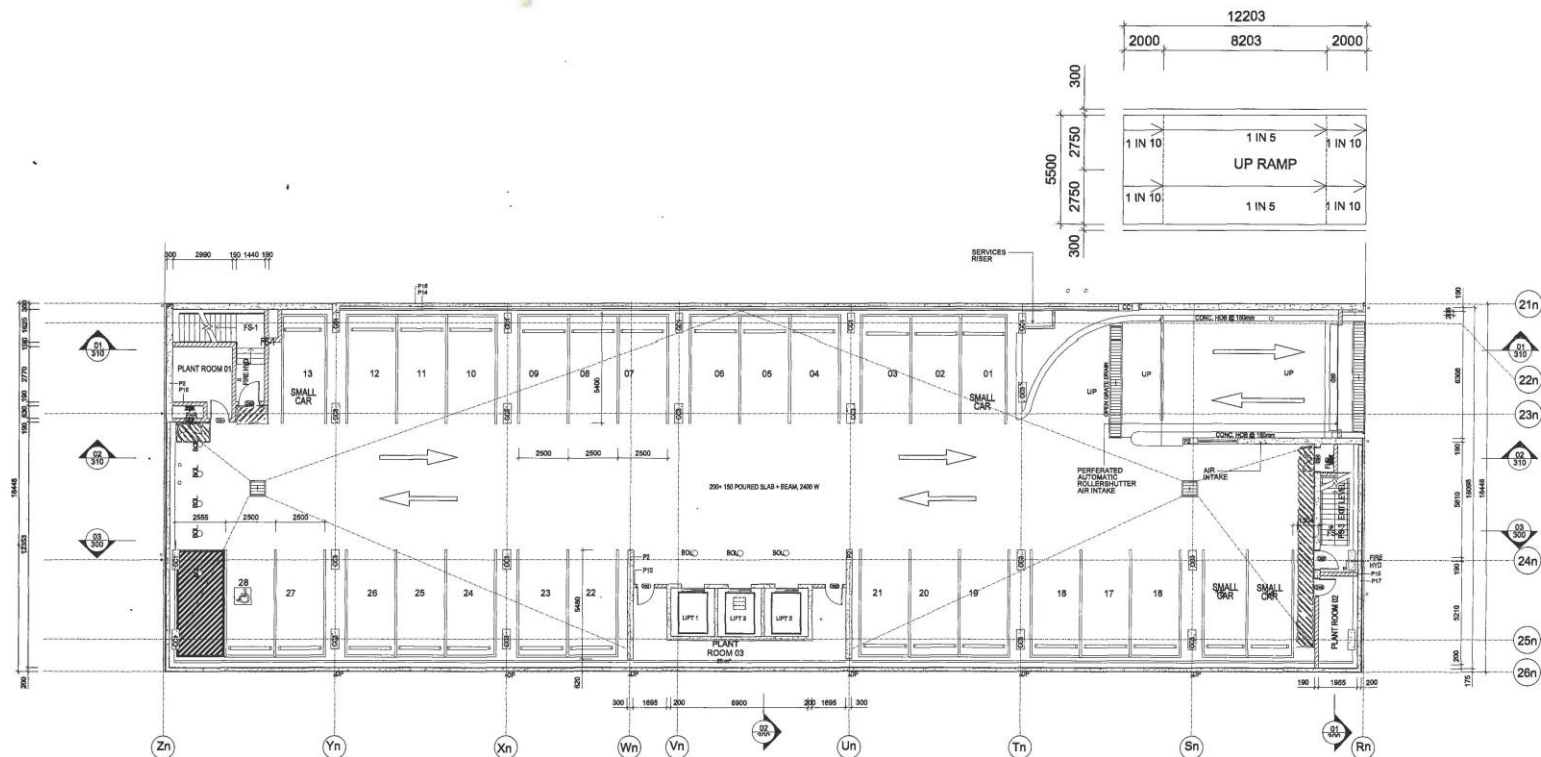
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| REV: | DATE:    | ISSUE:           |
| 1    | 17-05-18 | PREPARE DA INSUR |
| 2    | 11-10-18 | DA UPDATE        |
| 3    | 12-10-18 | DA UPDATE        |

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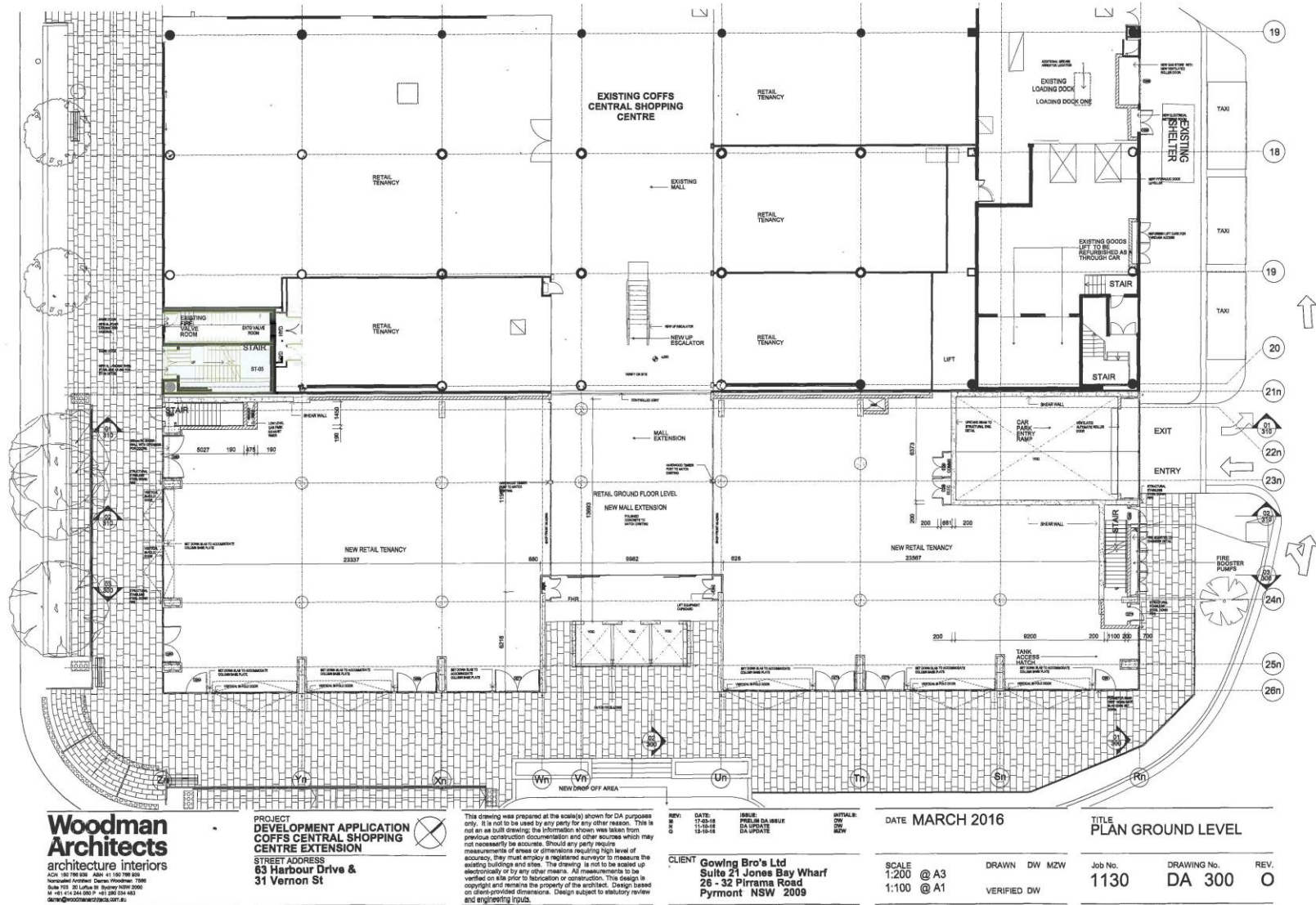
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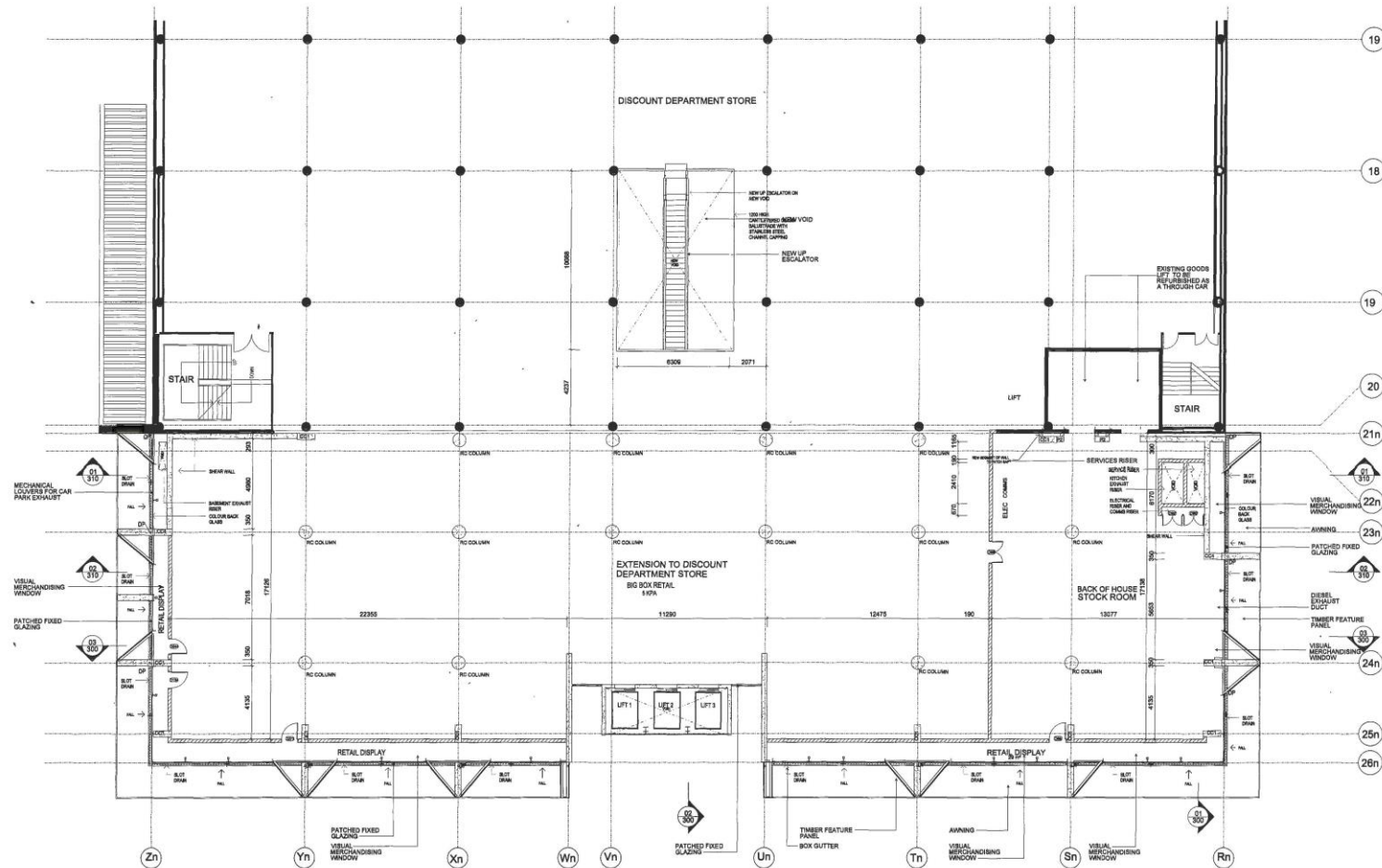
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PROJECT  
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**COFFS CENTRAL SHOPPING**  
**CENTRE EXTENSION**  
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REV: DATE: 17-03-16  
M N 11-03-16  
ISSUE: PUBLISH DA ISSUE  
DATE: 17-03-16  
CLIENT: **Gowing Bro's Ltd**  
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DATE **MARCH 2016**

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**DEVELOPMENT APPLICATION**  
**COFFS CENTRAL SHOPPING**  
**CENTRE EXTENSION**

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| CLIENT: <b>Gowling Bro's Ltd</b><br><b>Suite 21 Jones Bay Wharf</b><br><b>26 - 32 Pirrama Road</b><br><b>Pymont NSW 2009</b> |                            |                                     |                       |

DATE **MARCH 2016**

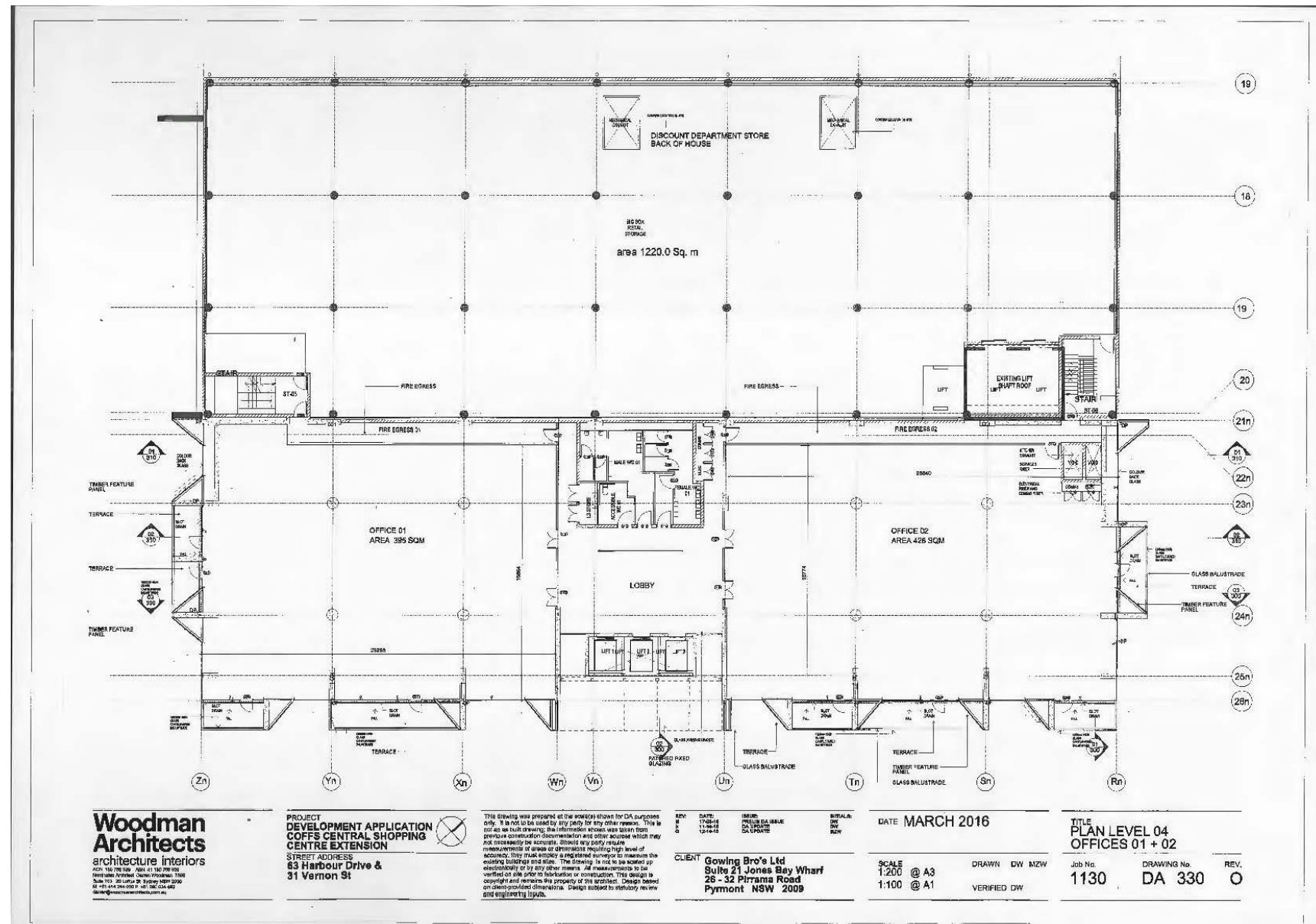
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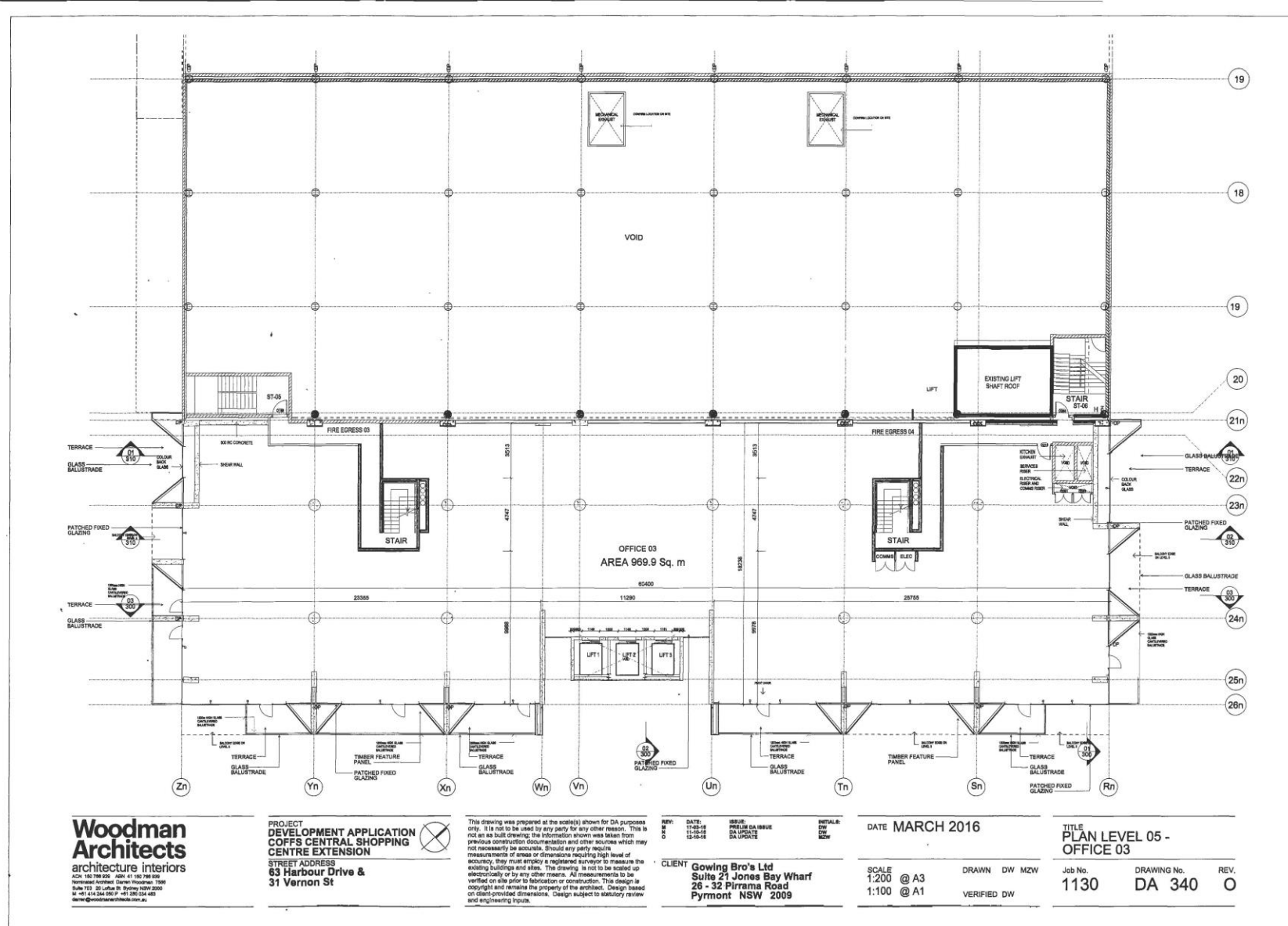
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**DEVELOPMENT APPLICATION**  
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**CENTRE EXTENSION**

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| M    | 11-05-18 | POLICE CANVASS |
| N    | 11-05-18 | DA UPDATE      |
| D    | 12-05-18 | DA UPDATE      |

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DATE MARCH 2016

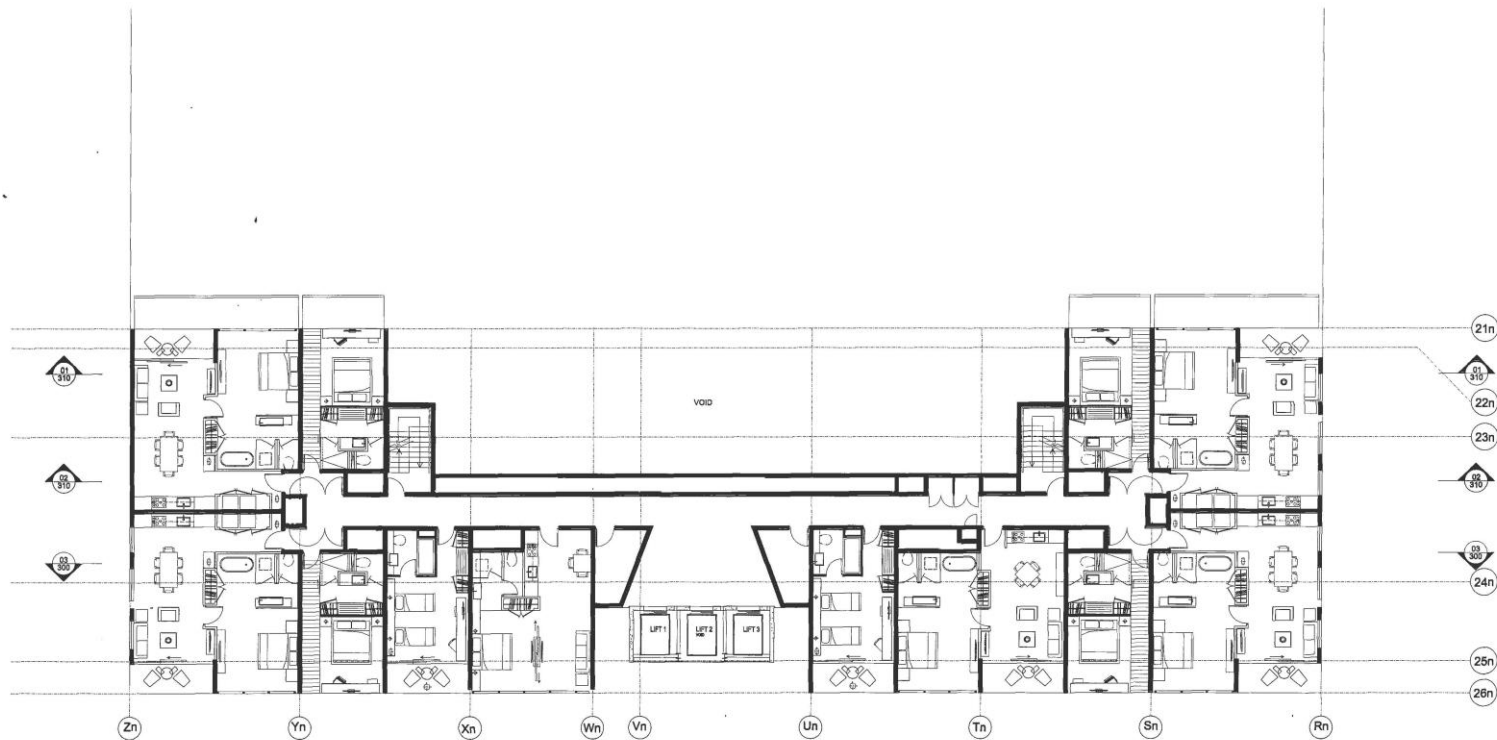
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PLAN LEVEL 05 -  
HOTEL LOBBY - POOL DECK

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| Job No. | DRAWING No. | REV. |
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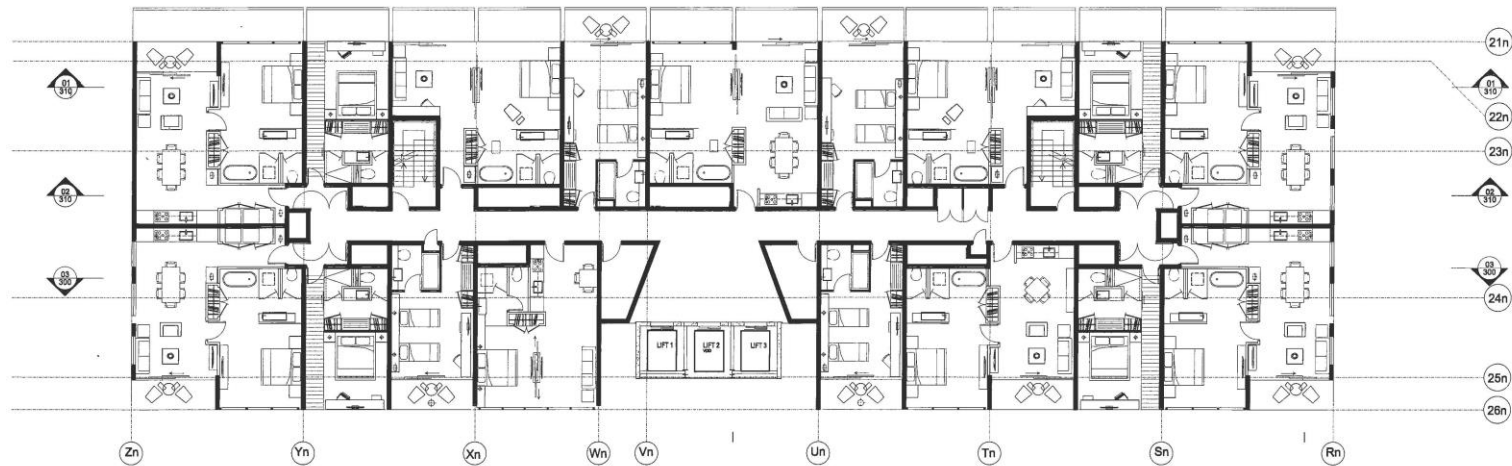
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**TITLE**  
PLAN LEVEL 06 -  
HOTEL LEVEL 2

**Job No.** 1130  
**DRAWING No.** DA 360  
**REV.** O





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PROJECT  
DEVELOPMENT APPLICATION  
COFFS CENTRAL SHOPPING  
CENTRE EXTENSION

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REV: 11-05-16  
DATE: 11-05-16  
NAME: PAULIE DA BRUE  
DA UPDATE

INITIALS:  
DW  
DW

DATE MARCH 2016

CLIENT **Gowling Bro's Ltd**  
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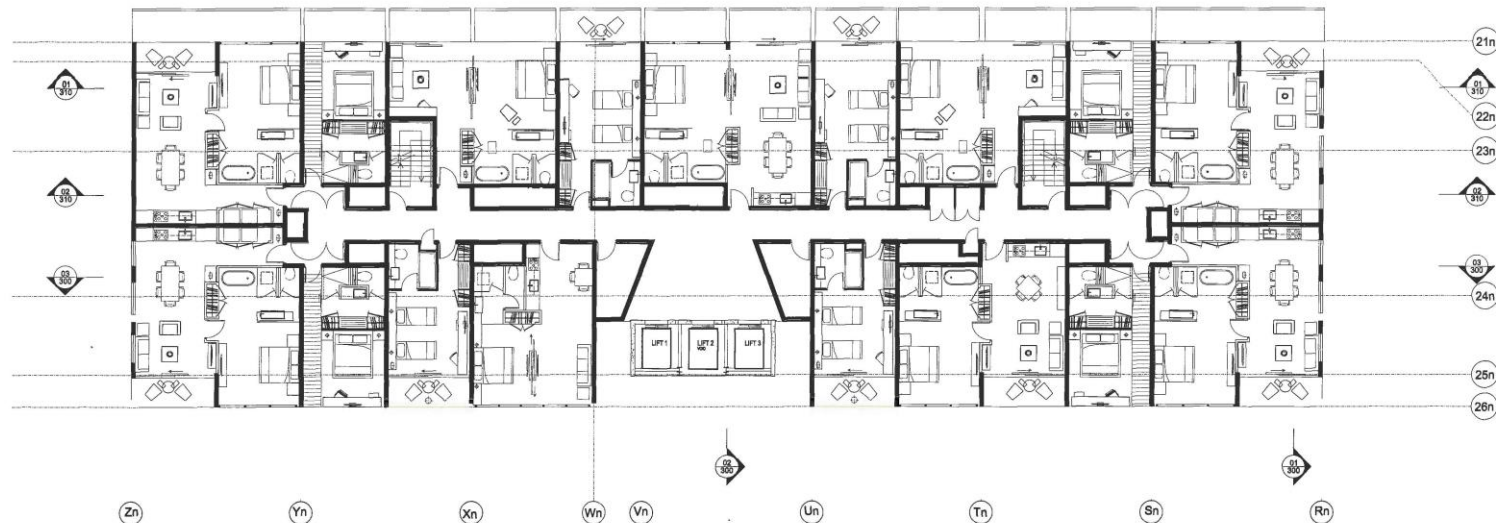
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PLAN LEVEL 07 -  
HOTEL LEVEL 3

Job No.  
1130

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**DATE** MARCH 2016

**SCALE**  
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**TITLE**  
PLAN LEVEL 08 -  
HOTEL LEVEL 4

**Job No.** 1130  
**DRAWING No.** DA 380  
**REV.** O



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CENTRE EXTENSION  
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63 Harbour Drive &  
31 Vernon St



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REV: 11-03-16  
DATE: 11-03-16  
ISSUE: PUBLISH DA/ISSUE  
DA UPDATE

INITIALS:  
DW  
DW

DATE MARCH 2016

CLIENT **Gowing Bro's Ltd**  
Suite 21 Jones Bay Wharf  
26 - 32 Pirrama Road  
Pyrmont NSW 2009

SCALE  
1:200 @ A3  
1:100 @ A1

DRAWN DW MZW  
VERIFIED DW

TITLE  
PLAN LEVEL 9 -  
HOTEL LEVEL 5

Job No. 1130  
DRAWING No. DA 390  
REV. O



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**PROJECT**  
DEVELOPMENT APPLICATION  
COFFS CENTRAL SHOPPING  
CENTRE EXTENSION  
**STREET ADDRESS**  
63 Harbour Drive &  
31 Vernon St

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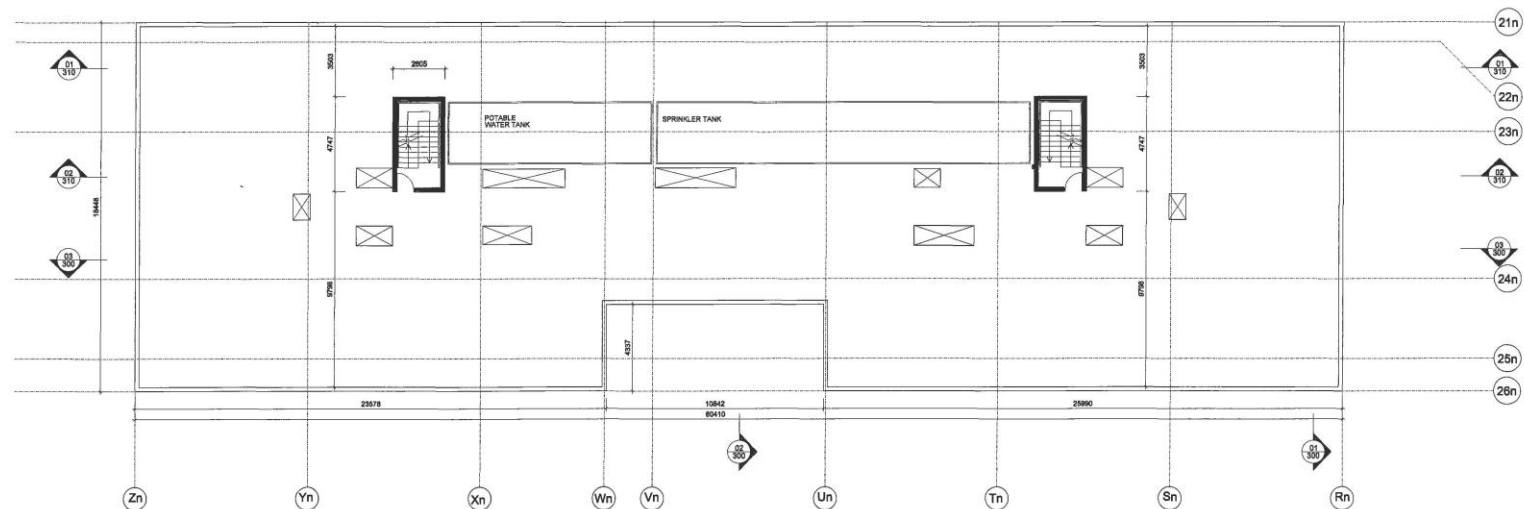
**CLIENT**  
Gowing Bro's Ltd  
Suite 21 Jones Bay Wharf  
26 - 32 Pirrama Road  
Pyrmont NSW 2009

**DATE** MARCH 2016

**SCALE**  
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1:100 @ A1  
**DRAWN** DW MZW  
**VERIFIED** DW

**TITLE**  
PLAN LEVEL 10 -  
HOTEL LEVEL 6

**Job No.** 1130  
**DRAWING No.** DA 400  
**REV.** O



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**PROJECT**  
**DEVELOPMENT APPLICATION**  
**COFFS CENTRAL SHOPPING**  
**CENTRE EXTENSION**

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**STREET ADDRESS**  
**63 Harbour Drive &**  
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| 01   | 17-03-18 | PRELIM DA ISSUE |
| 02   | 11-10-18 | DA UPDATE       |

**CLIENT** **Gowing Bro's Ltd**  
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DATE MARCH 2016

SCALE 1:200 @ A3  
1:100 @ A1

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VERIFIED DW

TITLE  
PLAN LEVEL 11  
ROOF TOP PLANT

|         |             |      |
|---------|-------------|------|
| Job No. | DRAWING No. | REV. |
| 1130    | DA 410      | O    |









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**PROJECT**  
**DEVELOPMENT APPLICATION**  
**COFFS CENTRAL SHOPPING**  
**CENTRE EXTENSION**

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| 01   | 17-03-16 | PRELIM DA ISSUE |
| 02   | 11-10-16 | DA UPDATE       |
| 03   | 12-10-16 | DA UPDATE       |

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**Pymont NSW 2009**

DATE MARCH 2016

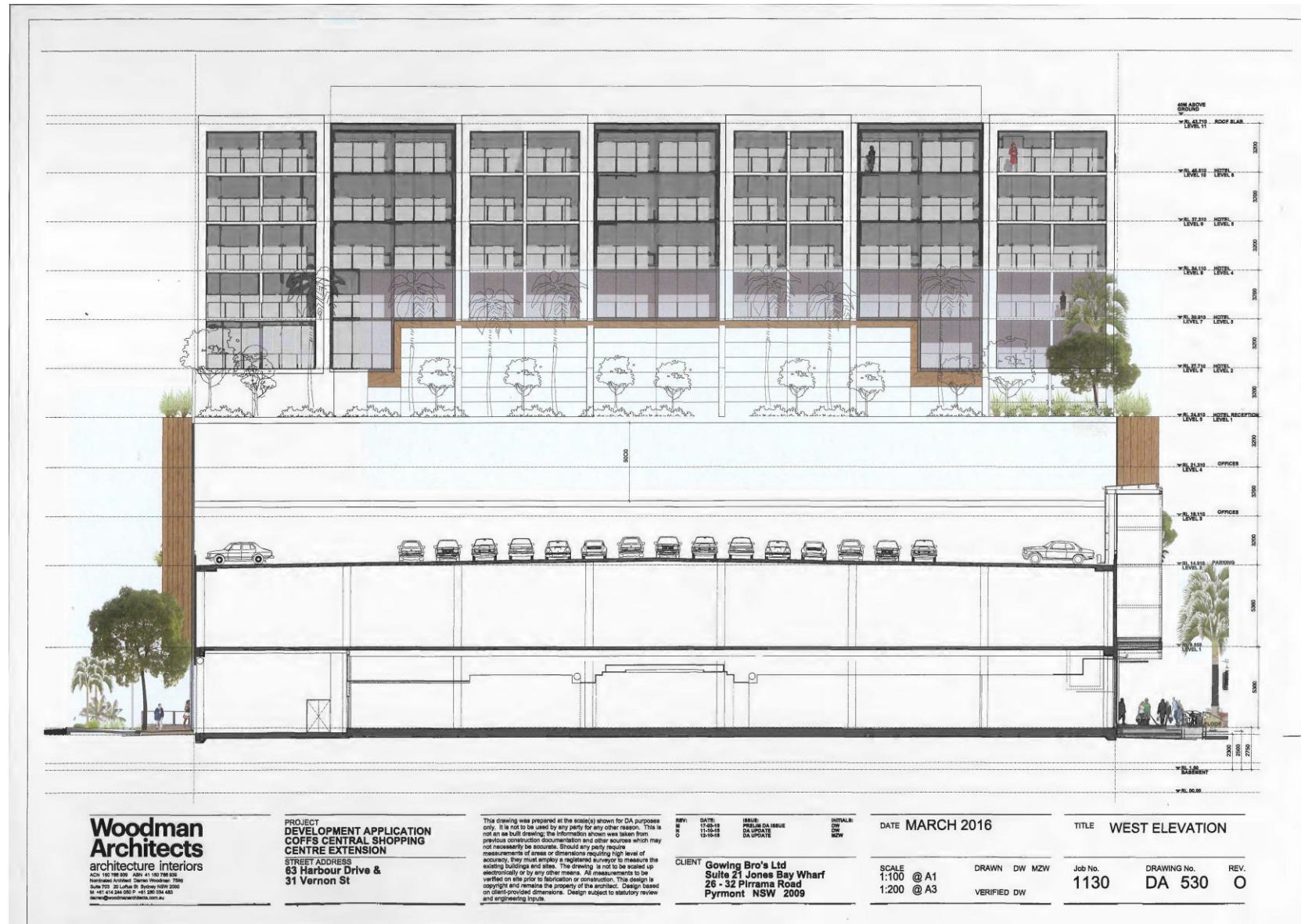
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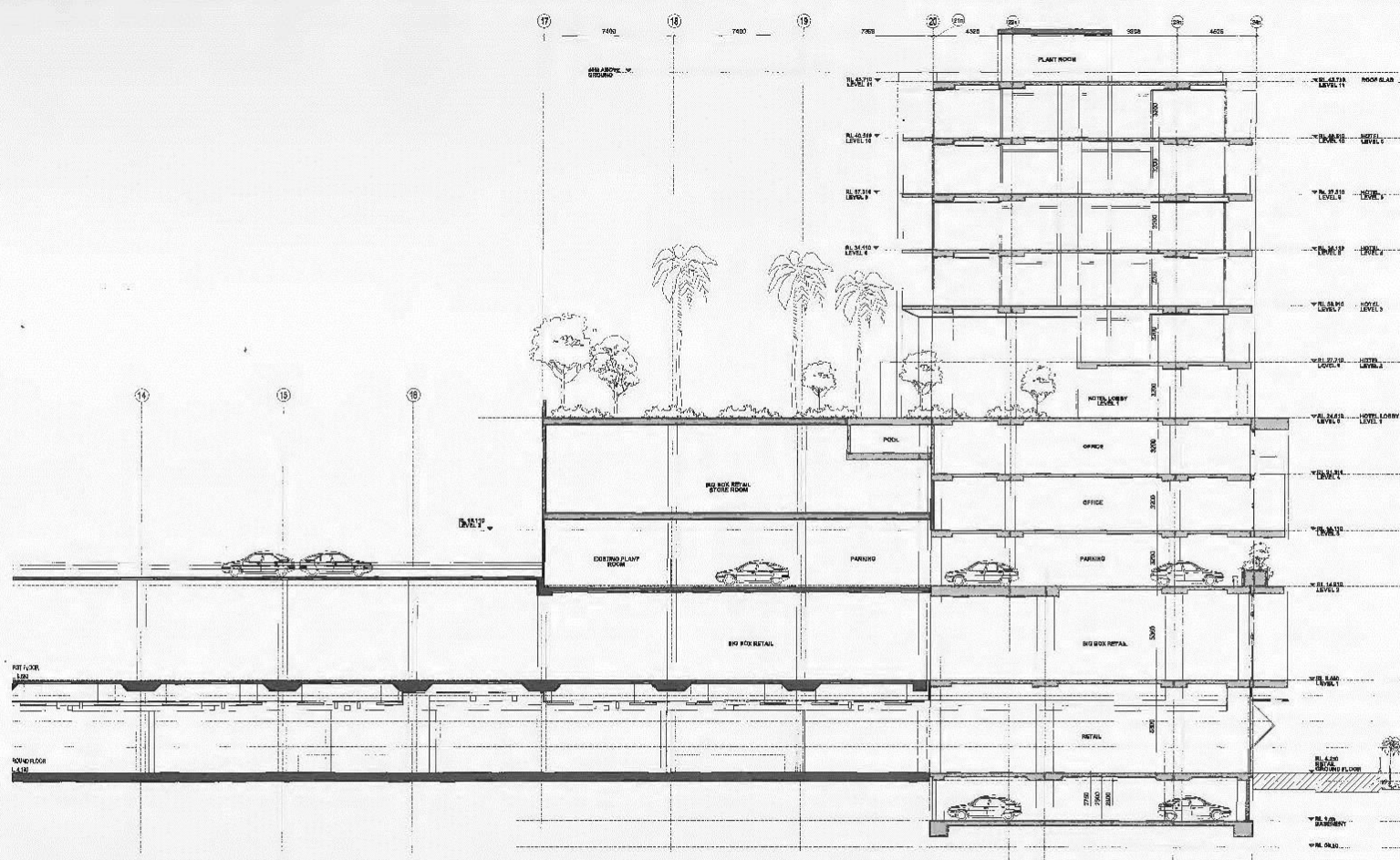
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| Job No. | DRAWING No. | REV. |
| 1130    | DA 510      | O    |









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**PROJECT**  
**DEVELOPMENT APPLICATION**  
**COFFS CENTRAL SHOPPING**  
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| REF: | DATE:    | ISSUE:           | INITIALS: |
| N    | 11-05-19 | POLICE DA UPDATE | OW        |
|      | 11-09-16 | DA UPDATE        | OW        |

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CLIENT **Gowing Bro's Ltd**  
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**Pymont NSW 2009**

DATE **MARCH 2016**

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1:100 @ A1  
1:200 @ A3

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VERIFIED DW

**TITLE**  
**SECTION**

|         |             |      |
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| Job No. | DRAWING No. | REV. |
| 1130    | DA 535      | 0    |

**Section 79C Evaluation  
Development Application 0751/16**

**a. the provisions of,**

**i. any environmental planning instrument, and**

- ***State Environmental Planning Policy No 55—Remediation of Land***

The policy specifies that the consent authority must not consent to the carrying out of any development unless it has considered whether the land on which the development is proposed is contaminated and/or is required to be remediated for its intended use.

The land is not identified as potentially contaminated and Council has no records of potentially contaminating activities occurring on the land in the past.

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

The subject land is located within the 'coastal zone' and the provisions of the SEPP, therefore apply.

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

***Clause 7 – Application of Clause 8 Matters***

Clause 7 requires that the consent authority take matters as listed in Clause 8 into consideration when determining development applications. Clause 8 matters have been taken into consideration in the assessment of the proposed development.

- The proposal is not inconsistent with the aims of the Policy.
- The proposal will not impede or diminish public access to and along the coastal foreshore.
- There are not considered to be any matters of Aboriginal cultural heritage.
- The site does not contain any known items of heritage, archaeological or historic significance.
- The development is unaffected by issues of coastal hazards.
- The proposal will not result in unacceptable impacts to flora and fauna.

***Clause 16 – Stormwater***

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

Stormwater will be directed to Council's reticulated stormwater system and the proposed development is considered satisfactory on the grounds that all stormwater will be 'clean' stormwater.



- ***State Environmental Planning Policy (State & Regional Development) 2011***

Clause 20 and 21 of this policy state that Council consent functions are to be exercised by regional panels for developments of a class or description included in Schedule 4A of the *Environmental Planning and Assessment Act*.

Schedule 4A 9(b)(ii) of the *Environmental Planning and Assessment Regulation 2000* includes general development that has a capital investment value of more than \$20 million.

As the specified capital investment value is \$20,100,000.00 the application is required to be determined by the Joint Regional Planning Panel (Northern Region).

- ***Coffs Harbour Local Environmental Plan (LEP) 2013***

The Coffs Harbour Local Environmental Plan 2013 applies to the development. The relevant provisions of the LEP are discussed below.

***Part 2 - Permitted or Prohibited development***

The subject land is zoned B3 Commercial Core. The proposed development is 'permitted with consent' in the zone.

***Part 4 - Principal Development Standards***

***Clause 4.3 - Height of Buildings***

This clause specifies that developments must not exceed the maximum height, as shown on the 'Building Height Map'. The maximum building height for the locality is 17 metres.

The entire development exceeds this building height limit. In this regard, the applicant has requested that this variation be considered under the provisions of the Clause 4.6 'Exceptions to development standards'. This is discussed further below.

***Clause 4.4 – Floor space ratio***

This clause specifies that developments must not exceed the maximum floor space ratio (FSR) as shown on the 'Floor Space Ratio Map'. The maximum FSR for the site is 2.50:1.

The proposed development exceeds this, proposing an FSR of 2.63:1. In this regard, the applicant has requested that this variation be considered under the provisions of the Clause 4.6 'Exceptions to development standards'. This is discussed further below.

**Clause 4.6 – Exceptions to development standards**

The application includes a request made pursuant to this provision to vary two development standards of Coffs Harbour Local Environmental Plan 2013 (LEP). The table below provides a summary of the LEP provision proposed to be varied and the variation proposed.

| LEP Provision           | Standard  | Proposed Development | Percentage Variation |
|-------------------------|-----------|----------------------|----------------------|
| 4.3 Height of Buildings | 17 metres | 43 metres            | 153%                 |
| 4.4 Floor Space Ratio   | 2.5:1     | 2.63:1               | 5.2%                 |

Relevant sections of Clause 4.6 that must be considered are reproduced below.

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,*

The matters that the consent authority must address can be summarised into the following three questions.

- 1. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? Clause 4.6(3)(a)**
- 2. Are there sufficient environmental planning grounds to justify contravening the development standard? Clause 4.6(3)(b)**
- 3. Is the proposed development in the public interest? – is it consistent with the objectives of the development standard and the objectives of the particular zone? Clause 4.6(4)(a)(ii)**

To answer these questions there is an assessment process and five-part test established in the case of *Winten Property v North Sydney (2001)*, and later refined by *Wehbe v Pittwater Council (2007)*. It provides five different ways in which an objection to a development standard may be considered well founded. It is appropriate that these tests be applied when considering the submitted variation for the proposed development. They are as follows:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Recent case law (*Four2Five Pty Limited v Ashfield Council* [2015] NSWLEC 90, *Moskovich v Waverly Council* [2016] NSWLEC 1015 and *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7) builds on part 1 of this test.

With reference to the five-part test and the assessment process, as set out by case law, the following is provided as an analysis of the request made by the applicant to vary the development standards of clause 4.3 and 4.4 of LEP 2013:

**1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;**

*Applicant comment:*

The applicant has provided the following comment on how the development achieves the objectives of the standards, despite non-compliance with the standards:

- the development is consistent with Council's strategic vision for the CBD as a regional centre;
- the development provides for employment opportunities and higher density living opportunities in the commercial core;
- the development provides an opportunity for a signature building to help reinforce the regional role and function of the CBD and provides a positive contribution to the streetscape;
- it assists with legibility in the CBD by having a landmark building and design feature on the corner and entry to the CBD;
- a lower scale development, which complied with the height requirement would not deliver the regional scale provided by this proposal;
- a complying development spread over the whole site would create unreasonable overshadowing of the City Square;
- a complying development would prevent a landmark statement being made at an important entry point to the City Centre;
- the development will not result in view corridors being impeded, overshadowing or wind impacts;

The applicant has provided comment in support of the proposed variations, specific to the circumstances. This is summarised as follows: A complying development that has a maximum building height of 17 metres across the site and a FSR of 2.5:1 would result in the following adverse outcomes:

- overshadowing of the City Square;
- loss of a significant entry statement on the north-western corner of Harbour Drive and Gordon Street;
- a canyon effect along the Harbour Drive streetscape due to a monotonous building form;
- an unremarkable low scale building that would not help signify the regional role and function of the City;
- a building that is not afforded any significant views of the surrounding area;
- reduced tourism and visitation to the City Centre; and
- reduced activation of Harbour Drive and reduced viability of the hotel component.

The applicant has provided comment in support of the proposed variations on environmental planning grounds. This is summarised as follows: The proposed development:

- provides a high quality contemporary building on one of the few large sites in the City Centre that can deliver a building of this scale;
- maintains sunlight to the City Square;
- provides a signature building that is commensurate with the regional role and function of the City and celebrates the entry to the City Centre;
- provides holiday apartments with significant views of the surrounding city and hinterland;
- is the first large scale mixed use development in the City Centre in keeping with Council's vision for such development to be built in the CBD to add vibrancy;
- provides additional hotel accommodation stock, close to regional facilities;
- provides significant economic impacts for existing CBD businesses and the local economy generally through the construction and operational phases.

**Assessment Comment:**

The applicant's submission is that, while not complying with the relevant development standards, the development is consistent with the strategic intent for the local government area and the CBD as a regional centre.



For assessment purposes it is reasonable to assume that this strategic intent is reflected in the current building height and FSR controls (and their associated objectives) for the locality. A development being consistent with the strategic intent for an area is not, in itself, relevant grounds for varying a development standard.

The applicant suggests that non-compliance with the development standards would mean that the development could avoid certain impacts that a complying development would likely result in such as overshadowing and impacts to the streetscape. It has not, however, been satisfactorily demonstrated that another complying design would result in a worse planning outcome on the whole.

While it is agreed that the site, due to its corner aspect and location in the CBD, provides a unique design opportunity, the objection is based on the premise that the only way to provide for a signature building on the site, that makes a statement for the CBD and reinforces the regional role of the City, is to provide for a larger scale, higher density development. A more skilful design that achieves compliance (or closer to it) is certainly capable of being a signature building, that provides an appropriate entry to the CBD.

The building at the proposed height and FSR is visually appealing on an individual level, but it remains out of context with the desired character for the locality, as reflected in the building height limit and FSR controls.

Examples of expected environmental planning benefits of the development have been provided but these reasons are not sufficiently specific to the proposed development on the site. It has not been demonstrated that these outcomes could not reasonably apply to similar development of the site or surrounding sites. For example, while it is agreed that the development could have positive economic and social impacts for the CBD, due to its mixed-use nature, this could also be said for similar complying developments on the site or other surrounding sites.

**2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;**

*Applicant Comment:*

Other than to note the strategic background, the applicant has not provided any comment that suggests that they believe that the underlying objective or purpose of the standards contained within clauses 4.3 and 4.4 of LEP 2013 are not relevant to the development.

*Assessment Comment:*

The objectives of Clause 4.3 are as follows:

- (a) to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,*
- (b) to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,*
- (c) to ensure that the height of future buildings has regard to heritage sites and their settings and their visual interconnections,*

- (d) to enable a transition in building heights between urban areas having different characteristics,*
- (e) to limit the impact of the height of a building on the existing natural and built environment,*
- (f) to encourage walking and decreased dependency on motor vehicles by promoting greater population density in urban areas.*

The objectives of Clause 4.4 are as follows:

- (a) to define the allowable development density of a site,*
- (b) to encourage increased building densities through site amalgamation at certain locations.*

The underlying objective and purpose of this standard is to control the bulk and density of development on a site. The clauses work in conjunction with each other and are intended to be read and applied together to enforce an appropriate building envelope for a site. The objectives and purpose of the standards are considered to be relevant to the proposed development.

**3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;**

Assessment Comment:

The underlying object and purpose of clauses 4.3 and 4.4 are outlined and discussed above. Compliance with the standards would not result in the underlying object and purpose of the clauses being defeated or thwarted.

**4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;**

Assessment Comment:

Coffs Harbour Local Environmental Plan 2013 (LEP) came into force on 27 September 2013. Most development proposals comply with Council's LEP development standards. All development applications proposing variations go through similar, rigorous assessments before any approval of variation to the standard is granted. Council's actions have therefore always followed appropriate process. There are no existing examples of recent variations to height limit or FSR in the locality that might support a view the development standards of clauses 4.3 and 4.4 have been abandoned or destroyed.

Supporting the proposed variations, as taken together (noting that the proposed variation to FSR is more minor in nature), would create an undesirable precedent and would make it more difficult for Council to uphold these standards with future applications. Given the scale of the variation proposed, approval of such a proposal could be argued as a concession that the current controls are inappropriate. Approval of the current proposal could also add weight to any future argument that the standards have been abandoned.

5. **The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.**

*Assessment Comment:*

The current zoning of the land, B3 Commercial Core, is not considered to be unreasonable or inappropriate given the location and attributes of the site.

### **Conclusion**

For Council to approve a development application where a variation to a development standard is proposed, requires consideration of Clause 4.6 of LEP 2013 and a submitted objection. This is a statutory requirement. Council must be satisfied before there is power to approve the application.

Using the five-part test and the assessment process described above it is considered that the submitted objection, pursuant to Clause 4.6 of the LEP 2013 has not satisfactorily demonstrated that

1. the standards are unreasonable or unnecessary in the circumstances of the case;
2. there are sufficient environmental planning grounds to justify contravening the development standard; and
3. the proposed development is in the public interest.

It is considered that the objection is not well founded and does not meet the requirements of Clause 4.6. It is considered that there is public benefit in upholding the planning controls as they apply to the site. Case law in the area makes it clear that objections submitted pursuant to Clause 4.6 should not be used in an attempt to effect general planning changes throughout an area.

### ***Clause 5.5 - Development within the Coastal Zone***

The site is located within the 'Coastal zone' and Clause 5.5 specifies a number of matters that must be considered before consent can be granted.

The proposed development is considered to satisfy the requirements of the Clause. In this regard, the development: does not impact on access to the foreshore area or otherwise affect the amenity of the foreshore area or result in impacts to biodiversity values.

### ***7.1 Acid Sulfate Soils***

The proposed development is not expected to result in works that will require preparation of an acid sulfate soils management plan in accordance with the provisions of this clause.

### ***7.3 Flood planning***

While the site is considered to have land at or below a flood planning level, this application proposes additional building storeys to development approved under Development Consent 0960/13DA. There are no additional flood planning considerations for the proposed development.

### **7.9 - Airspace Operations**

Clause 7.9 requires, where development will penetrate the Limitations or Operations Surface, Council must consult the relevant Commonwealth body.

The land is located inside the 48.06 Contour on the Obstacle Limitations Map. The proposed development is 43 metres in height, so does not penetrate the Obstacle Limitations Surface. Consultation with the Commonwealth is not necessary.

### **7.11 Essential services**

All services that are essential for the development are available and adequate as required by this provision.

### **7.12 - Design Excellence**

Clause 7.12 specifies that development consent cannot be granted to development on land zoned B3 Commercial Core unless Council considers that the development exhibits design excellence. In assessing this, Council is required to consider several matters relating to the design of the proposed development.

Specifically, the Clause requires consideration of the following matters:

*In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:*

- a. *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- b. *whether the form and external appearance of the development will improve the quality and amenity of the public domain,*
- c. *whether the development detrimentally impacts on view corridors,*
- d. *the requirements of the Coffs Harbour DCP,*
- e. *how the development addresses the following matters:*
  - (i) *the suitability of the land for development,*
  - (ii) *existing and proposed uses and use mix,*
  - (iii) *heritage issues and streetscape constraints,*
  - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
  - (v) *bulk, massing and modulation of buildings,*
  - (vi) *street frontage heights,*
  - (vii) *environmental impacts such as sustainable design, overshadowing, solar access, wind and reflectivity,*
  - (viii) *the achievement of the principles of ecologically sustainable development,*
  - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
  - (x) *the impact on, and any proposed improvements to, the public domain.*

Whilst it is considered that the development exhibits a high standard of architectural design on an individual level, the building is out of context with the desired character for the locality, as reflected in the current building height and FSR controls.

It is considered that the variations proposed to the building height and FSR controls results in a building that has a bulk and mass that is inconsistent with the existing and desired urban form for the locality. For these reasons it is considered that the site is not suitable for the development, as proposed.



### **7.13 Central Business District**

This clause requires Council to consider whether the proposed development will detract from the Coffs Harbour central business district (CBD) as being the primary business, office and retail hub of Coffs Harbour. It is considered that the proposed development will contribute to the primacy of the CBD as the principal business, office and retail hub of Coffs Harbour City.

#### **ii. The provisions of any draft environmental planning instrument**

There are no draft environmental planning instruments that are of relevance to the proposed development.

#### **iii. any Development Control Plan (DCP)**

- **Coffs Harbour Development Control Plan 2015 (DCP 2015):**

Coffs Harbour Development Control Plan 2015 applies to the development. The relevant provisions of the DCP are discussed below.

##### **B1 Public Consultation:**

The application was publicly advertised and notified 26 May 2016 to 08 June 2016. Forty-four submissions were received with forty-three being in support and one was against the proposed development.

A summary of the matters raised in submissions is provided in subsection (d) of this report.

##### **D1.2 Design requirements - general:**

The proposed development is not contrary to this provision. The development incorporates modulation of form, articulation of the facades, and architectural detail to add visual interest and generally reduce the bulk and scale of the building. The building has an identifiable top middle and base. It has stepped layers to break up its mass and to clearly define the different functions occurring within the building.

There are no blank walls. The building addresses all street frontages. The materials and finishes are in keeping with the existing building and will not cause any nuisance in terms of reflectivity or maintenance.

##### **D1.3 Design requirements - mixed-use developments:**

This provision requires that entries to residential components of developments be clearly defined, that developments provide for flexible building layouts, that central entries for non-residential components be provided and that appropriate security provisions for private accesses be provided. The proposed development is not contrary to these requirements.

##### **D1.4 Infrastructure and site facility requirements:**

The proposed development will have all the infrastructure requirements specified in this control. Satisfactory waste facilities will be provided.

**D1.8 Accessibility requirements:**

This provision requires that an accessible accessway be provided in accordance with the from the site boundary to the principal point of access, in accordance with the 'Disability (Access to Premises Standards) 2010' apply that. Further, it requires that public footpaths and other public spaces associated with commercial development be design to provide barrier-free environments.

The new car park level, offices and hotel will have access to twin lifts, which comply with requirements of the 'Disability (Access to Premises Standards) 2010' and relevant Australian Standards.

**D1.9 'Safer by Design' requirements:**

The DCP requires that 'Crime Prevention through Environmental Design' principles are considered in the design of large-scale commercial developments, in accordance with 'NSW Police Safer by Design: Crime Prevention through Environmental Design Guideline'. These principles relate to matters such as surveillance, territorial reinforcement, space management, access control and health and wellbeing. The proposed development is consistent with these principles, incorporating safer by design features such as natural surveillance and clearly defined entryways as part of the design.

**D1.10 Consolidation requirements:**

It is proposed to consolidate lots to meet the requirement of this provision.

**D1.16 Flooding requirements:**

This provision requires that the development address the flooding constraints of land identified as flood prone.

The site is mapped as flood prone, but all of the proposed development is located above the development approved under Development Consent 0960/13DA and currently under construction. There are no flooding matters that require consideration for the proposed development.

**F1.5 On-Site Parking – Non Residential Uses:**

This provision specifies that car parking should be provided at prescribed rates relevant to the development type. Each of the development types proposed is considered separately below.

Office Premises

The car parking rate for offices specified in Development Control Plan 2015 is one space per 40 m<sup>2</sup> of gross floor area (GFA).

The proposed development consists of 1792.9 m<sup>2</sup> of additional office space. In accordance with the DCP rate, this generates need for an additional 45 car parking spaces. The development proposes an additional 45 car parking proposed at the second floor level which provides for the office component for this development.

Shop Reconfiguration

The car parking rate for shops specified in Development Control Plan 2015 is one space per 25 m<sup>2</sup> of gross leasable floor area (GLFA).

The proposed development consists of 134 m<sup>2</sup> of additional shop space. This is a result of the reconfiguration of shops at Level 01 (reduction of 18.6 m<sup>2</sup>) and relocation of the department store back of house from Level 02 to Level 03 (an additional 260 m<sup>2</sup>). In accordance with the DCP rate, this generates need for an additional 11 spaces.

Car parking for the Coffs Central development when originally constructed exceeded the minimum requirements, resulting in a surplus of car parking being available for future development. The shortfall of eleven car parking spaces for the additional shop area can utilise this surplus car parking. The car parking requirements resulting from additional shop area can be accommodated within the surplus. It should be noted that this will exhaust all existing car parking credits that applied to the original Coffs Central development (originally the Palms Centre).

#### Hotel Rooms and Restaurant

The car parking rate for hotels specified in Development Control Plan 2015 is represented by the table below.

| Use  | Rate                                    | Parking |
|--|---|---------|
| Hotel rooms (80)                                       | 1 space per room                        | 80      |
| Hotel staff (from plans 10 + receptionist + concierge) | 0.5 space per staff                     | 6       |
| Hotel restaurant 110 seats (490 m <sup>2</sup> )       | one space per 13.2m <sup>2</sup> of GFA | 37      |
| TOTAL  |   | 122     |

A total of 122 car parking spaces are required in accordance with the requirements of DCP 2015.

DCP 2015 specifies that developments that do not meet the requirements of DCP controls must demonstrate that any alternative solutions proposed provides a better response to meeting the objectives of the control and the plan. Any alternative solution should be supported by a car parking study of a similar development in a similar location.

The applicant has proffered that the RMS Guide to Traffic Generating Developments for tourist hotels is an appropriate standard to apply for the proposed development. This guide specifies a parking rate of one space per four hotel rooms. It should be noted that the RMS Guide is based on central Sydney hotels which are expected to have significantly different requirements to a Coffs Harbour CBD site. The applicant's contention is not supported by a traffic study of a similar development which would provide the necessary data to either support or deny the contention.

Statements have also been made in relation to the parking requirement for the restaurant. DCP 2015 includes a 50% reduction (where the restaurant is 'ancillary to another use'). The applicant's request to reduce the parking requirement suggests that no parking for restaurant guests should be required. This claim has not been supported with a survey of available parking or a parking study of a similar development.

The development as proposed does not propose additional car parking for the hotel component; neither the hotel rooms nor the restaurant. The application does not provide documentation that an alternative solution to the DCP controls provides a better response to meeting the objectives of the control and the plan nor is there a car parking study of a similar development in a similar location. In the circumstances this is considered a substantial variation to the car parking requirements of DCP 2015. Approval of the development as currently proposed is likely to result in an unacceptable impact to the current car parking supply within the Coffs Harbour City Centre.

### **F3 Landscaping Requirements**

The DCP requires that developments within the B3 zone incorporate 'soft landscaping' within the front and rear setback areas and car parking areas.

The development does not propose any landscaping in setback areas, as the development will be wholly located on top of another development currently under construction. The development provides for screening of the upper level car parking area by way of planter beds and a 'green wall' on the upper part of the building façade.

### **F6 Waste Management Requirements**

The DCP requires that developments be provided with a three stream waste separation system to cater for all waste generated by the development, where generated waste can be appropriately stored and collected. The proposed development can meet this requirement.

#### **G3.1 City Centre Masterplan:**

The proposed development is consistent with the requirements of the City Centre Masterplan

#### **G3.2 Setback requirements:**

The development is not inconsistent with the setback requirements specified in this provision.

#### **G3.3 Design requirements – general:**

This provision requires that new development is to be of a high quality with a mix of uses that encourage safety and activity during the day and night.

The proposed development is not contrary to these requirements.

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

The Regulations do not prescribe any matters relevant to the proposed development.

**v. any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,**

Council adopted the Coffs Harbour Coastal Zone Management Plan at its meeting of 14 February 2013. The plan provides the basis for future management and strategic land use planning of the Coffs Harbour coastal zone. The development site is within the study area of the plan but is not within any area covered by specific management strategies contained within the plan.

The Coffs Harbour Coastal Processes and Hazard Definition Study 2010 was prepared prior to, and informed the Coastal Zone Management Plan and identified likelihood of hazards occurring, such as beach erosion, coastal inundation and the impacts of sea level rise on these hazards by 2100. The Hazard Study does not identify any coastal processes that would impact on the development site.



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

### **Traffic and Parking**

#### **(a) Traffic Generation**

Peak hour traffic generation from full occupation of the site has been based on the RMS Guide to Traffic Generating Developments. Assessment of the peak hour traffic generation is the critical factor when considering operation of the road network around the site. The table below provides a summary of traffic generation in trips per hour (tph); note this summary includes the shop development approved under Development Consent 0960/13DA.

| <b>Use</b>                    | <b>Traffic Generation (tph)</b>                                     | <b>Total (tph)</b> |
|-------------------------------|---|--------------------|
| Hotel - 80 room               | 0.4 per room  | 32                 |
| Hotel staff - six             | say four enter and leave the site for a shift change each peak hour | 8                  |
| Offices - 1911 m <sup>2</sup> | Two per 100 m <sup>2</sup> GFA                                      | 38                 |
| Shops - 3158 m <sup>2</sup>   | 12.5 per 1000 m <sup>2</sup> GFA                                    | 39                 |
| <b>Total</b>                  |   | <b>117</b>         |

The traffic impact assessment provided with the application has only considered the resultant total peak hour traffic generation from the two office floors and the hotel units which is indicated to be a total of 68 tph.

The traffic impact assessment includes a copy of a traffic study commissioned by Coffs Harbour City Council; Coffs Harbour CBD Traffic Study – Intersection Analysis Report For Harbour Drive-Gordon Street Intersection 2012. The Traffic Study modelled the Gordon Street intersections with Harbour Drive and Vernon Street and included preliminary design of the traffic signals at the intersection of Harbour Drive and Gordon Street.

The 2012 report peak hour movements at the intersection on Harbour Drive are in the order of 1370 vehicles per hour (vph) and on Gordon Street 1575 vph. For the development as presented 117 tph are added which represents 8% growth. The annual traffic growth based on population is considered to be 1.5% per annum. Therefore, the development adds about five years population growth.

The design life of traffic signals (recently installed at the intersection of Harbour Drive and Gordon Street) is expected to be greater than 20 years. The development would result in a minor shortening of the signal design life. This is considered to be satisfactory.

#### **(c) Provision for Other Transport Modes**

Apart from private motor vehicles, users of the site will require access to bus and taxi services for connection to other rail, road and air transport services. The principal point of entry will be via the large entrance from the Gordon Street frontage on the ground floor. An area at the centre of Gordon Street has been nominated as a 'New Drop Off Area'. At this point a raised footpath will be constructed level with the ground floor shops and approximately one metre above the adjacent Gordon Street Road Carriageway. A 12.5 metre long indented parallel parking bay is proposed with a 1.2 metre wide footpath area adjacent to the kerb and steps up to the shop and centre entry.

Due to the short length of road between Harbour Drive and Vernon Street the western side of Gordon Street will be a NO STOPPING zone in order to ensure the best operation of the traffic signals.

For first time visitors to the hotel there is no “port cochere” entry arrangement. There is no suitable location adjacent to or near the site for tourist coaches to utilise. The indented section of kerb in the centre of the Gordon Street frontage is included in the new plans and it is stated that this indent would be suitable for both a pick up and drop off area for hotel guests as well as for coach parking.

The indent is proposed to have a length of 12.5 metres plus short entry and exit reverse curves. A standard single bus stop requires an overall length of 30 metres to incorporate suitable turn in and turn out lengths. Shorter overall lengths could result in the bus not being able to stay within the kerbside lane when entering and departing as well as front overhang and rear tail swing sweeping over the footpath area which is already narrow. The adjacent footpath width is at most 1.2 metres wide and the connection to the upper footpath area at ground floor level is via stairs. There is no accessible access route between road level and the building entry and hotel guests with wheeled bags will not have a suitable access route. The area is not considered suitable for use as a coach stop. Due to the demand for parking in the area it is unlikely that the area will remain vacant for arrival of coaches. The area has not been proposed as a dedicated bus stop and the suggested dual purpose pick up and drop off area would appear to be incompatible. Short term parking, such as 15 minute parking restriction, has not been proposed.

The traffic impact assessment provided with the application makes reference to identification of Vernon Street as a potential site for consolidation of public transport services. Further investigation by Council into this issue has revealed that enhancement of the taxi facilities could be undertaken but any additional facilities would be unlikely due to potential conflicts with the Coffs Central loading dock, entry to the Council multi storey car park and the pedestrian shared entry in this area.

As a result of these factors the proposed development has insufficient provision for other transport modes. The proposed Gordon Street drop off and pick up area is constrained and the design layout and difference in road carriageway and building entry levels have not presented a workable solution as proposed. In addition no parking controls have been suggested to support the operation as intended.

### **(c) Car Parking**

A complete assessment of car parking is provided with consideration of DCP 2015 – Clause F1.5 – in this report. In summary the proposed additional car parking at Level 02 of 45 car parking spaces adequately provides for the office component (in accordance with the rates specified in DCP 2015). The additional shop area (from reconfiguration of shops at Level 01 and relocation of the department store back of house Level 03) generates need for an additional 11 car parking spaces (in accordance with the rates specified in DCP 2015). This car parking demand can utilise existing surplus of car parking that resulted from construction of the Coffs Central development in 1985. It should be noted that this will exhaust all existing car parking credits that applied to the original Coffs Central development (originally the Palms Centre).

For the hotel rooms and restaurant, a total of 122 car parking spaces are required (in accordance with the requirements of DCP 2015). The development as proposed does not propose additional car parking for the hotel component; neither the hotel rooms nor the restaurant. The application does not provide documentation that an alternative solution to the DCP controls provides a better response to meeting the objectives of the control and the plan nor is there a car parking study of a similar development in a similar location. In the circumstances this is considered a substantial variation to the car parking requirements of DCP 2015. Approval of the development as currently proposed is likely to result in an unacceptable impact to current car parking supply within the Coffs Harbour City Centre.

**c. the suitability of the site for the development,**

The site is not considered to be suitable for the proposed development for the following reasons;

- the height of the proposed development is contrary to the maximum height specified in Local Environmental Plan 2013,
- The site does not allow for appropriate connection to other transport modes due to the distance to existing public transport nodes and differences in levels at Gordon Street between the road carriageway and the principal place of the entry to the development,

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

The application was advertised and notified in accordance the Council's Development Control Plan 2015 from 26 May 2016 to 08 June 2016. Forty-four submissions were received with forty-three being in support and one was against the proposed development.

The matters raised in submissions can be summarised as follows:

- The development will result in quality development in the Central Business District,
- The development 'brings the city to life',
- The development provides for much needed short-term accommodation in the city centre.
- The development adds to the economic viability of the city centre.
- The site is flood prone.
- The Coffs Harbour Coastal Management Plan shows that the site at 'extreme risk' of coastal inundation in the future.
- The development is inconsistent with the 'public interest considerations' of the Environmental Planning and Assessment Act 1979 and the principles of ecologically sustainable development. The development is excessive for a site that is flood prone and subject to future coastal processes.

All of the matters raised in submissions are addressed elsewhere in this report.

**e. the public interest:**

The proposed development, given its height and the required variation to the height standard specified in Local Environmental Plan 2013 is considered to be contrary to the public interest.

**DRAFT CONDITIONS****ADMINISTRATIVE CONDITIONS****Development Description:**

1. Development consent is granted only to the development described below:
  - **Hotel (80 Rooms) Office Addition, Shop Reconfiguration/Reconstruction and Associated Car Parking**

**Prescribed Conditions:**

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

**Development is to be in accordance with approved plans:**

3. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent (Development Consent No. 0751/16DA).

| <b>Plan No.</b> | <b>Revision</b> | <b>Prepared by</b> | <b>Dated</b>    |
|-----------------|-----------------|--------------------|-----------------|
| DA 110          | O               | Woodman Architects | 12 October 2016 |
| DA 120          | O               | Woodman Architects | 12 October 2016 |
| DA 130          | O               | Woodman Architects | 12 October 2016 |
| DA 250          | O               | Woodman Architects | 12 October 2016 |
| DA 300          | O               | Woodman Architects | 12 October 2016 |
| DA 310          | O               | Woodman Architects | 12 October 2016 |
| DA 320          | O               | Woodman Architects | 12 October 2016 |
| DA 330          | O               | Woodman Architects | 12 October 2016 |
| DA 340          | O               | Woodman Architects | 12 October 2016 |
| DA 350          | O               | Woodman Architects | 12 October 2016 |
| DA 360          | O               | Woodman Architects | 12 October 2016 |
| DA 370          | O               | Woodman Architects | 12 October 2016 |
| DA 380          | O               | Woodman Architects | 12 October 2016 |
| DA 390          | O               | Woodman Architects | 12 October 2016 |
| DA 400          | O               | Woodman Architects | 12 October 2016 |
| DA 410          | O               | Woodman Architects | 12 October 2016 |
| DA 500          | O               | Woodman Architects | 12 October 2016 |

| Plan No. | Revision | Prepared by        | Dated           |
|----------|----------|--------------------|-----------------|
| DA 510   | O        | Woodman Architects | 12 October 2016 |
| DA 520   | O        | Woodman Architects | 12 October 2016 |
| DA 530   | O        | Woodman Architects | 12 October 2016 |
| DA 535   | O        | Woodman Architects | 12 October 2016 |

In the event of any inconsistency between conditions of this development consent and the plans referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

#### **Development in Accordance with Documents:**

4. The development shall be undertaken in accordance with the following documents:
  - (1) Statement of Environmental Effects, prepared by Bennell and Associates dated 17 March 2016.
  - (2) Traffic Study, prepared by George Stulle dated October 2016.

#### **PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE**

##### **Construction Certificate:**

5. No building work is to commence on site until a Construction Certificate has been issued for the work and Council has been notified that a Principal Certifying Authority has been appointed.

Note: Separate Construction Certificates are to be obtained for the **building works** and any **civil works**.

##### **Equitable Access:**

6. The building is to be provided with access and facilities for people with disabilities.

The applicants' attention is directed to the *Disability (Access to Premises - Buildings) Standards 2010* and the Building Code of Australia.

Details indicating compliance must be submitted and approved by the certifying authority **prior to the issue of a Construction Certificate for building works**.

##### **Car Parking Plan:**

7. A car parking plan for the 45 car parking spaces at Level 02, designed in accordance with the provisions of Australian Standard AS 2890.1 for Class 3A users being submitted to Council and approved, prior to issue of the Construction Certificate.

Note: This Australian standard has specific requirements about the location of accessible spaces near lift facilities.



**Section 94 Monetary Contributions:**

6. Payment to Council of contributions, at the rate current at the time of payment, towards the provision of the following public services or facilities:

Note 1 - The contributions are to be paid prior to release of any Construction Certificate unless other arrangements acceptable to Council are made.

Note 2 - The rates will be adjusted in accordance with the procedures set out in Council's Section 94 Contributions Plans. The applicant is advised to confirm the contribution rate applicable at the time of payment as rates are revised at least annually.

Note 3 - If the development is to be staged, contributions are to be paid on a pro rata basis in respect of each stage.

|                                 | \$ Per Room |
|---------------------------------|-------------|
| Coordination and Administration | 182.70      |
| Coffs Harbour Road Network      | 288.01      |
| Surf Rescue Facilities          | 25.05       |
| District Open Space             | 1,314.13    |

The Section 94 contribution is currently \$144,791.20 for the 80 motel room development.

Contributions have been imposed under the following plans:

- Coffs Harbour Open Space 2015.
- Coffs Harbour Road Network 2014.
- Surf Rescue Facilities 2013.
- Coffs Harbour Administration Levy 2014.

The Contribution Plans may be inspected at the Council Administration Offices, 2 Castle Street, Coffs Harbour or on Council's web site, [www.coffsharbour.nsw.gov.au](http://www.coffsharbour.nsw.gov.au)

**Construction Waste Management Plan:**

8. **Prior to issue of a Construction Certificate**, the proponent shall submit to the satisfaction of Council a Waste Management Plan prepared by a suitably qualified person in accordance with Council's relevant waste policy.

The Plan shall include the following provisions: all waste building materials shall be recycled or disposed of to an approved waste disposal depot; no burning of materials is permitted on site.

**Waste Management:**

9. Provision being made on the site for the storage of garbage/recycling and green waste bins. Storage areas are to be suitably screened from the street and common areas, with details being submitted and approved by Council prior to issue of the Construction Certificate. The storage area is to accommodate sufficient bins for the proposed development. Council's Waste Management Development Control Plan being referred to in the design of the enclosure.

**Erosion and Sedimentation Control Plan:**

10. An erosion and sediment control plan, together with a management strategy, detailing soil erosion and sediment control measures, shall be prepared by a qualified environmental or engineering consultant in accordance with the document *Managing Urban Stormwater – Soils & Construction Volume 1* (2004) by Landcom. Details being submitted and approved by the Certifying Authority **prior to issue of the relevant Construction Certificate.**

**Road Design and Services (Building):**

11. The following works:
- (a) roads;
  - (b) footpaths and pathways;
  - (c) water;
  - (d) sewer;
  - (e) drop off area in Gordon Street;

shall be provided to serve the development with the works conforming with the standards and requirements set out in Council's Development Design and Construction specifications and relevant policies (Water Sensitive Urban Design).

Plans and specifications are to be submitted to Council and a separate Civil Works Construction Certificate issued **prior to the issue of a Construction Certificate for the building works, unless otherwise advised by Council.** Plan submissions are to be accompanied by payment of prescribed fee.

Plans and specifications submitted later than six (6) months from the date of development consent shall comply with Council's current specifications at a date six (6) months prior to submission.

**Note:** The full cost of this work is to be borne by the applicant. This may include alteration to utilities and stormwater drainage. Work in the road reserve is subject to approval under the Roads Act.

**Water Management Act 2000:**

12. **The Construction Certificate for building works not being released** until a Certificate of Compliance pursuant to Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 evidencing that adequate arrangements have been made for the provision of water and sewerage services to and within the development is produced to Council.

**Outdoor Lighting:**

13. All outdoor lighting shall comply with, where relevant, AS/NZ 1158.3:1999 *"Pedestrian Area (Category P) Lighting"* and Australian Standard AS 4282:1997 *"Control of the Obtrusive Effects of Outdoor Lighting"*. Details demonstrating compliance with these requirements being submitted to the satisfaction of Council or the accredited certifier **prior to issue of the relevant Construction Certificate.**

**Basement Ramp Inclusions – Details**

14. The basement parking entry and exit ramp is to include convex mirrors and audible warning for pedestrians of an exiting vehicle. Details of these inclusions are to be provided to Council and approved **prior to issue of an application for Construction Certificate.**

## **Pre-Construction Dilapidation Reports**

15. The Applicant is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all retained existing and adjoining buildings to a distance of 30 metres beyond the limit of the roadworks. Any entry into private land is subject to the consent of the owner(s) and any inspection of buildings on privately affected land shall include details of the whole building where only part of the building may fall within 30 metres of the roadworks. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate for below ground works. A copy of the report is to be forwarded to Council.

In the event that access for undertaking a Pre-Construction Dilapidation Report is denied by an adjoining owner, the Applicant must demonstrate, in writing, that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the report and that these steps have failed.

## **PRIOR TO COMMENCEMENT OF WORKS**

### **Site Notice:**

16. Prior to commencement of works a site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of the development details including but not limited to:
  - (1) Details of the Principal Contractor and Principal Certifying Authority for all stages of the development;
  - (2) The approved hours of work;
  - (3) The name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction noise complaints are to be displayed on the site notice; and
  - (4) To state that unauthorised entry to the site is not permitted.

### **Notice to be Given Prior to Commencement / Earthworks:**

17. The Principal Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of earthworks on the site.
18. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

### **Contact Telephone Number:**

19. Prior to the commencement of the works for each stage of the development, the proponent shall forward to Council a 24 hour telephone number to be operated for the duration of the construction works.

### **Erosion and Sediment Control:**

20. Prior to commencement of work on the site for each stage of the development, erosion and sedimentation control measures are to be installed and operational including the provision of a “shake down” area where required to the satisfaction of the Principal Certifying Authority.

**Acid Sulfate Soils:**

21. An Acid Sulfate Soils assessment is to be carried out prior to;
- a) works more than two metres below the natural ground surface, or
  - b) works by which the water table is likely to be lowered more than two metres below the natural ground surface;

to determine if Acid Sulfate Soils are present in areas of excavation.

Where Acid Sulfate Soils are identified an Acid Sulfate Soils Management Plan is to be prepared in accordance with ASSMAC Manual and is to be approved by Council prior to the commencement of works.

**Demolition Works:**

22. All works including (where relevant) the handling and disposal of materials containing asbestos, are to be undertaken in accordance with the relevant requirements of WorkCover NSW, the Occupational Health and Safety Act and Australian Standard AS 2601-2001 "The Demolition of Structures".

Prior to demolition all services are to be disconnected and capped off. Disconnection of any sewer drainage lines shall be sealed to prevent ingress of water and debris into the sewerage system.

Where water and sewerage services are no longer required the required fee for disconnection being paid to Coffs Harbour Water prior to the commencement of any demolition work.

**Sanitary Plumbing and Draining:**

23. A separate application is to be made to Council by the licensed plumber and drainer prior to the commencement of any sanitary plumbing and drainage work on site.

**Construction Management Plan:**

24. **Prior to commencement of building works** a Construction Management Plan shall be prepared and submitted to Council for its information. The Plan shall address the following matters:
- i) Contact details of site manager;
  - ii) Traffic and pedestrian management;
  - iii) Construction waste and recycling management;
  - iv) Construction Noise Management;
  - v) Dust control measures;
  - vi) Loading and unloading, including construction zones where relevant;
  - vii) Measures to ensure sediment and other materials are not tracked onto the public roadway by vehicles leaving the site;
  - viii) Hoardings and scaffolding;
  - ix) Traffic movements and routes, particularly for vehicles transporting spoil from excavation of site and vehicles supplying the site with major concrete pours;
  - x) Construction workers parking and construction shed(s) locations.

**Pedestrian Management Plan:**

25. **Prior to the commencement of any work** within the public road (Harbour Drive) a pedestrian management plan is to be submitted to Council and approved. The plan is to be prepared in consultation with Council's City Services Section.

**DURING CONSTRUCTION****Approved Plans to be On-Site:**

26. A copy of the approved and certified plans, specifications and documents incorporating the conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.

**Waste and Contamination:**

27. The exportation of waste (including fill or soil) from the site must be in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the Office of Environment and Heritage "*Waste Classification Guidelines*".

Any new information that comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Principal Certifying Authority.

**Fill:**

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

**Importation of Fill:**

29. The only fill material that may be received at the development is:
- a) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act);
  - b) Any other waste-derived material the subject of a resource recovery exemption under Clause 51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material, excluding waste tyre.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

**Erosion and Sediment Control:**

30. All erosion and sediment control measures, as designed in accordance with the approved plans are to be effectively implemented and maintained at or above design capacity for the duration of the construction works for each stage of the project, and until such time as all ground disturbance by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.



**Acid Sulfate Soil Management:**

31. Any Acid Sulfate Soil Management Plan that has been prepared shall be implemented in full, with consideration to the following:
- (1) Consideration shall be given to impacts on adjacent areas of Potential Acid Sulfate Soils with regard to dewatering activities during earthworks and construction.
  - (2) Any stormwater collected within the bunded treatment area must not be discharged to the stormwater system without the results of quality testing which demonstrates that the water satisfies ANZECC and NEPM Guidelines, particularly with regard to suspended solids, pH, aluminium and related parameters (the water must not contain any visible sediments).
  - (3) All work undertaken on the site and with regard to implementing the Management Plan shall be undertaken in accordance with the approved sediment and erosion plan.
  - (4) Approval for any variations/deviations from the Management Plan is to be sought from Council prior to implementation.

**Hours of Work:**

32. The hours of construction for all stages of the development, including delivery of materials to the site, shall be restricted as follows:
- (1) Between 7:00am and 6:00pm , Mondays to Fridays inclusive;
  - (2) Between 7:00am and 1:00pm, Saturdays (if inaudible from adjoining residential properties, otherwise between 8.00 a.m. and 1.00 p.m);
  - (3) No construction work on Sundays and Public Holidays.

Works may be undertaken outside these hours where:

- (1) The delivery of materials is required by the Police or other authorities;
- (2) It is required in an emergency to avoid the loss of life, damage to property or to prevent environmental harm;
- (3) The work is approved through the Construction Noise and Vibration Management Plan; and residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of works.
- (4) A separate written request for variations to these hours has been submitted to Council and approved. The request is to detail proposed hours, days and reasons to justify the variation.

**Cultural Heritage:**

33. In the event that future works during any stage of the development disturb Aboriginal Cultural materials, works at or adjacent to the material must stop immediately. Temporary fencing must be erected around the area and the material must be identified by an independent and appropriately qualified archaeological consultant. The Office of Environment and Heritage (OEH), Northern Aboriginal Heritage Unit and the Aboriginal Stakeholder groups must be informed. These groups are to advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the OEH and Northern Aboriginal Heritage Unit and the Aboriginal Stakeholder groups.

## **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

### **Occupation Certificate:**

34. A person must not commence occupation or use of the new building **prior to obtaining an Occupation Certificate** from the Principal Certifying Authority.

### **Consolidation:**

35. The lots subject to this application, being consolidated to ensure that all existing and proposed works are located within the property boundaries of the one lot. Evidence of lodgement of a plan of consolidation being submitted to Council or the certifying authority **prior to issue of the Occupation Certificate**.

### **Road Design and Services:**

36. The following works:
- (a) roads;
  - (b) footpaths and pathways;
  - (c) water;
  - (d) sewer;
  - (e) drop off area in Gordon Street;

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

These works are to be completed **prior to the issue of an Occupation Certificate**.

All work is to be at the developer's cost or in accordance with the Voluntary Planning Agreement where relevant.

### **Post-Construction Dilapidation Report**

37. **Prior to the issue of an occupation certificate:**
- a. The Applicant shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report to ascertain whether the construction works created any structural damage to adjoining buildings.
  - b. The report is to be submitted to the Principal Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, the Principal Certifying Authority must:
    - i. compare the post-construction dilapidation report with the pre-construction dilapidation report required by these conditions and
    - ii. have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
  - c. A copy of this report is to be forwarded to Council.

### **Car Parking Construction and Linemarking**

38. Forty five car parking spaces as shown on the approved plan being provided on the development site prior to the issue of an Occupation Certificate. All car parking and manoeuvring areas must be constructed in accordance with the provisions of Australian Standard AS 2890.1 for Class 3A users.

### **Basement Ramp Inclusions – Construction**

39. All basement ramp inclusions are to be provided to the basement car park prior to issue of an Occupation Certificate

### **Tenure Arrangement for Office Terraces**

40. Suitable arrangements being made with Council for the tenure of the proposed office terraces within the Gordon Street road reserve, prior to issue of an occupation certificate.

### **OPERATIONAL MATTERS**

#### **Loading and Unloading:**

41. All loading and unloading activities associated with the use of the premises being carried out wholly within the site at all times.

#### **Use of Basement Car Park**

42. The basement car park is only to be used by tenants and staff of the development and is not to provide parking for customers or patrons. Car parking spaces 14, 15 and 16 must be allocated to small cars with signage being in place to notify users of this requirement.

### **ADVISORY NOTES**

#### **Other Approvals and Permits**

43. The Applicant shall apply to the council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.
44. Prior to commencement of any works in the public road reserve, application being made to Council under the Roads Act 1993 and approval being issued by Council for these works. The application will require the submission of a Traffic and Pedestrian Management Plan (TPMP) and a Communication Strategy. The TPMP is to be prepared in accordance with AS 1742.3 (2009) and the RTA publication "Traffic Control at Works Sites" Version 4 (2010) and shall be prepared by a suitably qualified and experienced traffic consultant. The TPMP and Communication Strategy shall address, but not be limited to, the following matters;
- Management of vehicles using Harbour Drive between the Pacific Highway and the works approaching Gordon Street.
  - Management of vehicles using Harbour Drive between Earl Street and the works approaching Gordon Street.
  - Management of vehicles using Harbour Drive during the construction of the intersection with the extended Duke Street.
  - Management of vehicles using Gordon Street south of the works approaching Harbour Drive.
  - Management of vehicles using Gordon Street north of the works approaching Vernon Street.
  - Management of vehicles using Gordon Street between Vernon Street and Harbour Drive normally gaining access to parking facilities accessible from Gordon Street.
  - Pedestrian movements through the work site and for access to businesses fronting the areas affected by the work site.

#### **Separate development consent for airspace stratum**

45. Separate development consent is required for the creation of an airspace stratum for the tenure of the office terraces overhanging Gordon Street.