

## **STATEMENT OF ENVIRONMENTAL EFFECTS**

**APPLICATION PURSUANT TO SECTION 4.55 (2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 TO MODIFY CENTRAL COAST DEVELOPMENT CONSENT NO. 46209/2014 – PART 4 FOR MIXED USE DEVELOPMENT (RETAIL/COMMERCIAL/RESTAURANT/RESIDENTIAL) AND DEMOLITION OF EXISTING STRUCTURES) ON LOTS A & C DP 355117; LOTS 10 – 11 DP 591670; AND LOTS 1 – 4 DP 382784, NO. 125 GEORGIANA TERRACE AND 27 – 37 MANN STREET, GOSFORD.**

**PREPARED FOR ACETQM PTY LTD**

**JUNE 2022**

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## 1. INTRODUCTION.

**Doug Sneddon Planning Pty Ltd** has been engaged by ACETQM Pty Ltd (Level 10, 6 Mount Olympus Boulevard, Wolli Creek, NSW 2205) to prepare this Statement of Environmental Effects to accompany an application to Central Coast Council pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 to modify Development Consent No. 46209/2014 – Part 4 for the demolition of existing buildings and structures and the erection of a mixed use retail, commercial and residential apartment building (19 stories + 2 basement parking levels) on Lots A & C, DP 355117; Lots 10 & 11, DP 591670; and Lots 1 - 4, DP 382784, Nos. 27-37 Mann Street and No. 125 Georgiana Terrace, Gosford.

This S.4.55 (2) application seeks Central Coast Council's approval to modify Development Consent 46209/2014 – Part 4 in the manner detailed in section 5 of this Statement of Environmental Effects, modifying the architectural built form; internal floor layouts; and site landscaping.

The proposed modified development has a capital cost of \$45,316,738.50, including GST (refer to the Cost Report provided in Appendix A).

This Statement of Environmental Effects addresses relevant matters under Sections 4.55 (2) and 4.15 (1) of the Environmental Planning and Assessment Act and is accompanied by the following supporting documents:

- *Cost Report* – prepared by Property & Building Assessments Pty Ltd, 12<sup>th</sup> May 2022;
- *Architectural Drawings (Revision R – 3<sup>rd</sup> May 2022)* prepared by KannFinch;
- *Architectural Design Report (April 2022)* - prepared by KannFinch;
- *Landscape Plans (Revision E – 4<sup>th</sup> May 2022)* - prepared by Site Image (NSW) Pty Ltd;
- *Landscape & Public Domain Design (Revision C – 4<sup>th</sup> May 2022)* - prepared by Site Image (NSW) Pty Ltd;
- *Basix Certificate 1294660M (21<sup>st</sup> April 2022)* prepared by Efficient Living Pty Ltd;
- *Visual Impact Assessment* prepared by Urbaine Architectural (May 2022);
- *Statement of Heritage Impact (R13 – 29<sup>th</sup> April 2022)* prepared by Heritage 21;
- *Traffic and Parking Assessment (Issue B – April 2022)* prepared by Traffic and Transport Planning Associates;
- *Section J JV3 Assessment and Report (Issue A – 31<sup>st</sup> March 2022)* prepared by Sustainable Building Consultants;
- *Access Report (Revision 2 – 4<sup>th</sup> May 2022)* - prepared by East Coast Accessibility Pty Ltd; and
- *Operational Waste Management Plan (Revision B - 29<sup>th</sup> April 2022)* – prepared by Elephants Foot Recycling Solutions.

## **2. BACKGROUND.**

The history of Development Consent 46209/2014 is as follows.

### **(i) Development Consent 46209/2014 – Part 1.**

On the 15th December 2016 Central Coast Council (JRPP) granted Development Consent 46209/2014 – Part 1 for mixed use development on the subject land, comprising:

- the demolition of all existing buildings and structures on the subject land, except for the heritage item, ‘*Creighton Funeral Parlour*’, which is to be retained as part of the redevelopment of the site; and
- the erection of a 19 storey mixed use building and two levels of basement car parking.

### **(ii) Development Consent 46209/2014 – Part 2.**

On the 18<sup>th</sup> January 2018 Central Coast Council approved a 12 month extension (i.e. to 15<sup>th</sup> December 2019) for the time allowed for compliance with the conditions of Development Consent 46209/2014.

### **(iii) Development Consent 46209/2014 – Part 3.**

On the 24<sup>th</sup> May 2019 Central Coast Council approved the modification of Development Consent 46209/2014 – Part 2 to permit nominated early site works prior to any construction certificate, comprising:

- minor first stage building demolition to facilitate site early site access for geotechnical investigation; and
- modified Parlour Lane stormwater diversion to coordinate with the neighbouring construction at Nos. 21 – 23 Mann Street under Consent 46272/2014 for the development of 140 residential units in a multi-level residential tower (“Pinnacle Apartments”).

### **(iv) Development Consent 46209/2014 – Part 4.**

On the 8<sup>th</sup> January 2020 Central Coast Council approved modified Development Consent 46209/2014 – Part 4 to modify conditions 2.10 and 2.12 of Development Consent 46209/2014 – Part 3, to defer the requirement for liquid waste discharge approval and compliance of the fit-out of the proposed food premises with legislative requirements, until prior to the issue of a Construction Certificate for the fit-out of the approved food premises.

A copy of the current Development Consent No. 46209/2014 – Part 4, is provided in Appendix B.

### 3. SUBJECT LAND.

The subject land is located within the Gosford City Centre and comprises Lots A & C, DP 355117; Lots 10 & 11, DP 591670; and Lots 1 - 4, DP 382784, Nos. 27-37 Mann Street and No. 125 Georgiana Terrace, Gosford:

- a Locality Aerial Photograph is provided at Figure 1;
- a Site Aerial Photograph of the subject land is provided at Figure 2; and
- a copy of the zoning map is provided at Figure 3.

The subject land has an area of 2,948m<sup>2</sup>, with a frontage of 60.535m to Mann Street; a frontage to Georgiana Terrace of 48.77m; a frontage to Parlour Lane of 60.35m; and a southern side boundary of 48.765m. The subject land is steeply sloping, rising from a low point of approximately RL 11.2m at its Mann Street frontage to a highest point of RL 21.49m at Parlour Lane, a rise in elevation of 11.2m.

Erected on the subject land is the former 'Creighton Funeral Parlour' at No. 37 Mann Street (identified as an item of environmental heritage); a two storey office building at No. 35 Mann Street; a two storey shop and residence at No. 33 Mann Street; a two storey office building at No. 31 Mann Street; a two storey shop and residence at No. 29 Mann Street; a two storey shop and residence at No. 27 Mann Street; a cottage on Lot 4 DP 382784, fronting Parlour Lane; and a dwelling house at No. 125 Georgiana Terrace.

Adjacent to the subject land on the eastern side of Parlour Lane is an eight storey residential flat building ("The Broadwater") and adjacent to the southern boundary of the subject land is the "Telstra Site" occupied by various depot/telephone exchange buildings. Located to the rear of the former Gosford South Post Office and adjacent to the south-eastern corner of the subject land is a residential flat building of 140 residential units in a multi-level residential tower ("Pinnacle Apartments").

### 4. PHYSICAL COMMENCEMENT OF CONSENT 46209/2014.

On the 18<sup>th</sup> January 2018 Central Coast Council approved a 12 month extension (i.e. to the 15<sup>th</sup> December 2019) for compliance with the conditions of Development Consent No. 46209/2014, for mixed use retail, commercial, restaurant, residential development and demolition of existing structures on land at Nos. 27-37 Mann Street and 125 Georgiana Terrace, Gosford.

On the 24<sup>th</sup> May 2019 Central Coast Council approved consent modification 46209/2014 - Part 2 (Condition 2.1 (c)) to enable nominated first stage demolition work to be undertaken prior to the issue of any construction certificate.

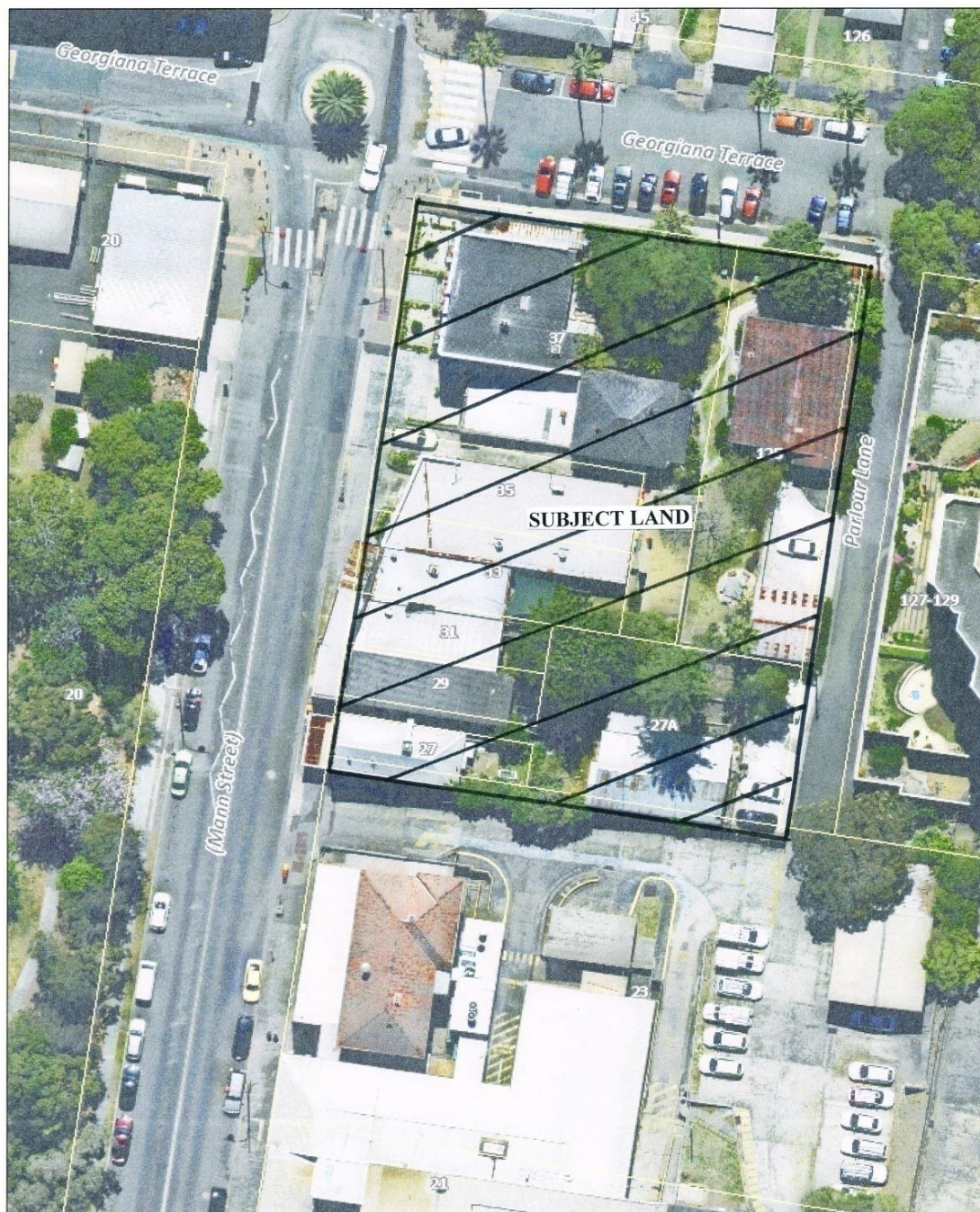
By letter dated 6<sup>th</sup> November 2019, Doug Sneddon Planning Pty Ltd advised Central Coast Council that, consistent with Consent Condition 2.1 (a) – (c) ('Prior to issue of any Construction Certificate'), the following early site works associated with the '*Environmental, Construction and Site Management Plan for Early Works*' submitted to Central Coast



**Figure 1: Locality Aerial Photograph.**

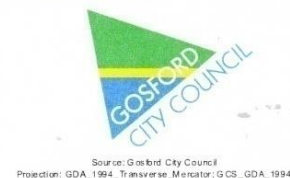
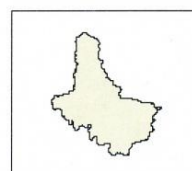
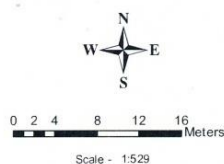
Statement of Environmental Effects: Application to Central Coast Council pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act to modify Development Consent No. 46209/2014 – Part 4 for mixed use development on Lots A & C DP 355117; Lots 10 – 11 DP 591670; and Lots 1 – 4 DP 382784, No. 125 Georgiana Avenue and Nos. 27-37 Mann Street, Gosford.





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**Figure 2: Site Aerial Photograph.**

Statement of Environmental Effects: Application to Central Coast Council pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act to modify Development Consent No. 46209/2014 – Part 4 for mixed use development on Lots A & C DP 355117; Lots 10 – 11 DP 591670; and Lots 1 – 4 DP 382784, No. 125 Georgiana Avenue and Nos. 27-37 Mann Street, Gosford.





**Figure 3: Zoning Map.**

Statement of Environmental Effects: Application to Central Coast Council pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act to modify Development Consent No. 46209/2014 – Part 4 for mixed use development on Lots A & C DP 355117; Lots 10 – 11 DP 591670; and Lots 1 – 4 DP 382784, No. 125 Georgiana Avenue and Nos. 27-37 Mann Street, Gosford.

Council on the 12<sup>th</sup> September 2019, had been carried out and completed:

- Undertake services location work;
- Finalisation of Construction Management Plan for early works;
- Demolition of two (2) existing buildings to allow geological core drilling investigation of ground strata within the site and commence site clearing of empty buildings not currently leased;
- Asbestos removal associated with the approved Stage 1 building demolitions;
- Geotechnical investigation; and
- Site survey work.

The proponents also worked in conjunction with Central Coast Council in coordinating and resolving the required stormwater diversion located in the south-eastern corner of the site (Parlour Lane). This work was completed by Council in conjunction with stormwater drainage work required on the adjacent property.

Having regard to the commencement and completion of early site works under the authority of development consent condition 2.1 (a) - (c), the physical commencement of Consent 46209/2014 has been achieved within the timeframe provided by the consent (i.e. on or before the 15<sup>th</sup> December 2019) and consequently the consent is now operational.

A copy of this advice to Council is provided in Appendix C.

## **5. PROPOSED MODIFICATION OF DEVELOPMENT CONSENT NO. 46209/2014 – PART 4.**

### **5.1 Application Overview.**

A summary of the proposed modifications to the built form of the originally approved development is provided in the accompanying Architectural Design Report prepared by KannFinch (April 2022), a copy of which is provided in Appendix D.

Application is made pursuant to S 4.55 (2) of the EPA Act 1979 to modify Development Consent 46209/2014 – Part 4 to:

- **Building Massing:** Make minor modification to the approved development's podium and residential tower floorplates to provide better proportions, whilst substantially complying with the originally approved built form/massing.

For comparison with the proposed modified built form, the originally approved development's podium and tower floor plate/elevation/section dimensions are shown by broken red line on the floor plans at Figures 10 – 18; the Section drawings at Figures 22 – 25; and the Elevation drawings at Figures 26 – 27;



- **Maximum Building Height:** Provide for a minor increase in maximum building height to meet ADG floor to ceiling height compliance and address buildability issues:

**TABLE 1: Maximum Building Height Comparison.**

	<b>Approved Development (Consent 46209/2014 – Part 4)</b>	<b>Proposed Modified Development (S. 4.55 (2) Application)</b>
<b>Maximum Building Height</b>	RL74.380 (Roof Feature) RL71.680 (Roof)	RL75.050 (Roof)(+0.67m) RL74.450 (+2.77m)
<b>Maximum top Floor height</b>	RL68.640	RL 71.350 (+ 2.74m)
<b>Number of Storeys</b>	19	19 (No change).

- **Gross Floor Area/Floor Space Ratio:** Provide for a minor increase in GFA/FSR to reflect proposed floor plate modifications:

**TABLE 2: GFA/FSR Comparison.**

	<b>Approved Development (Consent 46209/2014 – Part 4)</b>	<b>Proposed Modified Development (S. 4.55 (2) Application)</b>
<b>Gross Floor Area</b>	13,204.6m <sup>2</sup>	13,972m <sup>2</sup> (i.e. + 767.4m <sup>2</sup> /5.8%)
<b>Floor space ratio</b>	4.5:1	4.74:1 (i.e. + 0.24:1/5.3%)

- **Retail Floor space:** Increase retail floor space from the approved 643.63m<sup>2</sup> to 1,076m<sup>2</sup>.
- **Commercial floor space:** Reduction in commercial floor space from the approved 644.4m<sup>2</sup> to 310m<sup>2</sup>.

- **Residential Apartment Number:** Reduce the number of apartments from the approved 132 apartments to the now proposed 128 apartments to provide larger apartment sizes than minimum sized apartments as defined in the ADG.
- **Residential Apartment Mix:** The proposed modified apartment mix includes a small number (5) of dual key apartments as well as 1, 2 and 3 bed apartments which range in area and are generally larger than the ADG minimums.

**TABLE 3: Apartment Mix Comparison.**

	<b>Approved Development (Consent 46209/2014 – Part 4)</b>	<b>Proposed Modified Development (S. 4.55 (2) Application)</b>
<b>1 bed/studios</b>	33	30 (23%)
<b>2 bed</b>	64	60 (47%)
<b>3 bed</b>	35	38 (30%)
<b>Total</b>	132	128

- **Heritage Item 37:** Minor external and internal alterations to Heritage Item 37 ‘*Creighton Funeral Parlour*’:
- **Site Landscaping/Swimming Pool:** Modify site landscaping and swimming pool design;
- **Increase Onsite Car Parking:** Increase onsite parking from the approved 209 spaces to the now proposed 217 spaces; and
- **Modify Operational Waste Storage & Collection:** Modified waste storage and collection point is now proposed to be contained within the building basement and no longer located in the originally approved location fronting Parlour Lane.

## **5.2. Proposed Modified Architectural Drawings.**

A replacement set of architectural drawings has been prepared by KannFinch (Revision R - dated 3<sup>rd</sup> May 2022) as presented in the following figures:

- Figure 4: Architectural Drawings – Cover Sheet;
- Figure 5: Project Statistics (Drawing SK.01);
- Figure 6: Site Plan & Units Schedule (Drawing SK.05);
- Figure 7: Site Survey (Drawing SK.06);
- Figure 8: Basement 2 Car Park Plan (Drawing SK.10);
- Figure 9: Basement 1 Car Park Plan (Drawing SK.11);

- Figure 10: Ground Level Plan (Drawing SK.12);
- Figure 11: Mezzanine Car Park Plan (Drawing SK.13);
- Figure 12: Level 1 Plan (Drawing SK.14);
- Figure 13: Level 2 Plan (Drawing SK.15);
- Figure 14: Level 3 Plan (Drawing SK.16);
- Figure 15: Level 4 – 8 Typical Plan (Drawing SK.17);
- Figure 16: Level 9 – 10 Typical Plan (Drawing SK.18);
- Figure 17: Level 11 – 17 Typical Plan (Drawing SK.19);
- Figure 18: Level 18 Plan (Drawing SK.20);
- Figure 19: Roof Plan (Drawing SK.21);
- Figure 20: External Materials Schedule (Drawing SK.23);
- Figure 21: GFA Plans (Drawing SK.24);
- Figure 22: Sections – Sheet 1 (Drawing SK.25);
- Figure 23: Sections – Sheet 2 (Drawing SK.26);
- Figure 24: Sections – Sheet 3 (Drawing SK.27);
- Figure 25: Sections – Sheet 4 (Drawing SK.28);
- Figure 26: North & West Elevations (Drawing SK.30);
- Figure 27: South & East Elevations (Drawing SK.31);
- Figure 28: Shadow Diagram 22<sup>nd</sup> June (Drawing SK.32);
- Figure 29: Additional Shadows Diagram (Drawing SK.33);
- Figure 30: Sun Views Diagram 1 (Drawing SK.34);
- Figure 31: Sun Views Diagram 2 (Drawing SK.35);
- Figure 32: Solar Access Diagram (Drawing SK.36);
- Figure 33: X-Ventilation Diagram (Drawing SK.37);
- Figure 34: Loading Dock Sections (Drawing SK.38);
- Figure 35: 3D Massing (Drawing SK.40);
- Figure 36: 3D Massing (Drawing SK.41);
- Figure 37: 3D Massing (Drawing SK.42);
- Figure 38: 3D Massing (Drawing SK.43);
- Figure 39: 3D Massing (Drawing SK.44);
- Figure 40: 3D Sections (Drawing SK.45); and
- Figure 41: 3D Sections (Drawing SK.46);
- Figure 42: Demolition Plan – Heritage Buildings (Drawing SK.50);

### **5.3 Proposed Modified Landscape Drawings.**

A replacement set of Landscape Drawings has been prepared by Site Image (NSW) Pty Ltd (Issue E. - dated 4<sup>th</sup> May 2022) as presented in the following figures:

- Figure 43: Landscape Cover Sheet (Drawing 000);
- Figure 44: Landscape Composite Plan Render (Drawing C100);
- Figure 45: Landscape Composite Plan (Drawing C100);
- Figure 46: Landscape Plan – Ground Floor (Drawing 101);
- Figure 47: Landscape Plan – Level 2 Podium (Drawing 102);

- Figure 48: Landscape Specification/indicative plant schedule (Drawing 501); and
- Figure 49: Landscape Details (Drawing 502).

A *Landscape & Public Domain Design (Site Image – Landscape Architects – Revision C, 4<sup>th</sup> May 2022)* report is provided in Appendix E.

#### 5.4 Civil Engineering Plans.

The approved civil engineering plans prepared by Cubo Consulting Pty Ltd and referenced in Condition 1.1 of Consent 46209/2014 – Part 4 remain unchanged.

#### 5.5 Proposed modification of consent conditions.

The proposed modified development will require the following modifications to the consent conditions of Development Consent 46209/2014 – Part 4:

- **Amend Condition 1.1:** Amend to reference the replacement set of architectural; landscape plans and consultant documents submitted with this S.4.55 (2) application (as referenced in sections 5.2 - 5.3 above);
- **Delete/Amend as required Conditions 2.3 (d) -(e); 2.14; 2.15; 5.22; 6.10; 6.12; 6.16; 6.17; 6.18; and 6.19** as the proposed modified waste collection point is now to be contained within the building and no longer located in Parlour Lane and modified waste storage/collection arrangements are now indicated in the modified architectural drawings prepared by KannFinch (April 2022) and the modified *Operational Waste Management Plan* prepared by Elephants Foot Recycling Solutions (copy provided in Appendix K);
- **Delete Condition 2.11** as the ‘*Livistona Palm*’ is proposed to be relocated, as detailed in the amended Landscape Plan; and
- **Amend Condition 2.13** as required to reflect any adjusted S. 94 contribution.

**5.6 BASIX Certificate:** Replacement Basix Certificate No.1294660M (21<sup>st</sup> April 2022), issued by Efficient Living Pty Ltd, is provided in Appendix F.



**MIXED USE DEVELOPMENT**  
27-37 MANN STREET, GOSFORD, NSW

CLIENT:  
ACETQM Pty Ltd.  
ARCHITECT:  
KANNFINCH

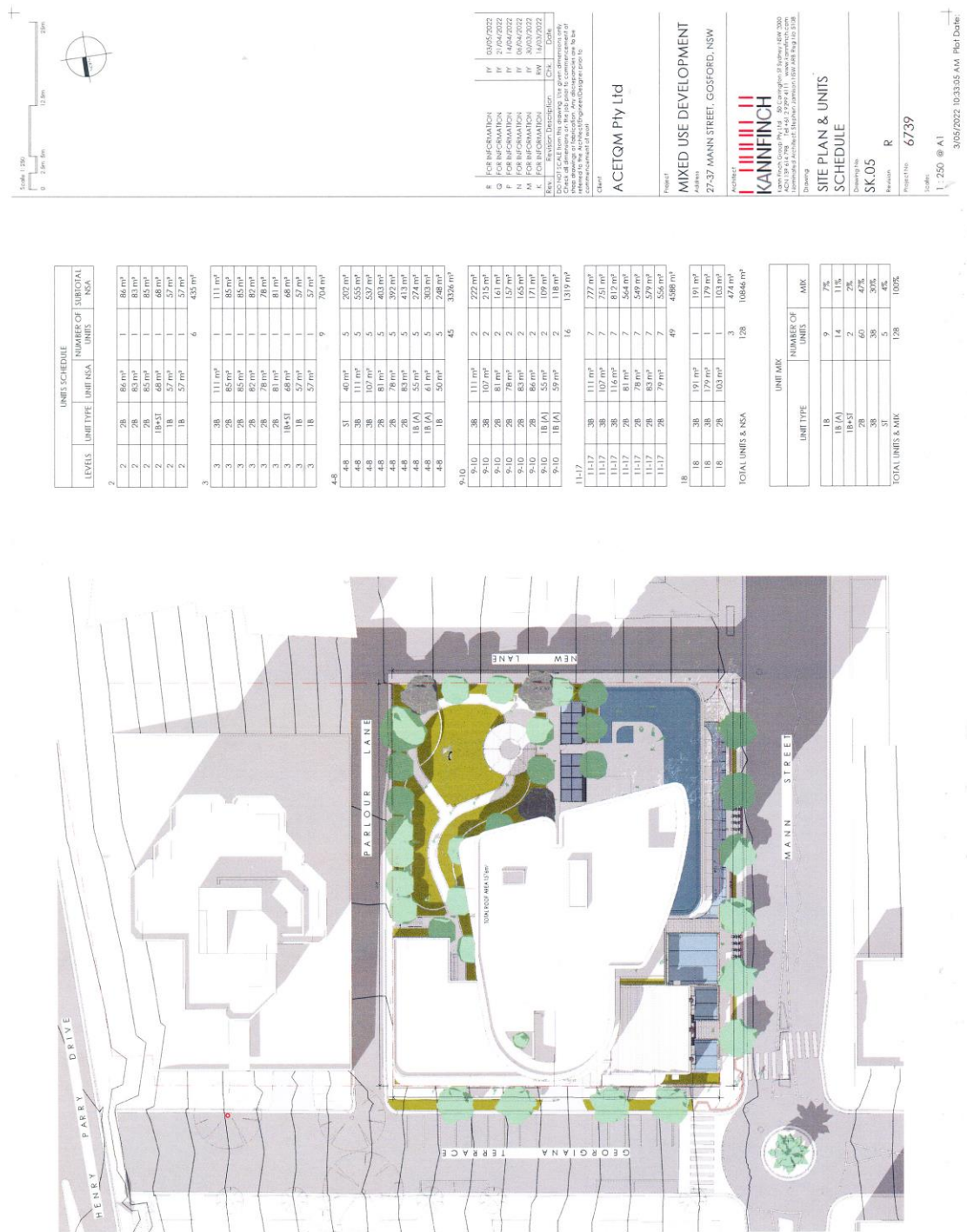
Revisions R

3/05/2022 10:32:24 AM Plot Date

**Figure 4: Architectural Drawings – Cover Sheet.**







**Figure 6: Site Plan & Units Schedule.**





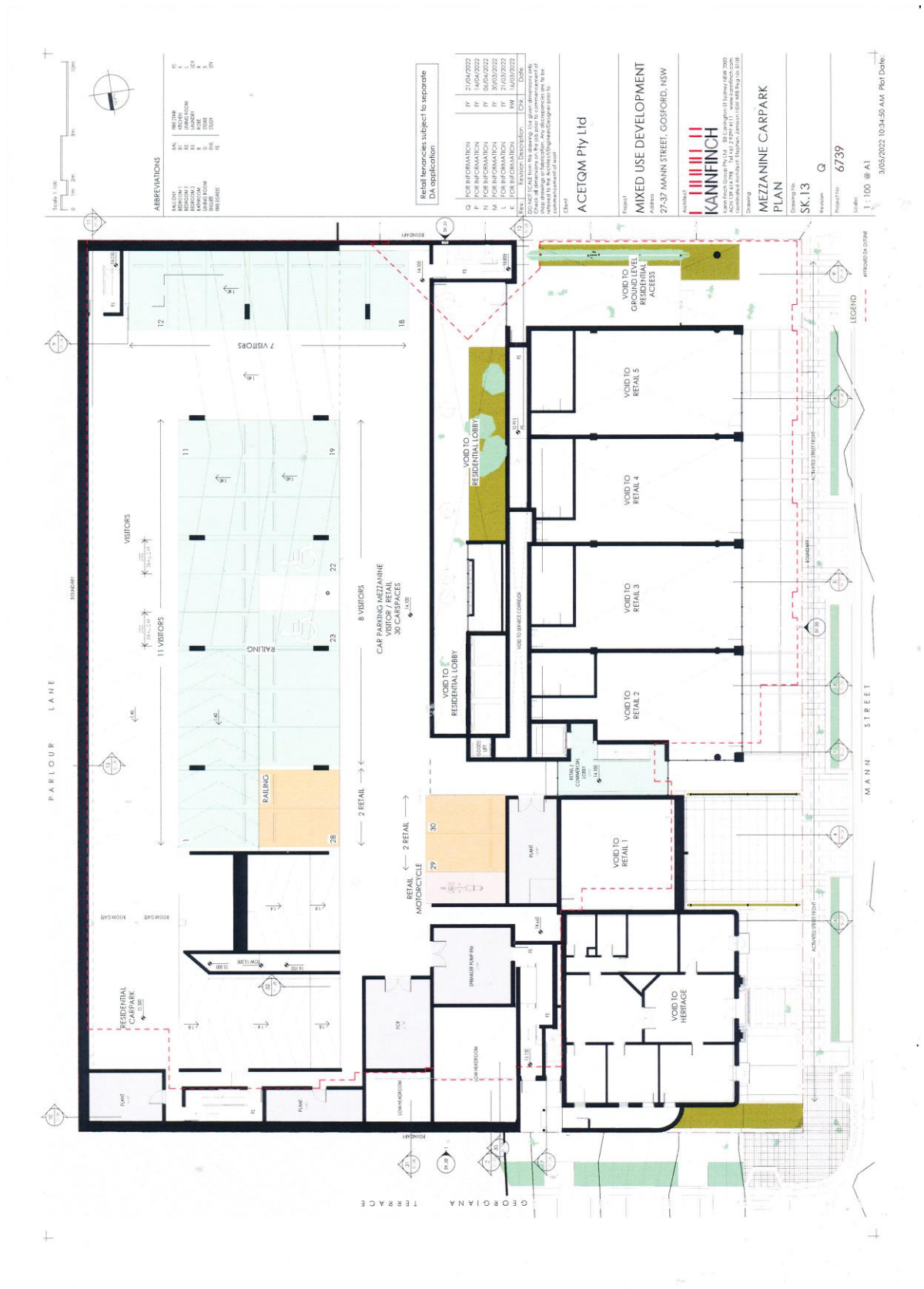




**Figure 9: Basement 1 Car Park Plan.**







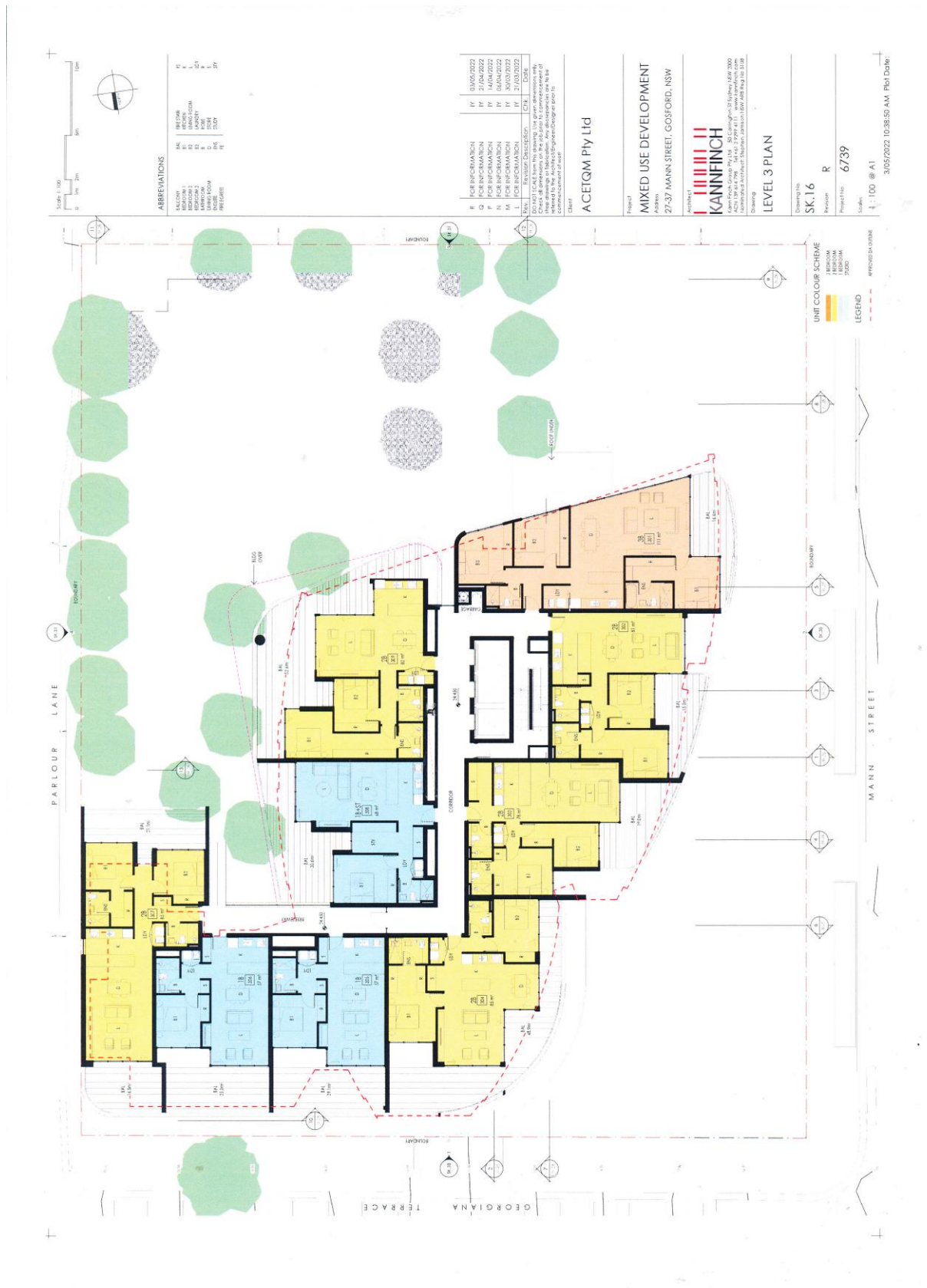
**Figure 11: Mezzanine Car Park Plan.**



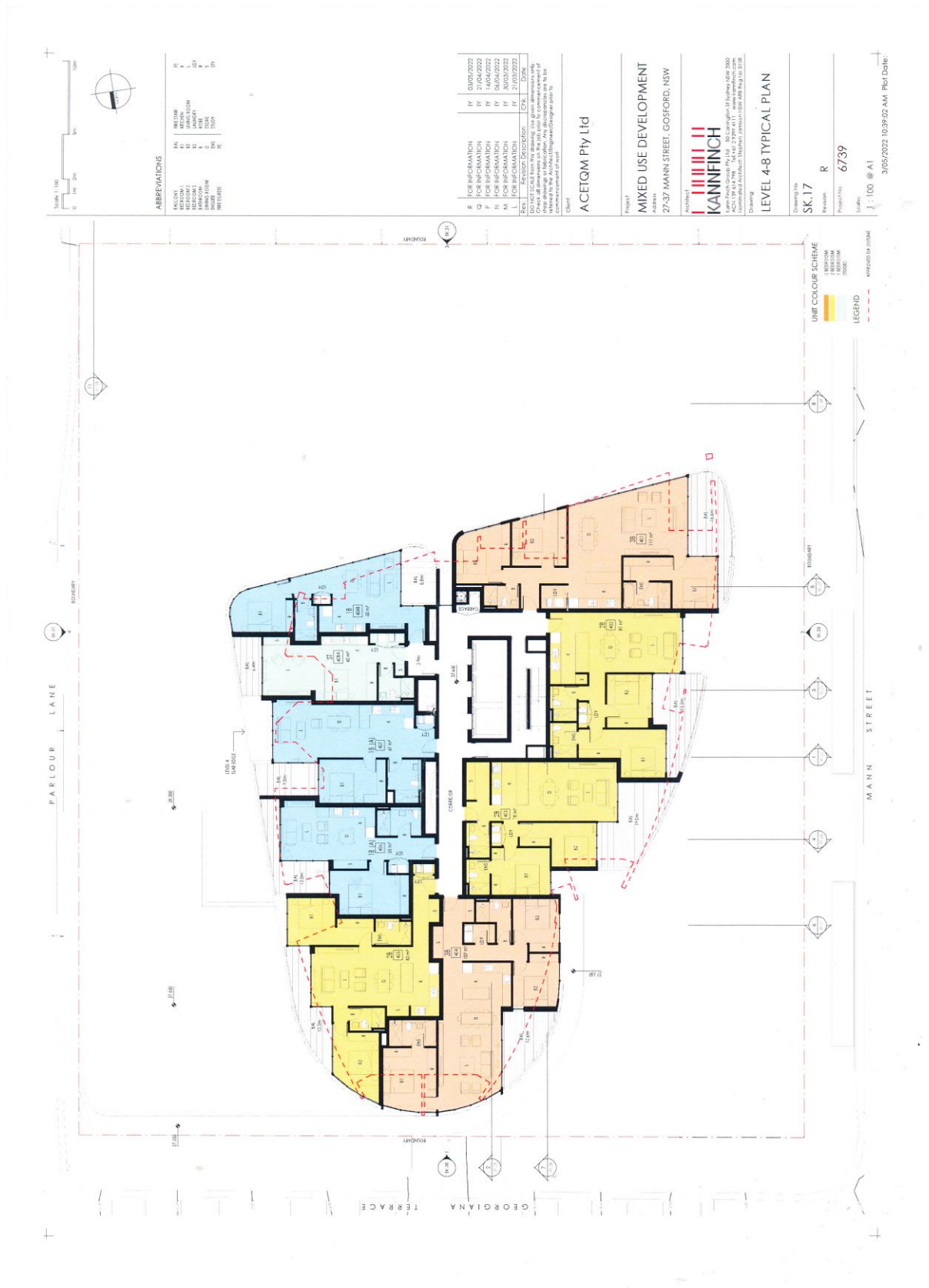
Statement of Environmental Effects: Application to Central Coast Council pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act to modify Development Consent No. 46209/2014 – Part 4 for mixed use development on Lots A & C DP 355117; Lots 10 – 11 DP 591670; and Lots 1 – 4 DP 382784, No. 125 Georgiana Avenue and Nos. 27-37 Mann Street, Gosford.







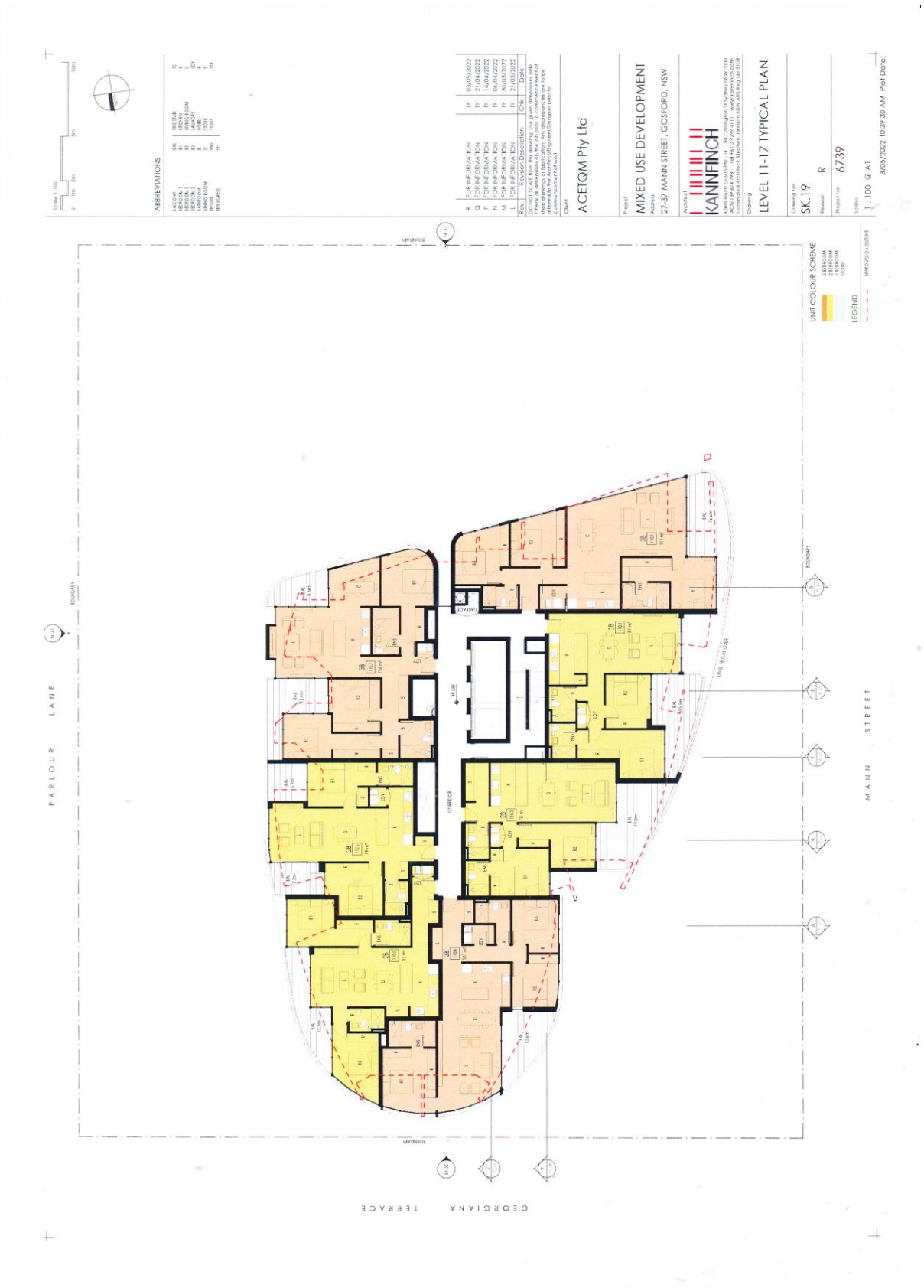
**Figure 14: Level 3 Plan.**



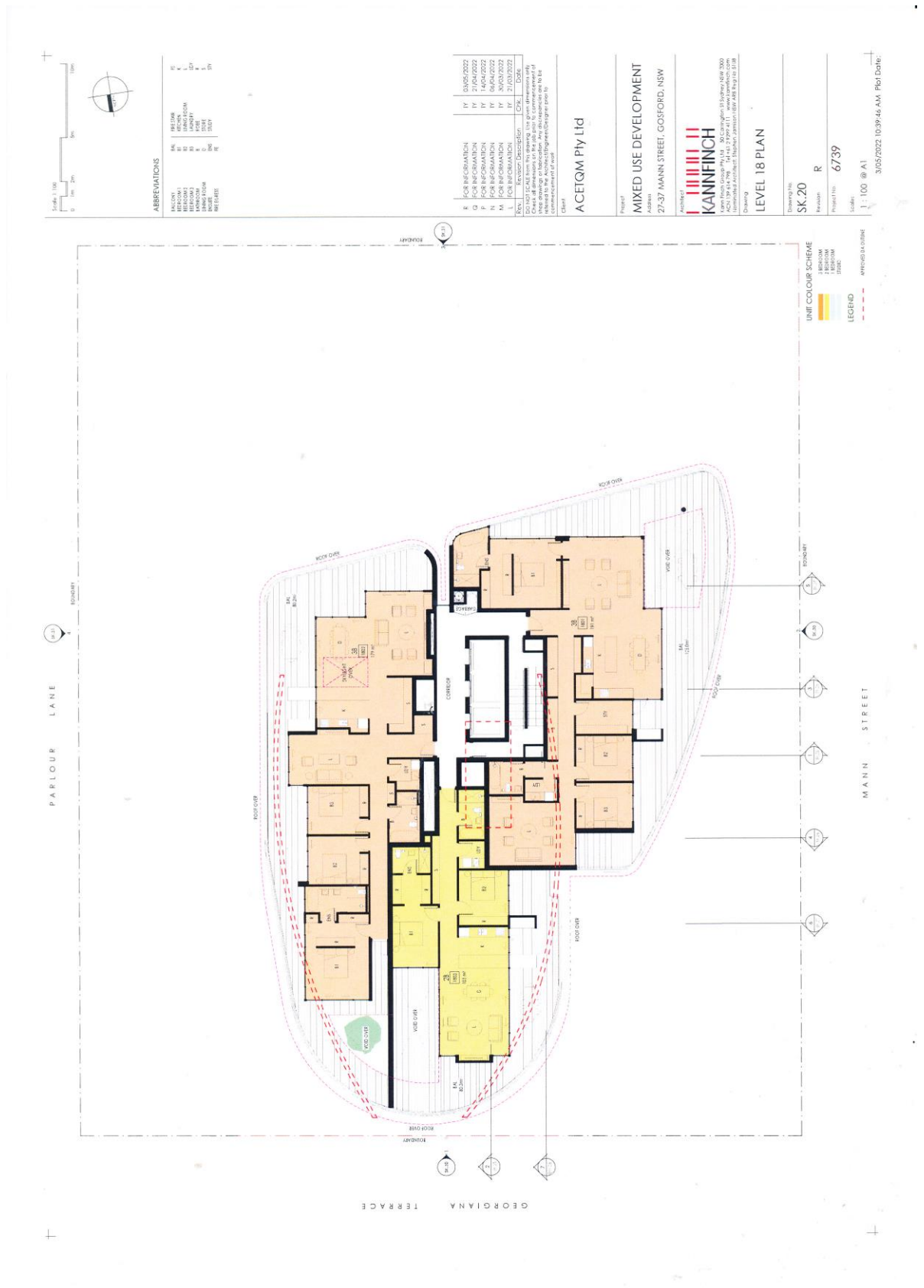
**Figure 15: Level 4 – 8 Typical Plan.**







**Figure 17: Level 11 – 17 Typical Plan.**



**Figure 18: Level 18 Plan.**









**Figure 21: GFA Plans.**

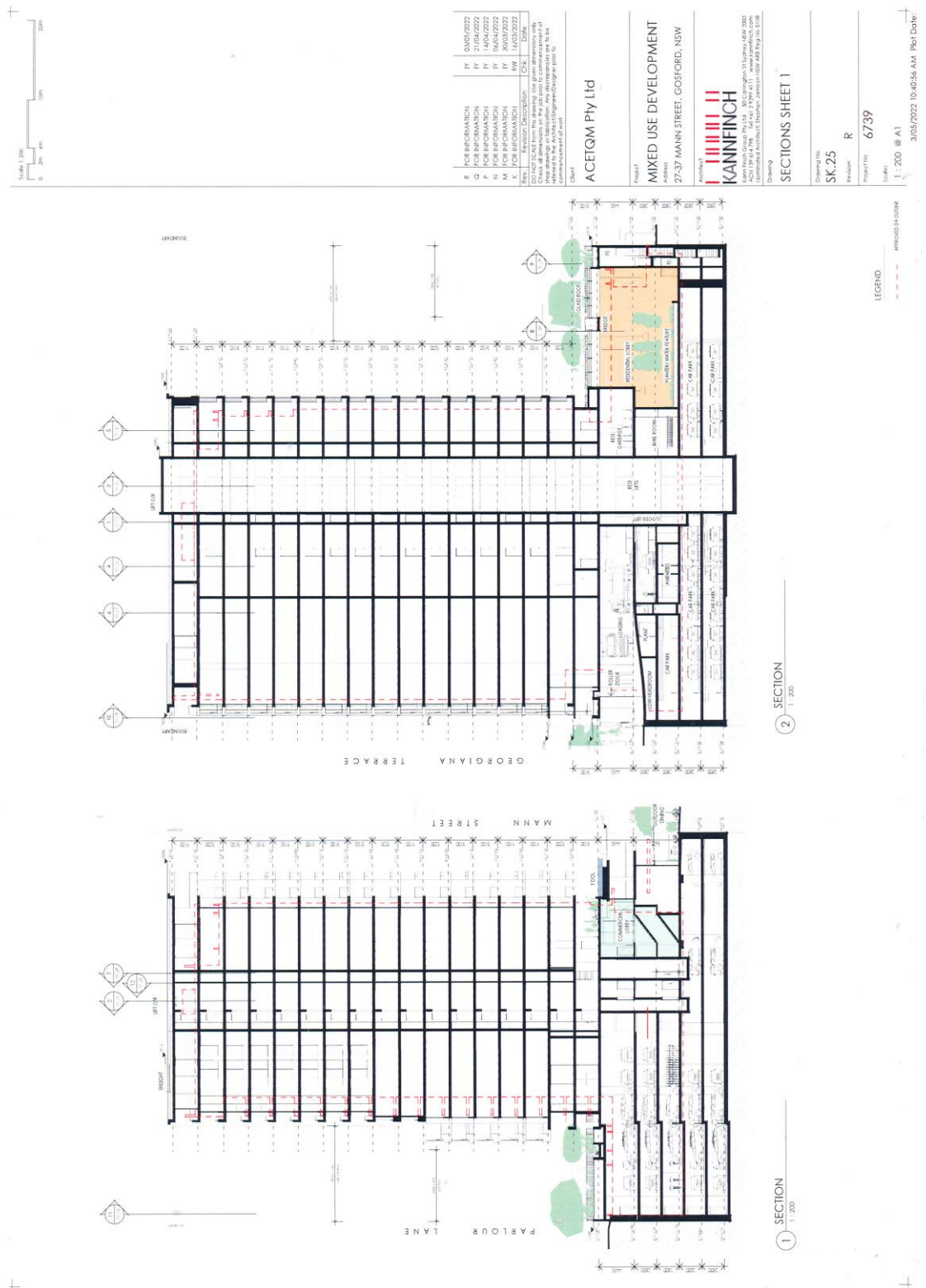
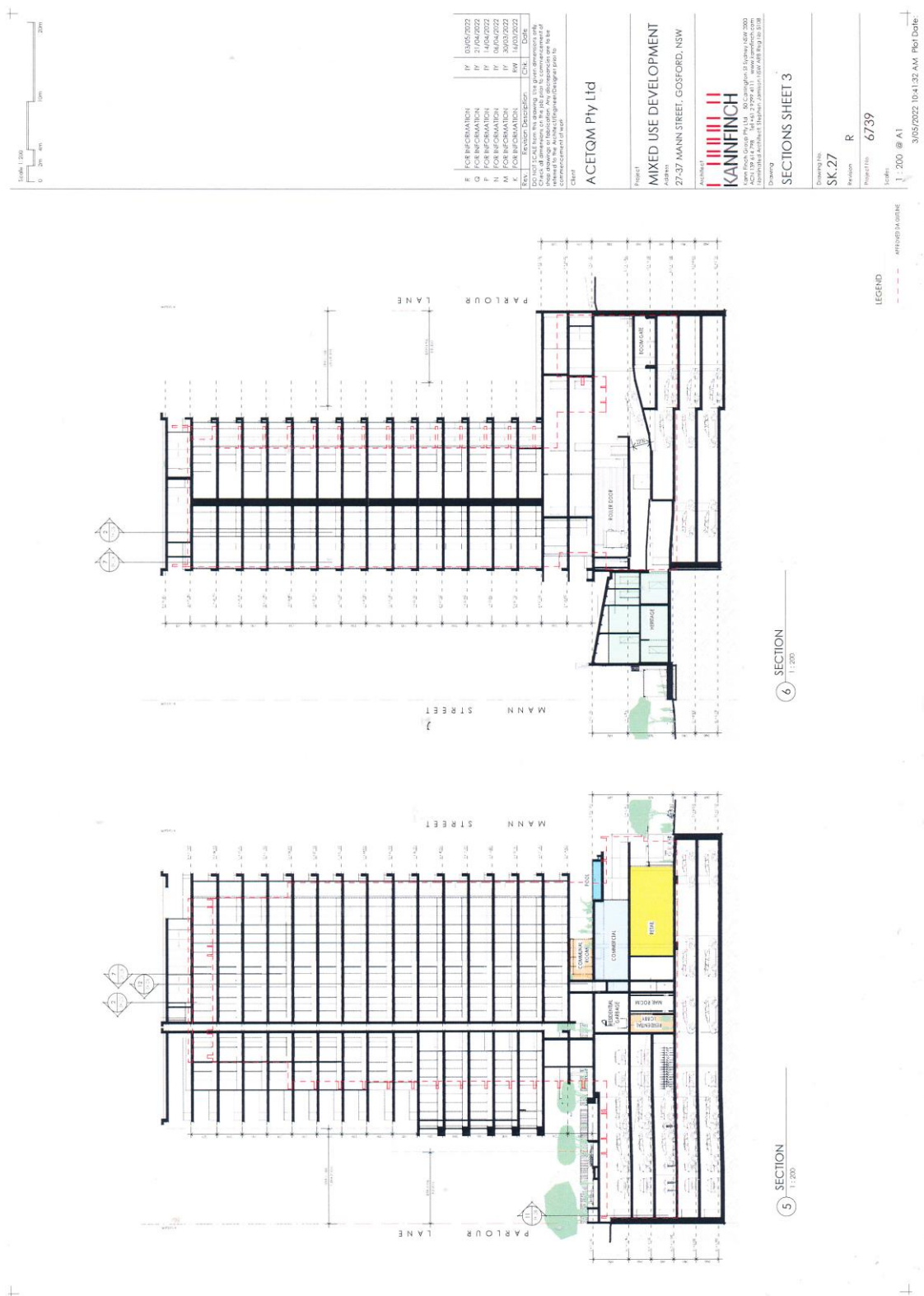


Figure 22: Sections – Sheet 1.

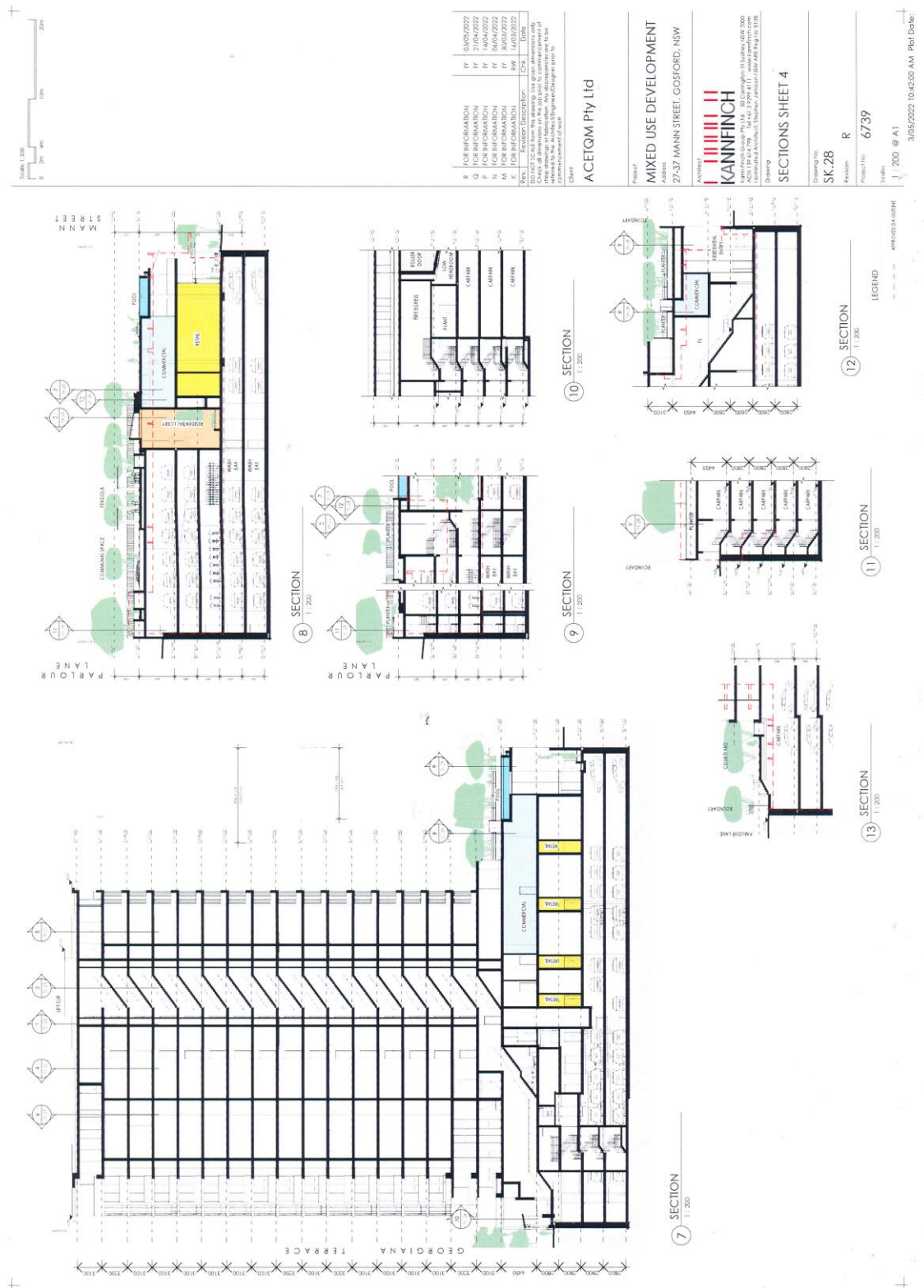








**Figure 24: Sections – Sheet 3.**



**Figure 25: Sections – Sheet 4.**





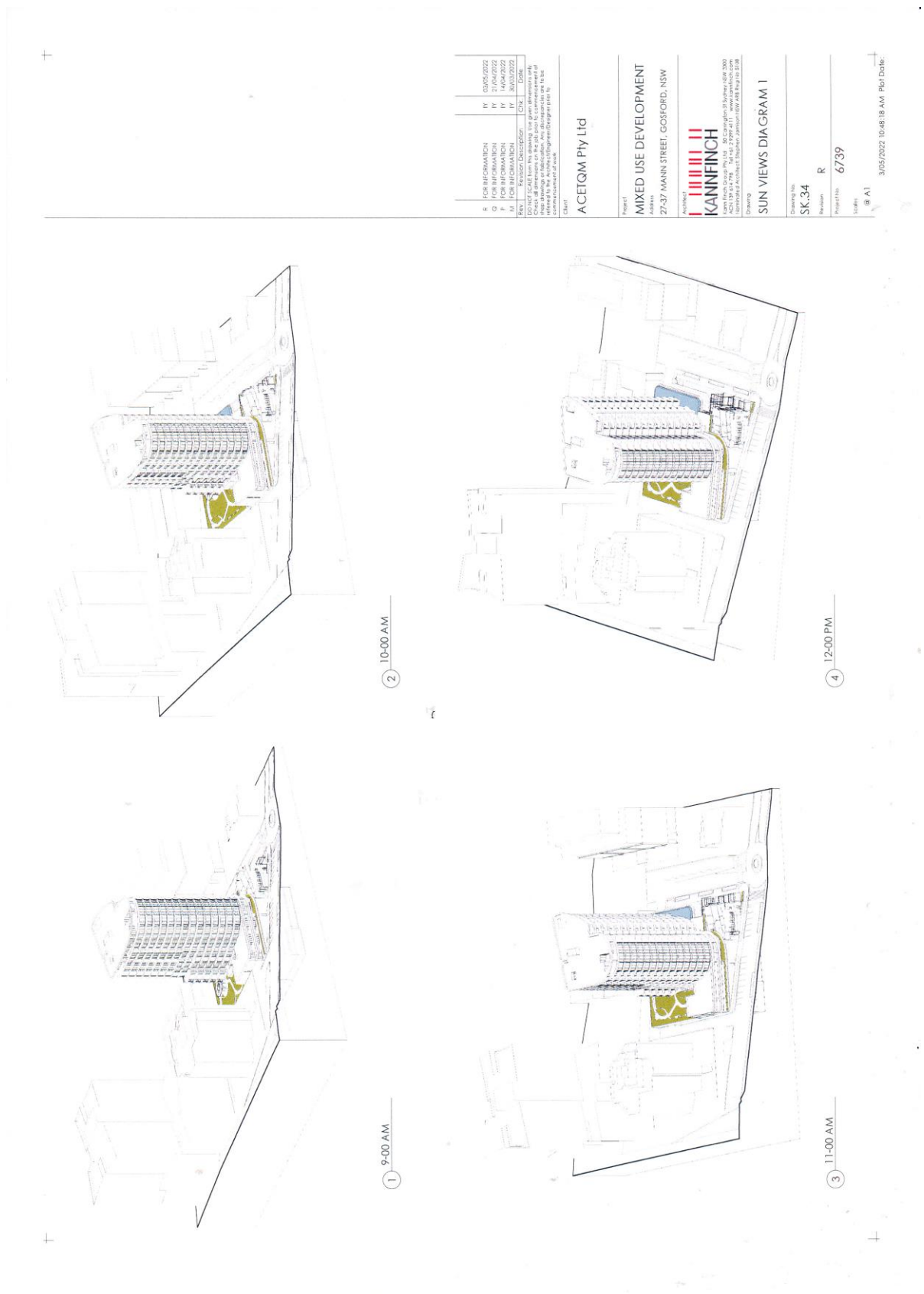


**Figure 27: South & East Elevations.**





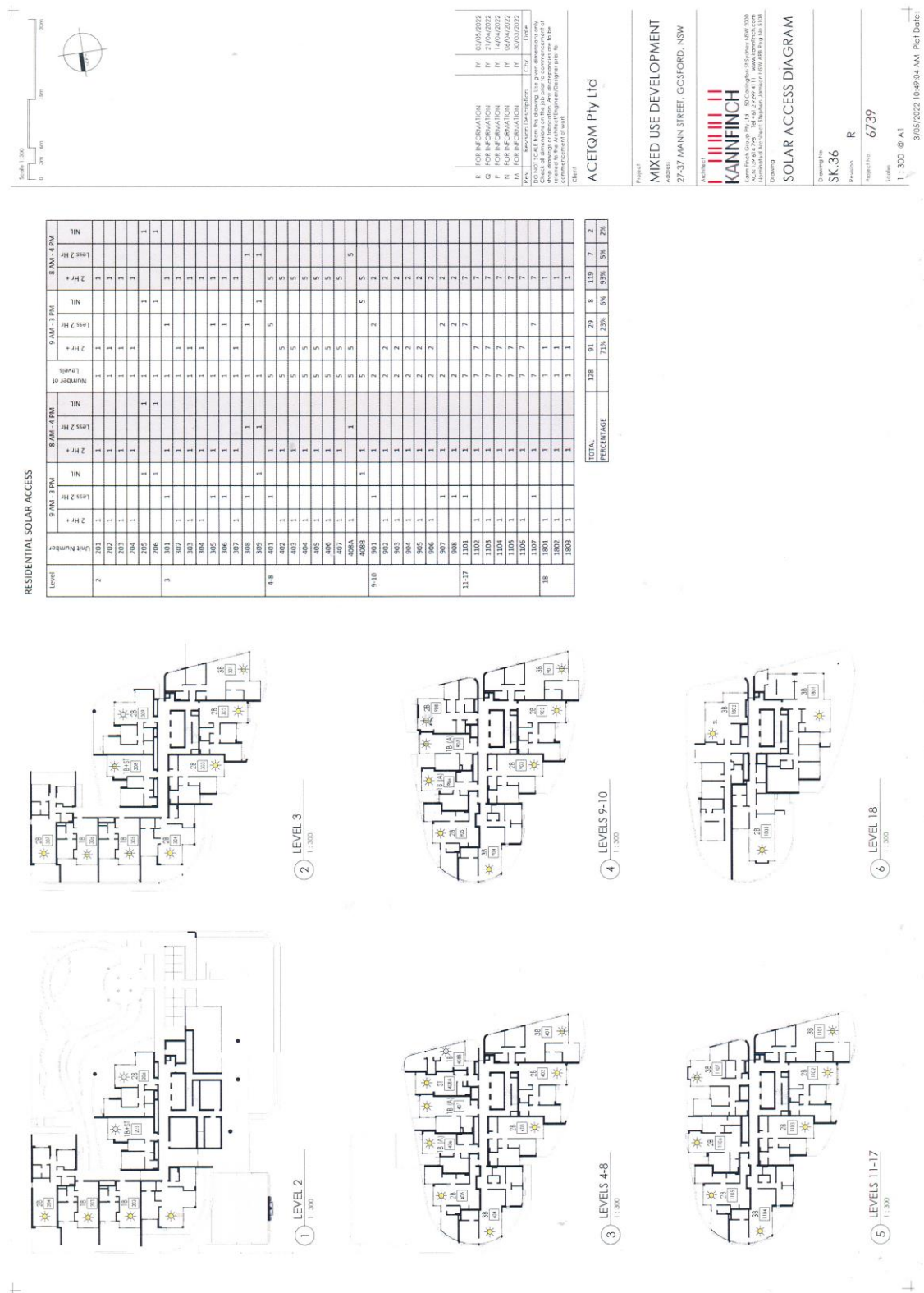


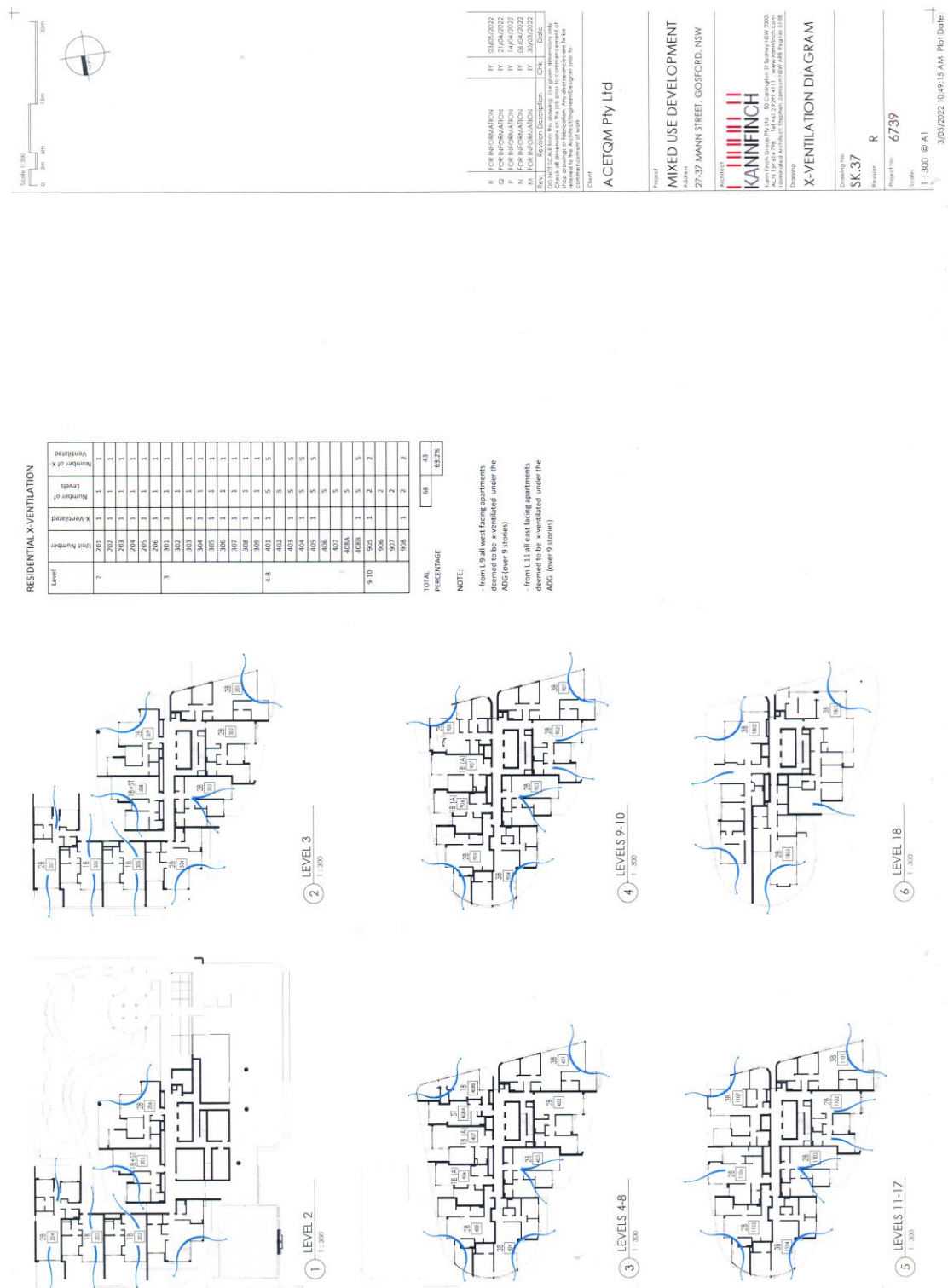


**Figure 30: Sun Views Diagram 1.**

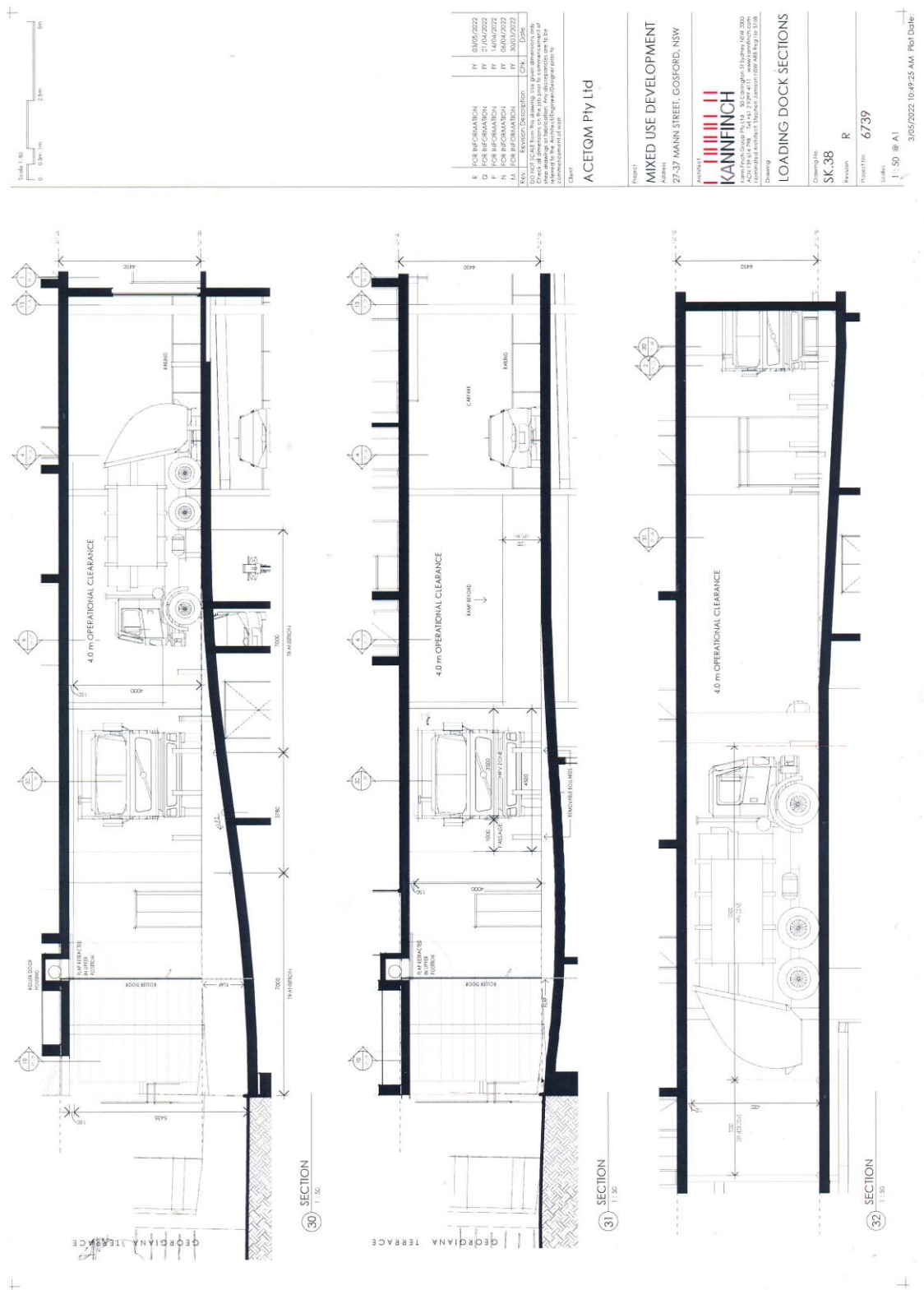








**Figure 33: X-Ventilation Diagram.**



**Figure 34: Loading Dock Sections.**

















**Figure 38: 3D Massing.**









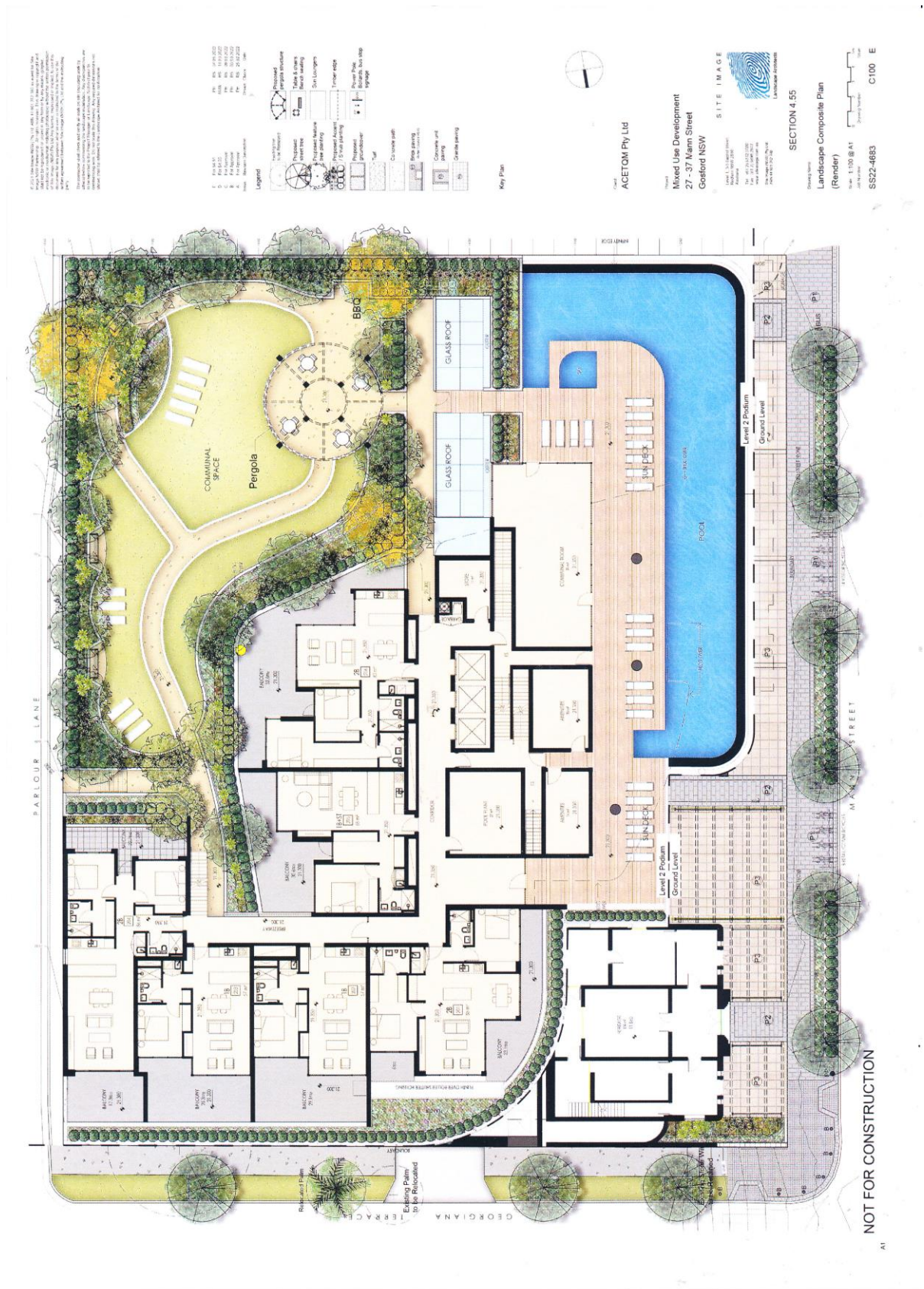










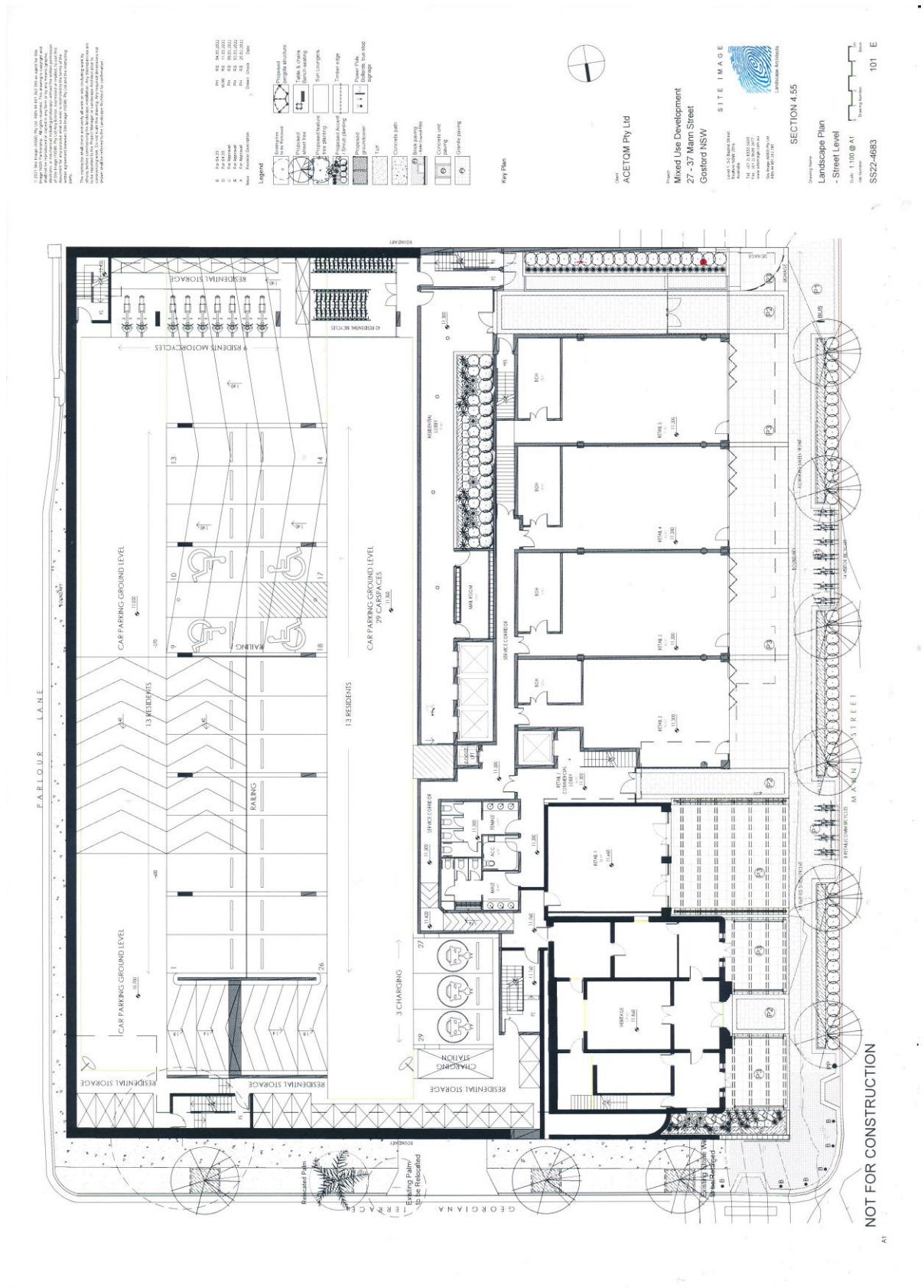


**Figure 44: Landscape Composite Plan (Render).**

Statement of Environmental Effects: Application to Central Coast Council pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act to modify Development Consent No. 46209/2014 – Part 4 for mixed use development on Lots A & C DP 355117; Lots 10 – 11 DP 591670; and Lots 1 – 4 DP 382784, No. 125 Georgiana Avenue and Nos. 27-37 Mann Street, Gosford.







Statement of Environmental Effects: Application to Central Coast Council pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act to modify Development Consent No. 46209/2014 – Part 4 for mixed use development on Lots A & C DP 355117; Lots 10 – 11 DP 591670; and Lots 1 – 4 DP 382784, No. 125 Georgiana Avenue and Nos. 27-37 Mann Street, Gosford.









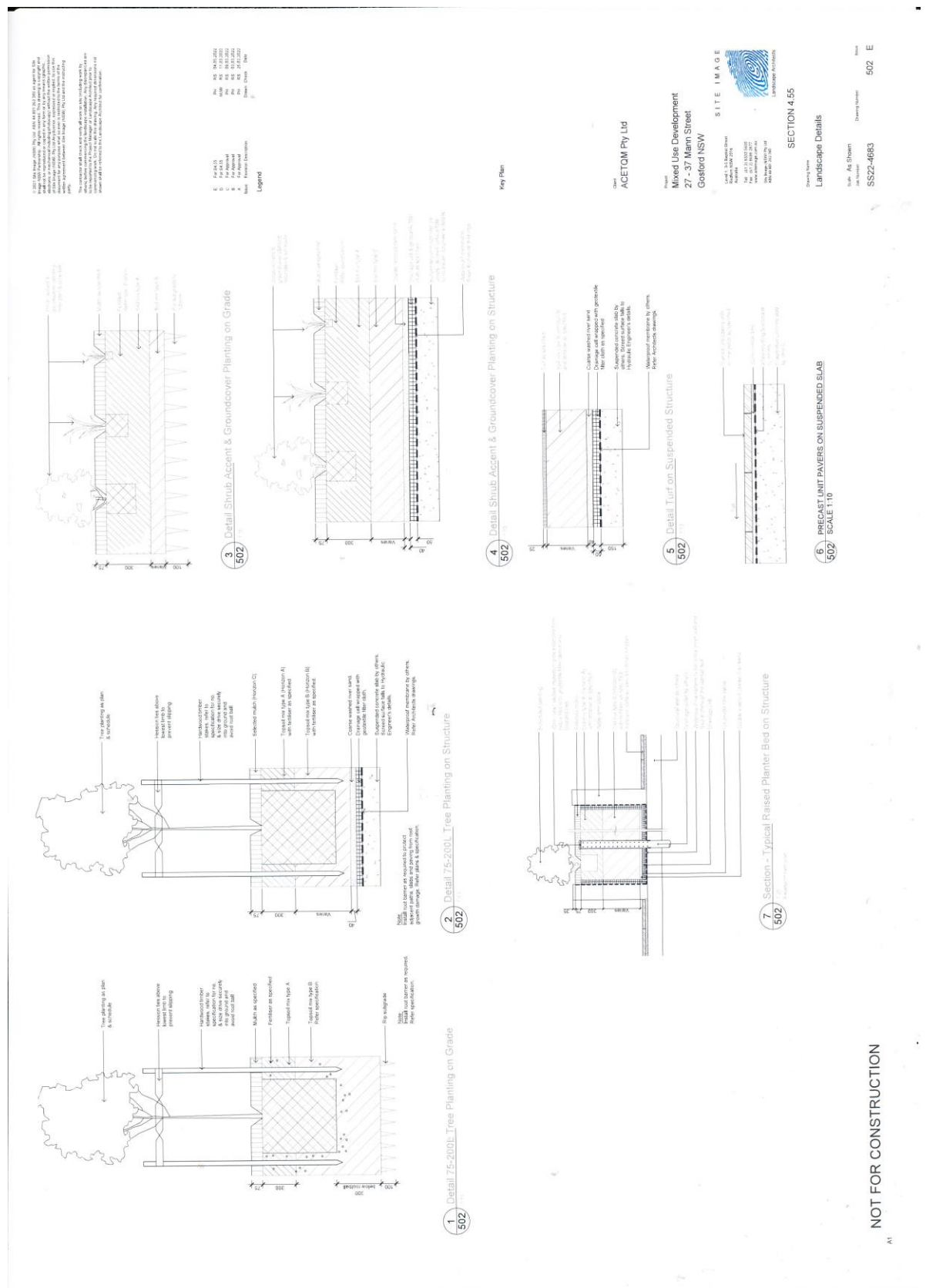


Figure 49: Landscape Details.

## 6. SECTION 4.55 (2) – OTHER MODIFICATIONS.

Pursuant to S 4.55 (2) of the Environmental Planning and Assessment Act 1979, the following analysis demonstrates that Council can reasonably form the opinion that:

- the development to which the proposed modifications relate is substantially the same development for which Consent No. 46209/2014 was originally granted; and
- following consideration of relevant matters under S.4.15 (1) of the Act, the council can exercise the modification power available to it under S.4.55 (2) of the Act to approve this application to modify Development Consent 46209/2014 – Part 4.

### 6.1 Section 4.55 (2) – Other Modifications.

Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 provides that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent, modify a development consent if it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all):

#### *“(2) Other modifications.*

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

*(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

*(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

*(c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications or modification of a development consent, and*



*(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1) and (1A) do not apply to such a modification”.*

In determining an application for modification, Section 4.55 (3) requires that a consent authority must consider relevant matters referred to in Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979:

*“(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified”*

## **6.2 Section 4.55 (2) (a) – ‘Substantially the same development’.**

Section 4.55(2) (a) requires the consent authority to be satisfied that *“the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The term ‘*substantially*’ means ‘*essentially or materially having the same essence*’ (Vacik Pty Ltd v Penrith City Council (1992) NSWLEC 8). The term ‘*modify*’ means to ‘*alter without radical transformation*’ (Sydney City Council v Ilenance (1984) 3 NSWLR 414)

Under S.4.55 of the EPA Act it is left to the consent authority to decide whether the modified development is substantially the same as the development for which development consent was originally granted.

In approaching the comparison exercise, the comparative task should involve both a qualitative and quantitative appreciation of the approved development and the proposed modified development (*Moto projects (No.2) Pty Ltd v North Sydney Council (1999) NSWLEC 280*).

In considering whether a development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted, the existing approved development should be considered in its entirety and compared with the proposed modified development in its entirety. There are legal tests to be satisfied before a modification application can be considered on its merits. There are examples of where the Court has found that modifications to the approved development can be significantly different in important respects but still be substantially the same as that which was approved.

**(i) Firstly**, a proposal can be regarded as a modification if it involves ‘*alteration without radical transformation*’ (Sydney City Council v Ilenance (1984)).

The proposed modifications to Development Consent No. 46209/2014 – Part 4 for mixed use (retail, commercial, restaurant and residential development and demolition of existing structures) on the subject land involve *alteration without radical transformation* of the originally approved development, for the following reasons:

#### **Qualitative:**

- The proposed modified development is for the same mixed use of the land as originally approved under Consent No. 46209/2014 – Part 1;
- The building footprint and massing (podium and tower) of the proposed modified development is substantially the same as the originally approved development. For comparison, the originally approved development's podium and tower floor plate/elevation/section dimensions are shown by broken red line on the floor plans at Figures 10 – 18; the Section drawings at Figures 22 – 25; and the Elevation drawings at Figures 26 – 27;
- The proposed 'activation' of the Mann Street frontage is substantially the same as the originally approved development;
- The proposed modified car parking and vehicular access arrangements are substantially the same as the originally approved development;
- Conservation and adaptive re-use of Heritage Item No. 37 'Creighton Funeral Parlour' is retained and enhanced in the proposed modified development; and
- Building separation distances between the proposed modified development and neighbouring residential buildings are substantially unchanged.

In summary, the proposed modified development does not result in the *radical transformation* of any qualitative element of the originally approved development.

#### **Quantitative:**

- **Number of storeys:** The proposed modified development retains the same number of storeys (19) in a podium and tower form, as the originally approved development;
- **Maximum Building Height:** The proposed modified development has a maximum building height of RL 75.050 (63.75m above natural ground level – Mann Street frontage) in comparison to the maximum height of the architectural roof feature of the originally approved development at RL 74.380 (63.06m).

The increased building height of the proposed modified development is 0.69m, representing a variation of 1.09%.

- **Maximum top floor height:** The proposed modified development has a top floor height of RL71.350 (60.05m above natural ground level) in comparison to the top floor height of the originally approved development (RL 68.640 (57.44m above natural ground level).

The increase in top floor height of the proposed modified development is 2.74m, representing a variation of 3.99%.

- **Gross Floor Area:** The proposed modified development has a Gross Floor Area of 13,972m<sup>2</sup> in comparison to the Gross Floor Area of the originally approved development.

The proposed modified development represents an increase in GFA of 767.4m<sup>2</sup>, or 5.8%.

- **Floor Space Ratio:** The proposed modified development has a floor space ratio of 4.74:1 in comparison to the 4.5:1 floor space ratio of the originally approved development, representing an increase in FSR of 0.24:1 (5.3%) in comparison to the originally approved development.
- **Apartment Numbers:** The proposed modified development reduces the number of apartments to 128, in comparison to the originally approved 132 (i.e. – 4 apartments);
- **Apartment Mix:** The apartment mix of the proposed modified development is not radically different to the originally approved development:

**(Consent 46209/2014 – Part 4)**

**(S. 4.55 (2) Application)**

<b>1 bed/studios</b>	33	30 (23%)
<b>2 bed</b>	64	60 (47%)
<b>3 bed</b>	35	38 (30%).

- **Provision of Car Parking:** The proposed increase in car parking from the originally approved 209 spaces to the proposed modified 217 spaces is not radically different.

As there is no ‘*radical*’ change to the massing, bulk/scale or above quantitative elements of the proposed modified development in comparison to the originally approved development, there is no *radical transformation* of any quantitative element of the originally approved development.

**(ii) Secondly**, consideration must be given as to whether the modification proposed to the consent remains substantially the same when compared to the development as currently approved and the development as proposed to be modified. In *Mojo projects (No.2) Pty Ltd v North Sydney Council (1999) NSWLEC 280*, Bignold J made the following comments:



*“The relevant satisfaction required by s 96(2)(a) to be found to exist in order that the modification power be available involves an ultimate finding of fact based upon the primary facts found. I must be satisfied that the modified development is substantially the same as the originally approved development.*

*The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is essentially or materially’ the same as the (currently) approved development. The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).”*

It is considered that, for the reasons provided in response to the ‘First’ test above, it can be reasonably concluded that the proposed modified development remains substantially the same as the approved development.

The proposed modification to the approved consent conditions (as detailed in section 5.5 of this Statement of Environmental Effects) are principally directed to referencing the modified set of architectural/landscape drawings and consultant reports accompanying this modification application; the proposed modified waste storage and collection arrangements; relocation of the ‘*Livistona Palm*’ located in close proximity to the vehicle entrance off Georgianna Terrace; and the calculation of section 7.11 Local Infrastructure Contribution.

In conclusion, the Council can reasonably form the view that the proposed modified development is essentially or materially the same as the originally approved development and involves alteration of the originally approved development without *radical transformation*.

The proposed modified development is therefore essentially or materially the same as the originally approved development and consequently Council can be satisfied that the development to which the consent as modified relates is substantially the same development as originally approved under Consent 46209/2014 - Part 4.

Council is therefore able to approve this application for the modification of Development Consent No. 46209/2014 - Part 4 pursuant to S.4.55 (2) of the EPA Act.

### **6.3 Section 4.55 (3) – ‘Consideration of matters under Section 4.15 (1)’.**

Section 4.55 (3) requires:

*“(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.*

*The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.”*

Consideration of relevant matters referred to in section 4.15 (1) of the Act are addressed in the following Section 7 of this Statement of Environmental Effects, demonstrating that the proposed modifications to Development Consent 46209/2014 – Part 4 have minimal environmental impact and do not raise any matters of significance in relation to relevant matters requiring consideration under Section 4.15 (1) of the Act.

It is noted that in the conclusion to Report Item 2014HCC021, the Hunter and Central Coast Joint Regional Planning Panel gave the following reason for the granting of Consent 46209/2014 – Part 1:

*“The subject site encompasses planning difficulties resulting from the conflict of objectives between the retention/protection of the heritage item, and extent of development controls which apply under Gosford LEP 2014 and Gosford DCP 2013. The primary issue raised by Council and the public following submission of the original DA has been the demolition of Creighton’s Funeral Parlour and reconstruction of the building façade.*

*The proposal has been revised to retain the funeral parlour, however the garage will be removed and the sandstone entry reinstated to form the primary entry to the building from Mann Street. In conclusion, the proposed development is acceptable on heritage grounds when considered on balance between heritage conservation objectives and planning control objectives.*

*The proposal does not comply with the building height or FSR development standards under Gosford LEP 2014. The application is accompanied by a Clause 4.6 variation to these development standards. The assessment concludes that the proposal achieves an acceptable design outcome and reasonably reduces amenity impacts where possible.*

*Further the proposed variations to height and FSR do not in themselves contribute to unacceptable design outcomes or amenity impacts. The Clause 4.6 variation submitted by the applicant is considered well founded. The assessment concludes that the proposed variations to building height and FSR can be supported when considered on merit. The JRPP may assume the concurrence of the Director of Planning for the use of Clause 4.6 to permit the development. The proposal is generally consistent with the provisions of Gosford DCP 2013. Setback, building depth and building floor plate variations are considered acceptable.*

*A view loss assessment has been carried out and concludes that the proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments. The development proposal received 119 submissions to the original DA notification, and 190 submissions to the amended DA notification. The overwhelming majority of the submissions objected to the demolition of the Creighton’s Funeral Parlour. The application was amended to retain the building and therefore this issue has been largely resolved. The other objections have been satisfactorily addressed in this assessment.*

*Development of the site presents a number of complicating factors, such as three (3) road frontages, a steep slope, inclusion of a heritage item, location adjoining other heritage items, consideration of neighbouring views and amenity, and future changes to traffic arrangements subject to the development of neighbouring land. The proposal addresses these factors to the satisfaction of Council and is considered supportable.*

*All relevant matters under Section 79C of the Environmental Planning and Assessment Act, Section 89 of the Local Government Act, the objectives of the zone and the principles of ecologically sustainable development have been considered and no objection is raised to the proposal subject to compliance with the conditions contained within the recommendation”.*

The proposed consent modifications do not raise any matters which may be considered contrary to the reasons given by the Hunter and Central Coast Joint Regional Planning Panel for the original granting of Development Consent 46209/2014 – Part 1.

## **7. ASSESSMENT – SECTION 4.15 (1) OF THE ACT - MATTERS FOR CONSIDERATION.**

The provisions of Section 4.15 (1) (a) (i) and (iii); (b); (c); and (e) of the Environmental Planning and Assessment Act, 1979 are relevant to the assessment and determination of this S.4.55 (2) application to modify Development Consent 46209/2017 – Part 4.

### **7.1 “SECTION 4.15 (1) (a) (i) and (iii): The provisions of any environmental planning instrument or Development Control Plan that apply to the land”.**

#### **7.1.1 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.**

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) applies to the erection of a new residential flat building (as defined under SEPP 65) comprising three or more storeys and four or more self contained dwellings.

As the proposed development comprises a building of nineteen (19) stories above ground level and one hundred and twenty-eight apartments, the provisions of SEPP 65 apply to the design and assessment of the proposed modified development.

Clause 50 of the Environmental Planning and Assessment Regulation 2000 requires a development application to which SEPP 65 applies to be accompanied by design verification from a qualified designer that the design quality principles set out in the Policy are achieved for the proposed development.

The required design verification has been prepared by KannFinch Architecture and is provided in the accompanying Architectural Design Statement provided in Appendix D.



Schedule 1 to the Environmental Planning and Assessment Regulation 2000 provides that a Statement of Environmental Effects must include the following:

***“(a) an explanation of the design in terms of the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development”.***

This explanation is provided in the Architect's Design Verification Statement, a copy of which is provided in Appendix D.

***“(b) drawings of the proposed development in the context of surrounding development, including the streetscape”.***

Refer to the Site Plan at Figure 6 and the contextual analysis provided in the Architect's Design Verification Statement provided in Appendix D.

***“(c) development compliance with building heights, building height planes, setbacks and building envelope controls (if applicable) marked on plans, sections and elevations”.***

Refer to section 7.1.4 of this Statement.

***“(d) drawings of the proposed landscape area, including species selected and materials to be used, presented in the context of the proposed buildings, and the surrounding development and its context”.***

Refer to the Landscape Drawings prepared by Site Image (NSW) Pty Ltd, copies of which are provided in Figures 43 – 49.

***“(e) if the proposed development is within an area in which the built form is changing, statements of the existing and likely future contexts”.***

Refer to Section 7.1.4 of this Statement.

***“(f) photomontages of the proposed development in the context of surrounding development”.***

Refer to the 3D Massing/Section perspectives provided in Figures 35 – 41.

***“(g) a sample board of the proposed materials and colours of the façade”.***

A Schedule of External Finishes is provided in Figure 20.

***“(h) detailed sections of the proposed facades”.***

Refer to the elevation drawings in Figures 26 – 27.

***“(i) if appropriate, a model that includes the context”.***

Refer to the 3D computer generated model accompanying the S 4.55 (2) modification application.

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

The proposed modified development is consistent with the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

The S. 4.55 (2) modification application is supported by a replacement BASIX Certificate No.1294660M (dated 21<sup>st</sup> April 2022), issued by Efficient Living Pty Ltd (copy provided in Appendix F), which confirms that the proposed development will meet the NSW Government’s requirements for sustainability.

### **7.1.3 State Environmental Planning Policy (Resilience and Hazards) 2021.**

#### **(a) Chapter 2 – Coastal Management.**

The subject land is mapped as being within the Coastal Environment Area and partly within the Coastal Land Use Area for the purposes of *State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 2 – Coastal Management* (refer to Figures 50 and 51).

Whilst the provisions of the Policy do not strictly apply to a S 4.55 (2) application to modify a development consent, the following assessment demonstrates that the proposed modified development is consistent with the requirements of Chapter 2 – Divisions 3 – 5 of *State Environmental Planning Policy (Resilience and Hazards 2021)*.

#### **(i) Division 3 – ‘Coastal Environment Area’.**

The following provisions of Division 3 (clause 2.10) apply to the consent authority’s consideration of a development application:

#### ***“2.10 Development on land within the coastal environment area***

*(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal processes,*



**Figure 50: Coastal Environment Area Map.**





(c) *the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*

(d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*

(e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

(f) *Aboriginal cultural heritage, practices and places,*

(g) *the use of the surf zone.*

(2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*

(a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*

(b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*

(c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

(3) *This section does not apply to land within the Foreshores and Waterways Area within the meaning of [Sydney Regional Environmental Plan \(Sydney Harbour Catchment\) 2005](#)”.*

**Assessment:** This Statement of Environmental Effects demonstrates that the proposed modified development does not cause an adverse impact on the matters required to be considered under Clause 2.10 (1) (a) – (g) or Clause 13 (2) (a) – (c) of *State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 2 – Coastal Management*:

- The proposed modified development has no adverse impact on the integrity or resilience of the biophysical, hydrological or ecological environment;
- The proposed modified development has no adverse impact upon coastal environmental values or natural coastal processes;
- The proposed modified development has no adverse impact on the water quality of the marine estate;
- The proposed modified development has no adverse impact on marine vegetation; native vegetation/fauna and their habitats; undeveloped headlands; or rock platforms;

- The proposed modified development has no adverse impact on coastal amenity; public access to the coastal foreshore; or on the use of the surf zone;
- The proposed modified development has no adverse impact on Aboriginal cultural heritage, practices or places; and
- The proposed modified development is not exposed to hazards associated with coastal processes.

**(ii) Division 4 – ‘Coastal Use Area’.**

The following provisions of Division 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 2 – Coastal Management (clause 2.11)* apply to the consent authority’s consideration of a development application on the subject land:

***“2.11 Development on land within the coastal use area***

*(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*

*(a) has considered whether the proposed development is likely to cause an adverse impact on the following:*

*(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

*(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*

*(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*

*(iv) Aboriginal cultural heritage, practices and places,*

*(v) cultural and built environment heritage, and*

*(b) is satisfied that:*

*(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*

*(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*

*(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

*(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*



(2) *This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*”

**Assessment:** This Statement of Environmental Effects demonstrates that the proposed modified development does not cause an adverse impact on the matters required to be considered by the consent authority under Clause 2.11 of *State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 2 – Coastal Management*:

- The proposed modified development does not have an adverse impact on existing safe public access to the coastal foreshore;
- The proposed modified development does not cause overshadowing; wind funnelling; or the loss of views from public places to the foreshore;
- The proposed modified development will not be visually prominent and will not have an adverse impact on the scenic amenity of the coastal foreshore;
- The proposed modified development has no adverse impact on Aboriginal cultural heritage, practices or places; and
- The proposed modified development has no adverse impact on the cultural or built environment heritage.

Pursuant to Clause 2.11 of *State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 2 – Coastal Management*, Council can be satisfied that the proposed modified development has no adverse impact on coastal processes; public access to the coastal foreshore; scenic amenity of the coastal foreshore; or cultural/heritage values of the NSW Coast.

### **(iii) Division 5 – General.**

The following provisions of Division 5 of *State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 2 – Coastal Management* 2018 apply to the consent authority’s consideration of a development application on the subject land:

#### ***“2.12 Development in coastal zone generally—development not to increase risk of coastal hazards***

*Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

**Assessment:** The proposed modified development does not cause increased risk of coastal hazards on either the subject land, or any other land.

### **2.13 Development in coastal zone generally—coastal management programs to be considered**

*Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.”*

**Assessment:** There is no certified coastal management program applying to the subject land.

### **(b) Chapter 4 – Remediation of Land.**

Under the provisions of *State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 (Clause 4.9)* a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated.

The subject land has not been historically used for a purpose referred to in Table 1 of the “Contaminated Land Planning Guidelines”. It is evident therefore that the land has not been subject to contamination from previous use and the subject land is suitable for the proposed modified development, as evidenced by the original granting of Development Consent 46209/2014.

### **7.1.4 State Environmental Planning Policy (Precincts – Regional) 2021 - (Chapter 5 – Gosford City Centre).**

The subject land is located within Gosford City Centre, to which the provisions of *State Environmental Planning Policy (Precincts – Regional) 2021 – Chapter 5 – Gosford City Centre* applies.

The following assessment demonstrates that the proposed modification to Development Consent 46209/2014 – Part 4 is consistent with the provisions of *State Environmental Planning Policy (Precincts – Regional) 2021*.

### **(i) Clause 5.1 - Aims of Chapter.**

Clause 5.1 provides the following *Aims of Chapter*:

#### ***“5.1 Aims of Chapter***

*The aims of this Chapter are as follows—*

- (a) to promote the economic and social revitalisation of Gosford City Centre,*
- (b) to strengthen the regional position of Gosford City Centre as a multi-functional and innovative centre for commerce, education, health care, culture and the arts, while creating a highly liveable urban space with design excellence in all elements of its built and natural environments,*

- (c) to protect and enhance the vitality, identity and diversity of Gosford City Centre,*
- (d) to promote employment, residential, recreational and tourism opportunities in Gosford City Centre,*
- (e) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Gosford City Centre achieves sustainable social, economic and environmental outcomes,*
- (f) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Gosford City Centre for the benefit of present and future generations,*
- (g) to help create a mixed use place, with activity during the day and throughout the evening, so that Gosford City Centre is safe, attractive and efficient for, and inclusive of, its local population and visitors alike,*
- (h) to preserve and enhance solar access to key public open spaces,*
- (i) to provide direct, convenient and safe pedestrian links between Gosford City Centre and the Gosford waterfront,*
- (j) to ensure that development exhibits design excellence to deliver the highest standard of architectural and urban design in Gosford City Centre.*

The proposed modified development is consistent with the “*Aims of Chapter*” as:

- The proposed modified development promotes the economic and social revitalisation of Gosford City Centre;
- Strengthens the regional position of Gosford City Centre;
- Protects/enhances the vitality, identity and diversity of Gosford City Centre;
- Promotes employment, residential and recreational opportunities;
- Ensures that Gosford City Centre achieves sustainable social, economic and environmental outcomes;
- Protects the natural and cultural heritage of Gosford City Centre;
- Creates a ‘mixed -use place’ with activity through the day and evening;
- Preserves solar access to public open space; and
- Provides design excellence in architecture and urban design.

## **(ii) Part 5.3 – Land Use Table.**

The proposed modified development maintains the approved mix of retail, commercial, restaurant and residential use under the original development consent, all of which are permissible with consent in the *B4 Mixed Use* zone applying to the subject land and are consistent with the following zone objectives:



## ***“Zone B4 Mixed Use***

### ***1 Objectives of zone***

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage a diverse and compatible range of activities, including commercial and retail development, cultural and entertainment facilities, tourism, leisure and recreation facilities, social, education and health services and higher density residential development.*
- *To allow development in Point Frederick to take advantage of and retain view corridors while avoiding a continuous built edge along the waterfront.*
- *To create opportunities to improve the public domain and pedestrian links of Gosford City Centre.*
- *To enliven the Gosford waterfront by allowing a wide range of commercial, retail and residential activities immediately adjacent to it and increase opportunities for more interaction between public and private domains.*
- *To protect and enhance the scenic qualities and character of Gosford City Centre”.*

The proposed modified development is consistent with the objectives of the *B4 Mixed Use* zone because it:

- provides for a mix of compatible uses;
- integrates and encourages a diverse range of compatible commercial and residential development in an accessible location, maximising public transport patronage and encouraging walking and cycling;
- enlivens the general precinct of the Gosford waterfront and provides for more interaction between the public and private domains; and
- protects the scenic qualities and character of Gosford City Centre.

### **(iii) Part 5.5 – Principal Development Standards.**

#### **(a) Clause 5.25 - Height of buildings.**

The subject land is mapped on the *Building Heights Map* as having a maximum building height development standard of 46.8m on the Mann Street side and 31.2m on the Parlour Lane side.

The following Table compares the maximum building height of the originally approved development in comparison to the proposed modified development.

**TABLE 4: Maximum Building Height Comparison.**

	<b>Approved Development (Consent 46209/2014 – Part 4)</b>	<b>Proposed Modified Development (S. 4.55 (2) Application)</b>
<b>Maximum Building Height</b>	<b>RL74.380 (Roof Feature)-----</b>	<b>RL74.450 (Roof)(+0.07m)</b>
	<b>RL71.680 (Roof) -----</b>	<b>RL74.450 (+2.77m)</b>
<b>Maximum top floor height</b>	<b>RL68.640-----</b>	<b>RL 71.350 (+ 2.74m)</b>
<b>Number of Storeys</b>	<b>19</b>	<b>19 (No change)</b>

Whilst maintaining the originally approved number of storeys (i.e. 19 storeys), the proposed modified development:

- has a maximum building height of RL 75.050 (63.75m above natural ground level – Mann Street frontage) in comparison to the maximum height of the architectural roof feature of the originally approved development at RL 74.380 (63.06m).

The increased maximum building height of the proposed modified development is 0.69m, representing a variation of 1.09%: and

- has a top floor height of RL71.350 (60.05m above natural ground level) in comparison to the top floor height of the originally approved development (RL 68.640 (57.44m above natural ground level).

The increase in top floor height of the proposed modified development is 2.74m, representing a variation of 3.99%. The proposed modified building's top floor height variation is required to in order to achieve ADG floor to ceiling height compliance and address buildability issues.

It is established in section 6 of this Statement of Environmental Effects that the proposed modified development is substantially the same and not a radical transformation of the originally approved development.

In a S. 4.55 (2) modification application, clause 5.28 (Exceptions to development standards) of *State Environmental Planning Policy (Precincts – Regional) 2021 – Chapter 5 – Gosford City Centre* is not engaged. Rather, it is necessary to assess whether any proposed variation to the maximum building height of the originally approved development is consistent with each of the following objectives of clause 5.25 (1) of *State Environmental Planning Policy (Precincts – Regional) 2021 – Chapter 5 – Gosford City Centre*:

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Statement of Environmental Effects: Application to Central Coast Council pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act to modify Development Consent No. 46209/2014 – Part 4 for mixed use development on Lots A & C DP 355117; Lots 10 – 11 DP 591670; and Lots 1 – 4 DP 382784, No. 125 Georgiana Avenue and Nos. 27-37 Mann Street, Gosford.

### ***“5.25 Height of buildings***

*(1) The objectives of this section are as follows—*

- (a) to establish maximum height limits for buildings,*
- (b) to permit building heights that encourage high quality urban form,*
- (c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,*
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity,*
- (e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,*
- (f) to protect public open space from excessive*

The following assessment demonstrates that the relatively minor increase in maximum building height is consistent with the objectives of clause 5.25 because:

- The proposed building height variation is required in order to achieve ADG floor to ceiling height compliance and address buildability issues;
- The proposed modified development is of a high architectural quality built form (refer to Figures 4 – 49);
- Neighbouring buildings and public areas will continue to receive satisfactory exposure to sky and sunlight (refer to the shadow diagrams in Figures 28 – 29);
- The proposed modified development is located appropriately in relation to view corridors and view impacts and complementary to the natural topography (refer to the accompanying *Visual Impact Assessment* prepared by Urbaine Architectural, a copy of which is provided in Appendix G; and
- The proposed modified development will not overshadow any public open space and will allow views to identify natural topographical features in the locality.

In the circumstances, it is reasonable for the consent authority to approve the relatively minor increase in maximum building height proposed by his S 4.55 (2) modification application, so that the proposed modified development has a topmost floor height of RL 71.350 and a maximum roof height of RL 74.450.

### **(b) Clause 5.26 - Floor space ratio.**

The subject land is mapped on the *Floor Space Ratio Map* as having a maximum floor space



ratio development standard of 5.2:1 on the Mann Street side and 3.9:1 on the Parlour Lane side. Averaged floor space ratio across the site for both the approved development and the proposed modified development is provided in Table 5.

**TABLE 5: FSR Comparison.**

Approved Development (Consent 46209/2014 – Part 4)	Proposed Modified Development (S. 4.55 (2) Application)
<b>Floor space ratio</b>	
4.5:1	4.74:1 (i.e. + 0.24:1/5.3%)

The proposed modified development has an ‘averaged’ floor space ratio across the site of 4.74:1 in comparison to 4.5:1 floor space ratio of the originally approved development, resulting in an increase in FSR of 0.24:1 (5.3%) in comparison to the originally approved development

It is established in section 6 of this Statement of Environmental Effects that the proposed modified development is substantially the same and not a radical transformation of the originally approved development.

In a S. 4.55 (2) modification application, clause 5.28 (Exceptions to development standards) of *State Environmental Planning Policy (Precincts – Regional) 2021 – Chapter 5 – Gosford City Centre* is not engaged. Rather, it is necessary to assess whether any proposed variation to the maximum floor space ratio of the originally approved development is consistent with each of the following objectives of clause 5.26 (1) of *State Environmental Planning Policy (Precincts – Regional) 2021 – Chapter 5 – Gosford City Centre*:

**“5.26 Floor space ratio**

*(1) The objectives of this section are as follows—*

- (a) to establish standards for the maximum development density and intensity of land use,*
- (b) to control building density and bulk in relation to site area in order to achieve the desired future character for different locations,*
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- (e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*

*(f) to facilitate design excellence by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design,*

*(g) to ensure that the floor space ratio of buildings on land in Zone R1 General Residential reflects Council's desired building envelope,*

*(h) to encourage lot amalgamation and new development forms in Zone R1 General Residential with car parking below ground level".*

The following assessment demonstrates that the relatively minor increase in maximum floor space ratio building height is consistent with the objectives of clause 5.26 because:

- The building footprint and massing (podium and tower) of the proposed modified development is substantially the same as the originally approved development. For comparison, the originally approved development's podium and tower floor plate/elevation/section dimensions are shown by broken red line on the floor plans at Figures 10 – 18; the Section drawings at Figures 22 – 25; and the Elevation drawings at Figures 26 – 27;
- The proposed modified development maintains an appropriate contextual relationship with the changing urban character of the Gosford South Precinct evidenced by the recently approved development within the '*Central Coast Quarter*';
- The proposed modified development is of high architectural quality-built form (refer to Figures 4 – 41);
- The minor increase in FSR does not result in adverse environmental effects on the use or enjoyment of neighbouring properties, or the public domain (refer to Figures 28 – 29 (overshadowing) and the Visual Impact Assessment provided in Appendix G); and
- The proposed increase in car parking from the originally approved 209 spaces to the proposed modified 217 spaces accommodates the increase in car parking demand generated by the proposed modified development.

#### **(iv) Clause 5.36 - Heritage conservation.**

Located on the subject land at No. 37 Mann Street is '*Creighton's Funeral Parlour*' which is listed as an item of environmental heritage under Schedule 9 – Item 37 of *State Environmental Planning Policy (Precincts – Regional) 2021 – Chapter 5 – Gosford City Centre* and on the National Trust Register (NSW).

This S 4.55 (2) application to modify Development Consent 46209/2014 – Part 4 is accompanied by a *Statement of Heritage Impact (April 2022)* prepared by 'Heritage 21 Pty Ltd', a copy of which is provided in Appendix H.

The report notes in section 5.1.4, elements of the proposed modified development that relate to Heritage Item 37, including changes in design of the commercial/residential tower; and

construction of freestanding, transparent arbour structures and a low sandstone wall along the primary Mann Street elevation/frontage of the heritage item.

The *Statement of Heritage Impact* addresses the requirements of Clause 5.36 – Heritage Conservation of State *Environmental Planning Policy (Precincts – Regional) 2021 – Chapter 5 – Gosford City Centre*, concluding:

*“Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and would engender a positive impact on the heritage significance of the subject site and the heritage items in the vicinity. We therefore recommend that Central Coast Council view the application favourably on heritage grounds”.*

**(v) Clause 5.47 - Car parking in Zones B3 and B4.**

Clause 5.47 (1) of State *Environmental Planning Policy (Precincts – Regional) 2021 – Chapter 5 – Gosford City Centre* provides:

*“(1) Development consent must not be granted for development on land in Zone B3 Commercial Core or Zone B4 Mixed Use that involves the erection of a new building or an alteration or addition to an existing building that increases the gross floor area of the building unless—*

*(a) at least 1 car parking space is provided for every 75 square metres of the gross floor area of the building that is to be used for commercial activities, and*

*(b) at least 1 car parking space is provided for every 40 square metres of the gross floor area of the building that is to be used for the purpose of retail premises”.*

This S 4.55 (2) application to modify Development Consent 46209/2014 – Part 4 is accompanied by a *Traffic and Parking Assessment (April 2022)* prepared by ‘Transport and Traffic Planning Associates’, a copy of which is provided in Appendix I.

Section 4 of the Parking Assessment calculates that the proposed modified retail and commercial space will generate a demand for 32 car spaces, which are to be provided within onsite car parking levels:

**Retail:** 1,076m<sup>2</sup> - 26.9 (27) spaces.

**Commercial:** 310m<sup>2</sup> - 4.13 (5) spaces.

**Total** - 32 spaces.

**(vi) Clause 5.48 - Active street frontages.**

The subject land is identified as an ‘active street frontage’ and is subject to the following provisions of clause 5.48 (1):



*“5.48 (1) Development consent must not be granted to the erection of a building, or the change of use of a building, on land identified as “Active street frontage” on the [Active Street Frontages Map](#) unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.”*

As demonstrated in the accompanying architectural design report (copy provided in Appendix D), the proposed modified development will result in a superior ‘active street frontage’ in comparison to the originally approved development.

**(vi) Clause 5.52 - Solar access to key public open spaces.**

The proposed modified development does not prevent solar access to key public open spaces (refer to Figures 28 – 29).

**(vii) Clause 5.53 - Key vistas and view corridors.**

This S 4.55 (2) application to modify Development Consent 46209/2014 – Part 4 is accompanied by a *Visual Impact Assessment (May 2022)* prepared by ‘Urbaine Architectural Pty Ltd, a copy of which is provided in Appendix G. The proposed modified development does not adversely impact the public’s access to key vistas and view corridors.

**7.1.5 Other State Environmental Planning Policies.**

The following State Environmental Planning Policies have no applicability to the proposed modified development and require no consideration in the assessment and determination of this S 4.55 (2) modification application:

- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 (as the subject land does not contain any flora and fauna habitat, or Koala Habitat);
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Industry and Employment) 2021;
- State Environmental Planning Policy (Resources and Energy) 2021;
- State Environmental Planning Policy (Primary Production) 2021; or
- State Environmental Planning Policy (Housing) 2021.

**7.1.6 Gosford City Centre Development Control Plan 2018.**

The proposed modification of Development Consent 46209/2014 – Part 4 does not raise any significant matters in relation to the development guidelines contained in *Gosford City Centre Development Control Plan 2018*. Relevant matters are addressed in the following assessment.

**(i) DCP Section 3.4 – City South.**

The subject land is located within the ‘City South’ character area.

The proposed modified development is consistent with the following DCP character objectives for ‘City South’ as it maintains views to Presidents Hill and Rumbalara Reserve; continues the established Mann Street through City South; promotes a diversity of uses and attractions; does not prevent views to Brisbane Water from the Stadium and Leagues Club Field; and conserves Heritage Building No. 37 (‘The Creighton’):

**“3.4 City South – Objectives”:**

- 1. Maintain strong visual connections and views to Presidents Hill and Rumbalara Reserve.*
- 2 Continue the established city grid from the Civic Heart and Mann Street through City South.*
- 3 Provide improved connections to the waterfront.*
- 4 Promote a diversity of uses and attractors to accommodate a range of uses at all times of the day and week.*
- 5. Maintain views from the stadium and Leagues Club Field to the water.*
- 6. Conserve significant local heritage buildings and landscapes which contribute to the character of the City South”.*

**(ii) DCP Section 4.4 – Key Views/Vistas.**

The proposed modified development does not adversely impact any Key View/Vista indicated in DCP Figure 4.

**(iii) DCP Section 5 – Built Form.**

The proposed modified development does not raise any particular matter for consideration under DCP Section 5 – Built Form.

The S 4.55 (2) application is accompanied by a replacement set of architectural drawings; Architectural Design Report; and replacement Landscape Plans.

**(iv) DCP Section 6 – Key Sites.**

The subject land is not identified as a ‘Key Site’ in Gosford City Centre Development Control Plan 2018.

**(v) DCP Section 7 – Access and Parking.**

This S 4.55 (2) application to modify Development Consent 46209/2014 – Part 4 is accompanied by a *Traffic and Parking Assessment (April 2022)* prepared by ‘Transport and

Traffic Planning Associates', a copy of which is provided in Appendix I. The assessment addresses:

- Road Network and Traffic Conditions;
- Parking;
- Traffic; and
- Access, Internal Circulation and Servicing.

**(a) Section 7.2 – Pedestrian Access and Mobility.**

The proposed modified development satisfies pedestrian access and mobility requirements. Refer to the *Access Report* prepared by East Coast Accessibility Pty Ltd provided in Appendix I.

**(b) Section 7.3 – Vehicular Driveway and Manoeuvring areas.**

Vehicle access will comprise a 6.5 metre wide combined ingress/egress driveway located on Georgiana Terrace reflecting the originally approved development scheme. The driveway will be located where suitable sight distances are available and the design of the driveway will accord with the requirements of AS 2890.1&2.

Generous ramp grades/widths, aisle widths and parking bay dimensions are provided in the carpark design. The two-way circulation system will have satisfactory provisions for manoeuvring and will comply with the requirements of AS 2890.1 & 6.

**(c) Section 7.4 – Onsite Parking.**

Section 4 of the *Traffic and Parking Assessment* demonstrates that the proposed modified development satisfies the parking rate requirements of DCP Table 2. The parking demand generated by the proposed modified development is calculated as follows:

***Residential***

*5 x studio apartments 5 spaces;*  
*25 x 1 Bed apartments 25 spaces;*  
*60 x 2 Bed apartments 72 space;s*  
*38 x 3 Bed apartment 57 spaces;;*  
*Visitors (128 apartments) 25.6 spaces (26);*  
***Total Residential: 185 spaces***

***Retail 1,076m<sup>2</sup> - 26.9 (27) spaces;***  
***Commercial 310m<sup>2</sup> - 4.13 (5) spaces;***  
***Total Retail/Commercial = 32 spaces;***

***Grand Total = 217 space.s***

It is proposed to allocate the proposed 217 spaces on the following basis:

- 159 spaces for residents;
- 26 spaces for visitors including 17 adaptable spaces;
- 32 spaces will be provided for the retail and commercial elements, including 2 accessible spaces;
- Total = 217 spaces.

**(d) Section 7.5 – Site Facilities and Services.**

The proposed modified development introduces a revised system of waste storage and collection, summarised by the *Traffic and Parking Assessment* as follows:

*“Refuse will be removed from the loading dock area by Council’s 10.5m refuse vehicle as indicated in the turning path diagram in Appendix E and this assessment accords with Council’s/operational requirements of 4.0m headroom (see details overleaf). Other delivery vehicles will be able to use the loading dock while service personnel and maintenance vehicles etc will also be able to use the visitor and retail parking spaces”.*

**(vi) DCP Section 8 – Environmental Management.**

**(a) Section 8.2 - Energy Efficiency and Conservation.**

A replacement BASIX Certificate No.1294660M issued by Efficient Living Pty Ltd is provided in Appendix F.

**(b) Section 8.3 - Water Conservation.**

A replacement BASIX Certificate No.1294660M issued by Efficient Living Pty Ltd is provided in Appendix F.

**(c) Section 8.4 - Reflectivity.**

The proposed modified development’s selection of external building materials will reduce reflectivity in comparison to the materials of the originally approved development.

**(d) Section 8.5 - Wind Mitigation.**

Given that the proposed modified development is substantially the same as the originally approved development in terms of its massing, it will not have deleterious wind impacts on pedestrians at ground level and will not prevent moderate breezes penetrating the city centre.

**(e) Section 8.6 - Waste and Recycling.**

The proposed modified development relies upon the originally approved Waste Management Plan for the management and disposal of demolition and construction waste.



The proposed modified development now proposes to provide for operational waste storage and collection to be located within the building basement in preference to the originally approved location fronting Parlour Lane. In view of these revised arrangements, the proposed modified development is accompanied by a replacement *Operational Waste Management Plan*, prepared by Elephants Foot Recycling Solutions, a copy of which is provided in Appendix K.

**(f) Section 8.7 - Noise and Vibration.**

In view of the proposed modified development being substantially the same as the originally approved development, it will not cause any deleterious noise and vibration impacts on either occupants of the proposed modified development, or neighbours.

**(vii) DCP Section 9 – Residential Development Controls.**

Refer to the accompanying Architectural Statement prepared by KannFinch, a copy of which is provided in Appendix D.

**(viii) DCP Section 10 – Controls for Special Areas.**

**(a) Section 10.1 Heritage Items:**

This S 4.55 (2) application to modify Development Consent 46209/2014 – Part 4 is accompanied by a *Statement of Heritage Impact (April 2022)* prepared by ‘Heritage 21 Pty Ltd’, a copy of which is provided in Appendix H.

This Statement addresses the requirements/guidelines of both:

- *State Environmental Planning Policy (Precincts – Regional) 2021*; and
- *Gosford City Centre Development Control Plan 2018*.

**7.2 “SECTION 4.15 (1) (a) (ii): Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)”.**

There is no draft instrument that has been exhibited or notified that would prevent this S. 4.55 (2) modification application being approved by Council.

**7.3 “SECTION 4.15 (1) (b): The likely impacts of that development, including environmental impacts on both the natural and built environment, and social and economic impacts in the locality”.**

**7.3.1 Topography/Geology.**

There are no topographical or geological impediments which would prevent the proposed modification to Consent 46209/2014 – Part 4 from being approved.

### **7.3.2 Flora and Fauna.**

There is no native vegetation or fauna habitat on the subject land and consequently the proposed consent modifications will not have any adverse impact on any native flora, fauna, wildlife corridors or critical habitat in the locality.

### **7.3.3 Soil Disturbance and Sediment Control.**

The proposed consent modifications do not involve any additional soil disturbance to that considered and approved under the original development consent. The existing consent contains suitable conditions to mitigate erosion and sedimentation impacts.

### **7.3.4 Drainage and Stormwater Management.**

The proposed consent modifications do not involve any increase impervious areas or stormwater flows from the originally approved development, or any change to the water cycle or stormwater management measures contained in the approved development.

### **7.3.5 Access, Traffic Generation and Car Parking.**

This S 4.55 (2) application to modify Development Consent 46209/2014 – Part 4 is accompanied by a *Traffic and Parking Assessment (April 2022)* prepared by ‘Transport and Traffic Planning Associates’, a copy of which is provided in Appendix I. The assessment addresses:

- Road Network and Traffic Conditions;
- Parking;
- Traffic; and
- Access, Internal Circulation and Servicing.

The proposed modification of Consent 46209/2014 – Part 4 does not raise any access, traffic generation or car parking matter which would prevent the proposed the modification to Consent 46209/2014 – Part 4 from being approved.

### **7.3.6 Visual Impact Assessment.**

This S 4.55 (2) application to modify Development Consent 46209/2014 – Part 4 is accompanied by a *Visual Impact Assessment (May 2022)* prepared by Urbaine Architectural, a copy of which is provided in Appendix G.

The *Visual Impact Assessment* concludes:

*“The provisions of the State Environmental Planning Policy (Precincts – Regional) 2021 – (Chapter 5 – Gosford City Centre) are clear in their intents with respect to a number of specific outcomes:*

- *developed character is an important aspect which contributes to the city the must therefore be conserved and enhanced;*
- *modification has to be compatible with the primary functions of the zone and will not have an unacceptable impact on the community, locality or catchment;*
- *the natural environment and ecological values are to be preserved and maintained; and*
- *the scenic values of the local area and views from the local area will not be detrimentally affected.*

*These intended outcomes indicate that local character, legibility and preservation of views to the natural environment are considered to be key factors for future modification.*

*The proposed modification, at Nos. 27 to 37, Mann Street, creates a minimal amount of additional view loss, when compare to the approved development on the site, as shown within this report and the accompanying Appendix A. The highest view loss is incurred by the Broadwater Apartment building apartments, adjoining the subject site to the east.*

*As can be observed in this report, the latest design seeks to complement the overall modification plan within this area of the Gosford CBD. To the west of the site, at 26-30, Mann Street, an approved application, SSD23588910, including the associated modification of the Southern and Eastern tower envelopes, sets the context for future modification and, prior to an approval of the proposed modification at Nos.27-27, Mann Street, is already creating significant view loss to neighbouring buildings – an inevitable result of the planning proposals for growth in this area of Gosford CBD.*

*The proposed modification, in terms of visual impact, is minimal and consistent with the aims and objectives of the State Environmental Planning Policy (Precincts – Regional) 2021 – (Chapter 5 – Gosford City Centre).and 'Gosford Alive' guidelines, in that it is a suitable modification for the area, while seeking to accommodate the more general principles of view sharing, outlined in the DCP and LEP. In relation to view loss, the scale, built form and planning of the proposed modification provides a fair response to the intended outcomes of the Gosford City Centre SEPP, although the visual impact is greatest within the immediate neighbouring context.*

*The visual impacts of the proposed modification are considered to be compatible with the existing visual context and satisfy the intents and objectives of the Gosford Local Environmental Plan. In addition, the view loss caused by approved modifications to the west of the subject site, are already significant and, when reviewed alongside any additional view loss created by this proposal, are in keeping with the overall planning guidelines for this area of Gosford.*

- *Based on this report, and when assessed within the context of future growth in this area of Gosford, I would recommend the S 4.55(2) Modification Application for approval.”*

### **7.3.7 Potential Amenity Impacts on Neighbours or the public domain.**

The proposed modification of Consent 46209/2014 – Part 4 does not result in unreasonable impacts on the use or enjoyment of neighbouring properties, or the public domain (refer to Figures 28 – 29 (overshadowing) and the Visual Impact Assessment provided in Appendix G).

### **7.3.8 Cultural Heritage (“Creighton Funeral Parlour”).**

This S 4.55 (2) application to modify Development Consent 46209/2014 – Part 4 is accompanied by a *Statement of Heritage Impact (April 2022)* prepared by ‘Heritage 21 Pty Ltd’, a copy of which is provided in Appendix H.

The report notes in section 5.1.4, elements of the proposed modified development that relate to Heritage Item 37, including changes in design of the commercial/residential tower; and construction of freestanding, transparent arbour structures and a low sandstone wall along the primary Mann Street elevation/frontage of the heritage item.

The *Statement of Heritage Impact* addresses the requirements of Clause 5.36 – Heritage Conservation of *State Environmental Planning Policy (Precincts – Regional) 2021 – Chapter 5 – Gosford City Centre*, concluding:

*“Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and would engender a positive impact on the heritage significance of the subject site and the heritage items in the vicinity. We therefore recommend that Central Coast Council view the application favourably on heritage grounds”.*

### **7.4 “SECTION 4.15 (1) (c): The suitability of the site for the proposed development”.**

The proposed consent modifications raise no adverse impacts or consequences in regard to the principles of Ecologically Sustainable Development. The site is demonstrated to be suitable for the proposed development as proposed to be modified by this application.

### **7.5 “SECTION 4.15 (1) (d): Any Submissions Made in Accordance With the Act or the Regulations”.**

No public submissions have been received in relation to the proposed modified development.



### **7.6 “SECTION 4.15 (1) (e): The Public Interest”.**

The proposed modifications to Development Consent No. 46209/2014 – Part 4 do not raise any matter which may be regarded as contrary to the public interest or prevent the application from being approved.

### **8. CONCLUSION.**

This Statement of Environmental Effects demonstrates that the proposed modifications to Development Consent No. 46209/2014- Part 4 detailed in section 5 of this Statement of Environmental Effects are:

- consistent with relevant State and local planning frameworks for the locality; and
- Council can reasonably form the view that the proposed modified development has is substantially the same as the originally approved development and has minimal environmental effect.

Consequently, Council is requested to exercise the modification power available to it under S.4.55 (2) of the Environmental Planning and Assessment Act 1979 to approve this application for modification of Development Consent No. 46209/2014 – Part 4 in the manner detailed in section 5 of this Statement.

**Doug Sneddon**  
**4<sup>th</sup> June 2022.**

## **APPENDIX A: COST REPORT**

**(Property & Building Assessments Pty Ltd – 12<sup>th</sup> May 2022)**

REGISTERED\* QUANTITY SURVEYOR'S DETAILED COST REPORT

GOSFORD CITY COUNCIL

Section 7.11 Development Contribution Plan

Development costs in excess of \$1,000,000

APPLICATION DETAILS:

Development Application No.: .....  
Complying Development Certificate Application No.: .....  
Construction Certificate No.: .....

PROPERTY ADDRESS:

27-37 Manns Road GOSFORD, NSW

PROJECT DESCRIPTION:

Proposed Mixed Use Residential, Commercial & Retail Development

APPLICANTS DETAILS:

Name (or Company Name ACN): Doug Sneddon Planning Pty Ltd  
Postal Address: 2/101 EXCELSIOR STREET, WILLOW  
Phone.: 0408 432 838  
Email: sneddojdoug@gmail.com

ANALYSIS OF DEVELOPMENT COSTS

Item		
Gross Floor Area – Residential:	m <sup>2</sup>	12585.00
Gross Floor Area – Commercial:	m <sup>2</sup>	310.00
Gross Floor Area – Retail:	m <sup>2</sup>	1076.00
Gross Floor Area – Basement:	m <sup>2</sup>	7590.00
Site Area:	m <sup>2</sup>	2948.00
Total Car Parking Spaces:		217
Total Development Costs:	\$	45,316,738.50 (incl. GST & Professional Fees)
Total Construction Costs:	\$	44,428,175.00 (incl. GST)
Total GST:	\$	4,119,703.50

DECLARATION:

I certify that I have:

- ✓ Inspected the plans the subject of the application for development consent;
- ✓ Prepared an elemental estimate in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors
- ✓ Calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning & Assessment Regulation at current prices;
- ✓ Included GST in the calculation of development costs; and
- ✓ Measured the Gross Floor Area in accordance with the Method of Measurement of Building Areas in the AIQS Cost Management Manual.



Approved for issue by: \_\_\_\_\_

Name: Angelo Antidormi  
Position & Qualifications: Director – MAIQS, CQS, (AIQS Reg. No. 6901)  
Date: 12<sup>th</sup> May 2022

Property & Building Assessments Pty Ltd  
Level 4, 29 Kiara Road MIRANDA, NSW 2228  
Phone: (02) 9522 6407  
E-mail: info@pbaqs.com.au  
ABN 53 099 018 470

Statement of Environmental Effects: Application to Central Coast Council pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act to modify Development Consent No. 46209/2014 – Part 4 for mixed use development on Lots A & C DP 355117; Lots 10 – 11 DP 591670; and Lots 1 – 4 DP 382784, No. 125 Georgiana Avenue and Nos. 27-37 Mann Street, Gosford.

Doug Sneddon Planning Pty Ltd – June 2022.

## 2.0 ELEMENTAL COST ESTIMATE SUMMARY

Trade Description	% Job	Cost \$/m2	\$ Total
Preliminaries	6.90%	\$ 199.47	\$ 2,786,858.25
Builder's Margin	2.90%	\$ 83.84	\$ 1,171,288.25
Demolition	0.32%	\$ 9.25	\$ 129,245.60
Site Preparation	0.10%	\$ 2.89	\$ 40,389.25
<b>Substructure</b>			
Excavation	2.05%	\$ 59.26	\$ 827,979.63
Basement/s	10.40%	\$ 300.66	\$ 4,200,482.00
<b>Superstructure</b>			
Columns	1.02%	\$ 29.49	\$ 411,970.35
Upper Floors	17.15%	\$ 495.80	\$ 6,926,756.38
Staircases	1.26%	\$ 36.43	\$ 508,904.55
Roofs	1.60%	\$ 46.25	\$ 646,228.00
External Walls	6.29%	\$ 181.84	\$ 2,540,483.83
Windows and Screens	4.71%	\$ 136.16	\$ 1,902,333.68
External Doors	0.30%	\$ 8.67	\$ 121,167.75
Internal Walls & Screens	3.52%	\$ 101.76	\$ 1,421,701.60
Internal Doors	0.80%	\$ 23.13	\$ 323,114.00
<b>Finishes</b>			
Wall Finishes	3.90%	\$ 112.75	\$ 1,575,180.75
Floor Finishes	3.72%	\$ 107.54	\$ 1,502,480.10
Ceiling Finishes	2.20%	\$ 63.60	\$ 888,563.50
<b>Fittings</b>			
Fitments	8.12%	\$ 234.74	\$ 3,279,607.10
<b>Services</b>			
Hydraulic Services	5.06%	\$ 146.28	\$ 2,043,696.05
Mechanical	4.35%	\$ 125.76	\$ 1,756,932.38
Fire Protection	4.12%	\$ 119.11	\$ 1,664,037.10
Electrical Services	4.88%	\$ 141.08	\$ 1,970,995.40
Transportation Services	1.70%	\$ 49.15	\$ 686,617.25
<b>External Works</b>			
Driveways, Footpaths, Paved Areas	0.96%	\$ 27.75	\$ 387,736.80
Boundary Walls, Fencing, Gates	0.27%	\$ 40.47	\$ 109,050.98
Landscaping, Swimming Pool and Improvements	1.40%	\$ 40.47	\$ 565,449.50
<b>Subtotal (Trade Items)</b>	<b>100.00%</b>	<b>\$ 2,890.93</b>	<b>\$ 40,389,250.00</b>
Contingency	0.00%	\$ -	\$ -
Professional Fees	2.00%	\$ 57.82	\$ 807,785.00
Other Related Development Costs	0.00%	\$ -	\$ -
<b>Sub-Total (Excluding GST)</b>		<b>\$ 2,948.75</b>	<b>\$ 41,197,035.00</b>
G.S.T			\$ 4,119,703.50
<b>Total</b>		<b>\$ 3,243.63</b>	<b>\$ 45,316,738.50</b>



### 3.0 NOTES

#### 3.1 Schedule of Quantities

Please note that the below quantities are estimates only and should not be construed to be exact quantities.

#### 3.2 Mark Ups & Allowances

No provision for Escalation has been included. Prices and rates throughout are held to include all labour, materials, workshop drawings, waste plant & equipment. The rates in this document are estimated and have NOT been confirmed by Suppliers or Subcontractors unless otherwise noted.

#### 3.3 Preliminaries

Preliminaries covers on-site costs not applicable to any particular trade and include site personnel, non-productive labour, site accommodation, scaffolding, waste bins, and plant hire etc. Any estimated percentage may vary subject to the type of builder contracted.

#### 3.4 Overheads / Margin

Overheads & Profit Margin: Covers off-site overheads and builder's profit. This percentage may vary subject to the builder contracted. Our estimate has been prepared on a Developer/Builder procurement allowing for reduced preliminaries and margin.

#### 3.5 Exclusions

- a) Land Costs
- b) Finance Costs
- c) Legal Fees
- d) Electrical Sub-Station
- e) Sydney Water Amplification Costs
- f) Escalation Costs
- g) Loose furniture & equipment
- h) Site Remediation Costs
- i) Works Outside Boundary
- j) Authority Fees

#### 3.6 Disclaimer

This estimate has been prepared for the purpose of providing an indicative development budget suitable for the purpose of a DA submission to Council and for no other purpose. This report has been prepared for the exclusive use of the *Customer and Council* and should not be relied upon by any other third party for any other purpose. Property & Building Assessments Pty Ltd (PBA) does not accept any contractual, tortious or other form of liability for any consequences, loss or damage which may arise as a result of any other person acting upon or using this report. PBA reserves the right to revise this report upon review of any additional information. PBA and its employees have no association with the parties concerned nor share any interest in the proposed development, thus eliminating any conflict of interest.

No structural drawings were available at the time of this report. Assumptions have been made on professional judgment. Our estimate summary has been prepared on an elemental basis and is subject to final structural drawings and specifications.

## **APPENDIX B: DEVELOPMENT CONSENT 46209/2014 –PART 4**

**(Central Coast Council - 8th January 2020).**

Telephone: 1300 463 954  
Please Quote: 46209/2014  
Responsible Officer: R A Eyre



Doug Snedden Planning Pty Ltd    sneddondoug@gmail.com  
2/101 Excelsior Street  
LISAROW NSW 2250

**APPLICATION NUMBER:** 46209/ 2014 Part 4  
**PROPOSAL:** Amendment under section 4.55(1A) of the *Environmental Planning and Assessment Act* to the Approved Mixed Use - Retail, Commercial, Restaurant, Residential Development and Demolition of Existing Structures (JRPP)  
Section 4.55 - Amend Consent Conditions 2.10 and 2.12 to Defer Liquid Waste Approval & Food Premises Fitout Compliance before Issue of a CC  
**PROPERTY:** LOT: A DP: 355117, Lot: C DP: 355117, LOT: 10 DP: 591670, LOT: 11 DP: 591670, LOT: 1 DP: 382784, LOT: 2 DP: 382784, LOT: 3 DP: 382784, LOT: 4 DP: 382784 No. 37 Mann Street GOSFORD, 125 Georgiana Terrace GOSFORD, 35 Mann Street GOSFORD, 33 Mann Street GOSFORD, 31 Mann Street GOSFORD, 29 Mann Street GOSFORD, 27 Mann Street GOSFORD, 27A Mann Street GOSFORD

Dear Sir/Madam

I refer to your application lodged 13 December 2019 for modification of consent 46209/2014.

Having regard to the provisions of section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*, the Council is of the opinion that the amended proposal is a minor modification and is substantially the same development consented to by the Council.

Accordingly, the consent dated 15 December 2016 is modified in the following manner:

- i The amendment of conditions 2.10 and 2.12.

Please note that the approved amendment does not extend the term of the original consent. Attached to this approval is the reproduced consent as amended.

The works (if any) that are associated with this amended development consent may require a modified construction certificate in accordance with clause 148 of the *Environmental Planning and Assessment Act 1979*.



Wyong Office: 2 Hely St / PO Box 20 Wyong NSW 2259  
Gosford Office: 49 Mann St / PO Box 21 Gosford NSW 2250

P 1300 463 954 | E [ask@centralcoast.nsw.gov.au](mailto:ask@centralcoast.nsw.gov.au) | W [centralcoast.nsw.gov.au](http://centralcoast.nsw.gov.au) | ABN 73 149 644 003

*Assessment Regulation 2000.*

Your attention is drawn to your right to appeal against the conditions to the Land and Environment Court of NSW.

Yours faithfully

Gary Murphy  
**Chief Executive Officer**

Per: *RA Eyre*

Date: 8 January 2020



## AMENDED CONDITIONS OF CONSENT PART 4

### 1.. PARAMETERS OF THIS CONSENT

#### 1.1. Approved Plans and Supporting Documents

The development shall be implemented substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "Development Consent" unless modified by any following condition.

##### Architectural Plans by Thrum Architects

Drawing	Description	Sheets	Issue	Date
DA-000	Cover Sheet	1	B	24/06/16
DA-001	Locality Plan	1	A	24/06/16
DA-002	Site Analysis Plan	1	A	24/06/16
DA-003	Survey Plan	1	A	24/06/16
DA-004	Site Plan	1	C	28/06/16
DA-101	Basement 2 Plan	1	F	24/06/16
DA-102	Basement 1 Plan	1	F	24/06/16
DA-103	Ground Floor Plan	1	E	24/06/16
DA-104	Level 1 Plan	1	F	24/06/16
DA-105	Level 2 Plan	1	F	24/06/16
DA-106	Level 3 Plan	1	C	24/06/16
DA-107	Level 4 Plan	1	B	24/06/16
DA-108	Level 5 Plan	1	G	24/06/16
DA-109	Level 6 Plan	1	B	24/06/16
DA-110	Level 7 Plan	1	B	24/06/16
DA-111	Level 8 Plan	1	B	24/06/16
DA-112	Level 9 Plan	1	B	24/06/16
DA-113	Level 10 Plan	1	B	24/06/16
DA-114	Level 11 Plan	1	B	24/06/16
DA-115	Level 12 Plan	1	B	24/06/16
DA-116	Level 13 Plan	1	B	24/06/16
DA-117	Level 14 Plan	1	B	24/06/16
DA-118	Level 15 Plan	1	B	24/06/16
DA-119	Level 16 Plan	1	E	24/06/16
DA-120	Level 17 Plan	1	B	24/06/16
DA-121	Level 18 Plan	1	E	24/06/16
DA-122	Roof Plan	1	B	24/06/16
DA-401	Line Elevations Sheet 1	1	C	24/06/16
DA-402	Line Elevations Sheet 2	1	C	24/06/16
DA-403	Rendered Elevations Sheet 1	1	B	24/06/16
DA-404	Rendered Elevations Sheet 2	1	B	24/06/16

Drawing	Description	Sheets	Issue	Date
DA-501	Sections Sheet 1	1	D	24/06/16
DA-502	Sections Sheet 2	1	C	24/06/16
DA-601	Shadow Diagrams Sheet 1	1	C	24/06/16
DA-602	Shadow Diagrams Sheet 2	1	C	24/06/16
DA-701	Rendered Perspectives Sheet 1	1	A	24/06/16
DA-702	Rendered Perspectives Sheet 2	1	A	24/06/16
DA-703	Rendered Perspectives Sheet 3	1	A	24/06/16
DA-704	Rendered Perspectives Sheet 4	1	A	27/06/16
DA-801	Envelop & Height Plan Analysis	1	B	24/06/16
DA-802	GFA & FSR Calculations	1	B	24/06/16
DA-803	Sight Lines Analysis Plans	1	A	24/06/16
DA-804	Comparison Views from Broadwater		A	24/06/16

#### Civil Engineering Design by Cubo Consulting Pty Ltd

Drawing	Description	Sheets	Issue	Date
16027-100	Cover & Notes Sheet	1	1	24/06/16
16027-105	External Works	1	1	24/06/16
16027-106	Bulk Earthworks Plan	1	1	24/06/16
16027-111	Basement 1 Plan	1	1	24/06/16
16027-112	Ground Floor Plan	1	1	24/06/16
16027-113	Level 1 Plan	1	1	24/06/16
16027-114	Level 2 Plan	1	1	24/06/16
16027-115	Podium Level Plan	1	1	24/06/16
16027-120	Waste Collection Point & Access Route	1	1	24/06/16
16027-130	Indicative Erosion and Sediment Control Plan – Stage 1	1	1	24/06/16
16027-132	Indicative Erosion and Sediment Control Plan – Stage 2	1	1	24/06/16
16027-133	Indicative Erosion and Sediment Control Plan – Stage 3	1	1	24/06/16

#### Landscape Plans by Site Image Landscape Architects

Drawing	Description	Sheets	Issue	Date
LA-000	Coversheet, Site Plan and Plant Schedule	1	I	22/06/16
LA-C101	Landscape Masterplan Render	1	I	22/06/16
LA-101	Landscape Plan – Ground Floor	1	I	22/06/16
LA-102	Landscape Plan – Podium	1	I	22/06/16
LA-501	Landscape Details	1	I	22/06/16

#### Supporting Documentation

Document	Title	Date
DN 22873375	Statement of Environmental Effects	June 2016
DN 22873372	Peer Review Report	27/06/16
DN 22873376	Statement of Heritage Impact	24/06/16
DN 22873280	Waste Management Plan	25/11/15
DN 22873278	Supplementary Waste Management Report	24/06/16
DN 22873409	Water Cycle Management Plan	02/10/2015
DN 22873399	Supplementary Water Cycle Management Report	10/06/16
DN 22873277	Review of Geotechnical Aspects	11/08/14
DN 22873401	Traffic Impact Assessment	24/11/2015
DN 22873398	Supplementary Traffic Report	24/06/16
DN 22873412	Accessibility Assessment Report	10/06/16
DN 22873279	Visual Impact Statement	June 2016
DN 22873374	Review of Wind Effects	30/09/16
DN 22873400	Supplementary Wind Effects Report	24/06/16
DN 23029315	Visual Impact Assessment Report	15/07/16

## 1.2. Building Code of Australia

All building works must be carried out in accordance with the Building Code of Australia.

## 1.3. Submit amendments to the approved plans to the accredited certifier pursuant to Clause 139 of the *Environmental Planning Regulation 2000: Applications for construction certificates* that must detail:

- a. Heavy-duty vehicle crossing (Georgiana Terrace) that has a width of 6m and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom. NB The vehicle crossing shall not encroach north of the kerb and gutter into the road pavement. The grade of the vehicle crossing along its eastern edge shall be +2% from the rear of the gutter crossing to the property boundary. The grade of the vehicle crossing along its western edge shall be +5% from the rear of the gutter crossing to the property boundary.

## 2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

### 2.1. No activity is to be carried out on site until any Construction Certificate has been issued. Other than:

- a Site investigation for the preparation of the construction, and/or
- b Implementation of environmental protection measures, such as erosion control etc that are required by this consent.
- c Proposed first stage demolition works as shown on plans PP001 and PP002 (excluding Parlour Lane Drainage Diversion works) dated April 2019.

### 2.2. A dilapidation report is to be prepared by a practising structural engineer at no cost to Council or adjoining property owners, detailing the structural adequacy of adjoining



properties, including Council's property, and their ability to withstand the proposed excavation. This report must include any measures required to be incorporated to ensure that no damage will occur during the course of works. The report must be submitted to Council and relevant adjoining property owners prior to the issue of any construction certificate.

- 2.3. Submit an application to Council under Section 138 of the *Roads Act, 1993*, for the approval of required works to be carried out within the road reserve.

Submit to Council Engineering plans for the required works within a public road that have been designed by a suitably qualified professional in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control. The Engineering plans must be included with the Roads Act application for approval by Council.

The required works to be designed are as follows:

- a. Upgrade of the roadway and footway across the full frontages of the site in Mann Street and Georgiana Terrace in accordance with the Gosford City Centre "Streetscape Design Guidelines" prepared by Oculus dated September 2011.
- b. Heavy-duty vehicle crossing (Georgiana Terrace) that has a width of 6m and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom. The longitudinal grades of the vehicle crossing from the rear of the heavy-duty layback to the property boundary shall be +2% along its eastern edge and +5% along its western edge. The vehicle crossing shall not encroach north of the kerb and gutter into the road pavement.
- c. Heavy-duty layback located in Georgiana Terrace associated with the heavy-duty vehicle crossing.
- d. Vehicle crossing (Parlour Lane) located at the waste collection point, which has a minimum width of 3.5m and constructed with 150mm thick concrete reinforced with 1 layer of SL72 steel fabric. The southern side of the waste enclosure opening shall be located approximately 11.5m from the southern boundary.
- e. Reinforce concrete layback in Parlour Lane associated with the vehicle crossing.
- f. All redundant dish crossings and/or damaged kerb and gutter are to be removed and replaced with new kerb and gutter.
- g. The piping of stormwater from within the site to Council's drainage system located in Georgiana Terrace.
- h. Extension of the piped stormwater drainage system within Georgiana Terrace to the eastern side of the proposed heavy-duty vehicle crossing.
- i. Construction of public stormwater in Parlour Lane at the southern end of the property frontage generally in accordance with the plan prepared by Cubo Consulting Pty Ltd, drawing number 16027-105 (revision 1).



- j. Removal of the redundant stormwater pipe and pit within Parlour Lane at the southern end of the property frontage, and reinstatement of the roadway, kerb and gutter.

The Roads Act application must be approved by Council.

A fee for the approval of engineering plans under the *Roads Act 1993* applies. The amount of this fee can be obtained by contacting Council's Customer Services on (02) 4325 8222.

- 2.4. Submit a dilapidation report to Council with the Roads Act application and / or Construction Certificate application. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development.
- 2.5. A security deposit of \$100,000 must be paid into Council's trust fund prior to the issue of any Construction Certificate. The payment of the security deposit is required to cover the cost of repairing damage to Council's assets that may be caused as a result of the development. The security deposit will be refunded upon the completion of the project if no damage was caused to Council's assets as a result of the development.
- 2.6. Submit an application to Council, under Section 68 of the Local Government Act, for the approval of required drainage works associated with public stormwater / watercourse works.

Engineering plans for the works must be prepared and designed by a suitably qualified professional in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control, and submitted to Council for approval with the Local Government Act application.

The required works to be designed are as follows:

- a. Construction of public stormwater drainage over Lots 101 & 102 DP 1204968, from the southern end of Parlour Lane connecting to Council's drainage system located on Lot 101 DP 1204968, generally in accordance with the plan prepared by Cubo Consulting Pty Ltd, drawing number 16027-105 (revision 1).

The Local Government Act application must be approved by Council.

A fee for the approval of engineering plans under the Local Government Act applies. The amount of this fee can be obtained by contacting Council's Customer Services on (02) 4325 8222.

- 2.7. Submit engineering details prepared and certified by a practising structural engineer to the Council (Water Authority) for development constructed near or over the sewer main and / or adjacent to Council's water mains. The engineering details must comply with Council's guidelines for "Building Over or Near Council Sewer and Water Mains" and must be approved by Council. A fee for engineering plan assessment must be paid when submitting the engineering details.

Additional fees for the submission of contractor's documentation and sewer inspection fees apply for the adjustment or encasement of Council's sewer main. Subject to approval of the engineering plans, and payment of the prescribed fees, the developer must contact Council's Water and Sewer Quality Inspector on mobile phone 0419 412 725 a minimum of one week prior to commencement of any work involving building over and / or adjacent to sewer mains.

- 2.8. Submit design details of the following engineering works within private property:
- a. Driveways / ramps and car parking areas must be designed according to the requirements of AS2890: *Parking Facilities* for the geometric designs, and industry Standards for pavement designs.
  - b. A stormwater detention system must be designed in accordance with the Gosford DCP 2013 Chapter 6.7 - Water Cycle Management and Council's Civil Works Specification. The stormwater detention system must limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1% AEP storm event. A runoff routing method must be used. An on-site stormwater detention report including an operation and maintenance plan must accompany the design. On-site stormwater detention (OSD) is not permitted within private courtyards, drainage easements, and/or secondary flowpaths. Any reduction in the OSD volume obtained by applying a credit of 50% of the stormwater retention volume shall be determined by including the half-full retention tank volume in the runoff routing computer model.
  - c. Nutrient/pollution control measures must be designed in accordance with Gosford DCP 2013 Chapter 6.7 - Water Cycle Management. A nutrient / pollution control report including an operation and maintenance plan must accompany the design.
  - d. On-site stormwater retention measures must be designed in accordance with Council's DCP Chapter 6.7 - Water Cycle Management. A report detailing the method of stormwater harvesting, sizing of retention tanks for re-use on the site and an operation and maintenance plan shall accompany the design.
  - e. Piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system located in Georgiana Terrace.

These design details and any associated reports must be included in the construction certificate.

- 2.9. Submit engineering details prepared by a practising structural engineer to Council for structures constructed adjacent to a Council stormwater system and/or drainage easement and within the zone of influence. Engineering details must have footings designed in accordance with Council's "Guidelines for Building Adjacent to a Drainage Easement" and be approved and form part of the Construction Certificate.

- 2.10. Prior to the issue of a Construction Certificate for the fitout of the food premises, submit an

application, with the relevant fee, to Council under Section 68 of the *Local Government Act 1993* for an approval to discharge liquid trade waste to Council's sewerage system. The *Application to Discharge Liquid Trade Waste* can be found on Council's website: [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au)

- 2.11. A Tree Protection Plan must be approved by Council before the issue of a Construction Certificate. The Plan must be prepared by a qualified Arborist and provide details of tree protection measures to be taken during demolition and construction to protect the Significant Tree "Livistona Palm".
- 2.12. A Construction Certificate for the fitout of the food premises is to comply with the Food Act, 2003, Food Regulation 2010, Food Standards Code and the Australian Standard AS4674 for the Design, Construction and Fitout of Food Premises. Details of compliance are to be included in the plans and specifications for the Construction Certificate to the satisfaction of the certifying authority.
- 2.13. The payment to Council of a contribution of **\$488,746.50** in accordance with the Gosford City Council Section 94A Development Contribution Plan - Gosford City Centre.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Gosford City Council Section 94A Development Contribution Plan – Gosford city Council. The basis of the calculation and the total amount is to be indexed quarterly in accordance with the Consumer Price Index (All Groups index) for Sydney issued by the Australian Statistician as outlined in the contribution plan.

The contribution is to be paid prior to the issue of any Construction Certificate.

A Construction Certificate is not to be issued by a certifying authority until the developer has provided the certifying authority with a copy of a receipt issued by Council that verifies that the Section 94 contributions have been paid in accordance with the wording of this condition. A copy of this receipt is to accompany the documents required to be submitted by the certifying authority to Council under Clause 104 of the Environmental Planning and Assessment Regulation 2000.

A copy of the Contributions Plan may be inspected at the office of Gosford City Council, 49 Mann Street or on Council's website.

[www.gosford.nsw.gov.au/building-and-development/planning-guidelines-and-forms/contributions-plan](http://www.gosford.nsw.gov.au/building-and-development/planning-guidelines-and-forms/contributions-plan)

- 2.14. The waste truck servicing grade is to be 3% or less for the following areas:
  - Within the enclosure
  - For bulk bin roll out pads.
- 2.15. No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.
- 2.16. Construction Certificate plans to indicate commercial waste storage area/s for each



commercial tenancy sized consistent with the Better Practice Code for Waste Management in Multi-Dwellings by DECC.

- 2.17. The preparation and approval by the Principal Certifying Authority of a Construction Management Plan. The plan shall provide for delivery and storage of materials, workers parking, hours of construction, noise and dust control. The plan is to include a Construction Traffic Management Plan (CTMP) for the construction phase of the development including a Vehicle Movement Plan and Traffic Control Plan. The CTMP should be prepared with the intention of causing minimal impact to the operation of the road network during construction of the development.
- 2.18. Storage is to be provided for each unit in accordance with the requirements of Gosford DCP 2013, as varied by the SEPP 65 guidelines.
- 2.19. An amended BASIX Certificate is to be prepared to reflect the approved plans pursuant to the provisions of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- 2.20. Prepare a Construction Traffic Management Plan (CTMP) including a Vehicle Movement Plan and Traffic Control Plan. The CTMP shall be prepared with the intention of causing minimal impact on the operation of the road network during construction of the development. The Construction Traffic Management Plan (CTMP) shall be prepared and approved by the Principal Certifying Authority and provide for:
  - Delivery and storage of materials
  - Worker's parking and amenities
  - Hours of construction
  - Noise and dust mitigation
  - Process of handling complaints
  - Crane permits (crane location plan)
- 2.21. An Interpretation Plan shall be prepared by a suitably qualified heritage consultant, to include appropriate measures to interpret the heritage significance of the building to be retained and adaptively reused, including measures for ongoing maintenance. The Plan is to be submitted for approval and approval obtained prior to the approval of the Construction Certificate and approved measures shall be detailed in the application for the Construction Certificate.

### 3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. Any construction certificate for the building work is to be issued and the person having the benefit of the development consent must appoint a Principal Certifying Authority prior to the commencement of any building works.

The Principal Certifying Authority (if not the Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than 2 days before the building work commences.



- 3.2. A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- 3.3. Site works are not to commence until the sediment control measures have been installed in accordance with the approved plans.
- 3.4. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:
- a. The name, address and telephone number of the principal certifying authority for the work; and
  - b. The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
  - c. That unauthorised entry to the work site is prohibited.

The sign is to be removed when the work has been completed.

- 3.5. Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer
- 3.6. Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures must be in accordance with the NSW WorkCover publication titled, '*Site Security and Public Access onto Housing Construction Sites*' and installed prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

- 3.7. A suitable hoarding or fence is to be erected between the building or site of the proposed building and any public place to prevent any materials from or in connection with the work, falling onto the public place.

If it is intended or proposed to erect the hoarding or fence on the road reserve or public place, a separate application made under the *Roads Act 1993* will need to be lodged with Council together with the associated fee.

- 3.8. Prior to commencement of any demolition work, the property's sewer connection must be disconnected at the Inspection Shaft and capped, except for first stage demolition works where no sewer is connected to the buildings to be demolished.
- 3.9. The removal of more than 10 square metres of non-friable asbestos or asbestos containing material must be carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos

removalist. Friable asbestos (of any quantity) must only be removed by a licensed removalist with a friable (Class A) asbestos removal licence.

The person having the benefit of this consent must provide the principal certifying authority with a copy of a signed contract with such licensed removalist before any construction pursuant to the development consent commences.

Any such contract must indicate whether any non-friable asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the non friable asbestos material or friable asbestos material is to be delivered.

If the contract indicates that non friable asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the complying development certificate must give the principal certifying authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

The person having the benefit of the consent must provide the principal certifying authority with a clearance certificate to be prepared by a competent person such as a qualified hygienist at completion of asbestos removal/work from the site.

If a residential premise is a workplace, the licensed asbestos removalist must inform the following persons before licensed asbestos removal work is carried out:

- the person who commissioned the work
- a person conducting a business or undertaking at the workplace
- the owner and occupier of the residential premises
- anyone occupying premises in the immediate vicinity of the workplace (as described in section 467 of the NSW Work Health and Safety Regulation 2011).

- 3.10. The submission to and approval by Council prior to the commencement of any works, of details for the disposal of any spoil gained from the site and /or details of the source of fill, heavy construction materials and proposed routes to and from the site. Details shall be provided prior to the commencement of works and at latter stages of construction if details change.

In the event that any spoil is to be disposed of from site, the generator of the waste is obliged to classify the soil in accordance with the Waste Classification Guidelines, Part 1: Classifying Waste (Ref 4).

- 3.11. Action the following when an excavation extends below the level of the base of the footings of any building, structure or work on the land:
- a. protect and support the building, structure or work from possible damage from the excavation, and
  - b. underpin the building, structure or work where necessary, to prevent any such damage.

These actions must be undertaken by the person having the benefit of the development consent at their own expense.

#### 4.DURING WORKS

- 4.1. Clearing of land, excavation, and/or earthworks, building works, and the delivery of building materials shall be carried out between the following hours:

Mondays to Fridays - 7:00am to 6:00pm

Saturdays - 8:00am to 4:00pm except as noted in Clause 'b'

- a No work is permitted on Sundays and Public Holidays
- b No work is permitted on:
  - Saturdays when a public holiday is adjacent to that weekend.
  - Construction industry awarded rostered days off.
  - Construction industry shutdown long weekends.

Clause b does not apply to works of a domestic residential nature as below:

- i Minor renovation or refurbishments to single dwelling construction.
  - ii Owner occupied renovations or refurbishments to single dwelling construction.
  - iii Owner builder construction of single dwelling construction; and/or
  - iv Any cottage constructions, single dwellings or housing estates consisting of predominantly unoccupied single dwellings.
- 4.2. Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Erosion Sedimentation Control Policy D6.46.
- 4.3. Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.
- 4.4. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made is responsible to notify the neighbour and responsible for the protection and preservation of the adjoining allotment of land.
- 4.5. Buildings are to be demolished in a safe and systematic manner in accordance with the requirements of Australian Standard *AS 2601-2001 - Demolition of Structures*, and disposed of in an approved manner.
- 4.6. Should any Aboriginal objects or artefacts be uncovered during works on the site, all works shall cease. The Office of Environment and Heritage shall be contacted immediately and any directions or requirements complied with.
- 4.7. Submit a report prepared by a registered Surveyor to the Principal Certifying Authority at each floor level of construction of the building (prior to the pouring of concrete) indicating



that the top level soffit of slab framework is in accordance with the approved plans.

- 4.8. Construct the works within the road reserve that required approval under the Roads Act. The works must be constructed in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control.
- 4.9. Construct the public stormwater / watercourse works that required approval under the Local Government Act 1993. The works must be constructed in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control.
- 4.10. Garbage Chutes to be in accordance with Appendix F: Garbage Chutes, Chapter 7.2 - Waste Management of Gosford DCP 2013.
- 4.11. Incorporate the following Crime Prevention Through Environmental Design (CPTED) principles and strategies to minimize the opportunity for crime:
  - a. Provide adequate lighting to common areas as required under *AS1158: Lighting for roads and public spaces*.
  - b. Paint the ceiling of the car park white.
  - c. Design of landscaping, adjacent to mailboxes and footpaths, must not provide concealment opportunities for criminal activity.
  - d. Design the development to avoid foot holes or natural ladders so as to minimise unlawful access to the premises.
  - e. Provide signage within the development to identify all facilities, entry/exit points and direct movement within the development.
- 4.12. Construction of Garbage Chute, Scissor Lift and other ancillary waste related features to be strictly in accordance with the Better Practice Guide for Waste Management in Multi-Unit Dwellings and the relevant BCA requirements.
- 4.13. Internal waste storage enclosures and garbage rooms to be well ventilated, have impervious floors graded to a sump connection to sewer, be provided with a hot/cold tap protected from impact damage and be constructed in accordance with all relevant BCA requirements.
- 4.14. Comply with all Demolition and Construction requirements as detailed within the Waste Management Plan dated 25 November 2015 by Cardno and the Supplementary Waste Management Report dated 24 June 2016 by Cubo Consulting.
- 4.15. All plumbing work to be carried out by a licenced plumber who has a current licence registered with NSW Office of Fair Trading. The work must be inspected by Council's plumbing inspector and the inspection fee to be paid to Council's Customer Service Section before an inspection can be carried out. Also the licence plumber must submit a notice of work for plumbing and drainage application 2 days prior to Council before an inspection can be carried out. This falls under the Plumbing Code of Australia from 1 January 2013.
- 4.16. The floor of the designated vehicle carwashing area is to be graded and drained to a silt arrestor pit. The silt arrestor pit is to be connected to the sewer in accordance with the



requirements of Council's Trade Waste Section.

- 4.17. No road or ground anchors are to extend into Council road reserves.
- 4.18. The design of any mechanical ventilation system must be carried out by a practising Mechanical Engineer and must be capable of certifying that the construction, installation and operation of the exhaust hood ventilation system will meet the requirements as AS 1668.1 and/or AS 1668.2.

#### **5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE**

- 5.1. Application for any Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.
- 5.2. The premises not being occupied until any occupation certificate has been issued.
- 5.3. Any refrigerated/cooling/freezing chamber, which is of sufficient size for a person to enter must have-
- a a door which is capable of being opened by hand from inside without a key; and
  - b internal lighting controlled only by a switch is located adjacent to the entrance doorway inside the chamber; and
  - c an indicator lamp positioned outside the chamber which is illuminated when the interior light is switched on; and
  - d An alarm that is-
    - a. located outside but controllable only from within the chamber; and
    - b. able to achieve a sound pressure level outside the chamber of 90dB(A) when measured 3m from the sounding device.
- The door required by (a) above must have a doorway with a clear width of not less than 600mm and a clear height of not less than 1.5m.
- 5.4. Council is to be notified upon completion of work and following the issue of the occupation certificate, prior to trading commencing to enable the premises to be inspected by Council's Environmental Health Officer and for the premises to be registered with the Council as a food premises.
- 5.5. A warning notice is to be erected in a prominent position in the immediate vicinity of the swimming pool. The notice must be erected and contain the necessary information in accordance with Clause 10 of the Swimming Pools Regulation 2008.
- 5.6. The swimming pool is to be fenced in accordance with the *Swimming Pools Act 1992* and prior to the pool being filled with water a satisfactory inspection being carried out by the principal certifying authority.
- 5.7. The backwash from the pool filter and overflow system is to be disposed of to the sewer and

where the sewer is not available in such a manner so as not to create a nuisance.

- 5.8. Impervious surface areas including pathways and driveways are to be graded and drained to prevent water run-off affecting adjoining properties.
- 5.9. Consolidate Lots A & C DP 355117, Lots 10 & 11 DP 591670, and Lots 1, 2, 3 & 4 DP 382784 into a single allotment under one Certificate of Title.
- 5.10. Construct, grade, drain, seal and line mark including directional arrows with impervious paving material the driveway, vehicle manoeuvring area and 205 car parking spaces as shown on the approved plans, in accordance with *AS2890.1-2004: Parking facilities - Off-street parking*.
- 5.11. Provide mail receptacles appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.
- 5.12. The street number is to be at least 100mm high and be clearly visible from the street frontage.
- 5.13. All satellite dish and telecommunication antennae, air conditioning units, ventilation stacks and ancillary structures are to be integrated into the roof-scape design and located away from the street frontage. A master antenna is to be provided and sited to minimise its visibility from surrounding public areas
- 5.14. Complete works within the road reserve that required approval under the Roads Act. The works must be completed in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control, and documentary evidence for the acceptance of such works must be obtained from the Roads Authority.
- 5.15. Rectify any damage not shown in the dilapidation report submitted to Council before site works had commenced. Any damage will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense.
- 5.16. Complete the internal engineering works within private property in accordance with the plans and details approved with the construction certificate.
- 5.17. Do not locate fencing, structures, or landscaping with a mature height greater than 300mm within a 4m x 4m splay corner located at the road intersection.
- 5.18. Amend the Deposited Plan (DP) to:
  - Include an Instrument under the *Conveyancing Act 1919* for the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants must be defined by bearings and distances shown on the plan.
  - a. Create a 'Restriction as to User' over all lots containing an on-site stormwater

detention system and/or a nutrient/pollution facility restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.

And,

- Include an instrument under the *Conveyancing Act 1919* for the following positive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Contact Council for wording of the covenant(s).
  - a. To ensure on any lot containing on-site stormwater detention system and / or a nutrient / pollution facility that:
    - (i) The facility will remain in place and fully operational.
    - (ii) The facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner
    - (iii) Council's officers are permitted to enter the land to inspect and repair the facility at the owners cost.
    - (iv) Council is indemnified against all claims of compensation caused by the facility.

Submit, to the Principal Certifying Authority, copies of registered title documents showing the restrictive and positive covenants.

- 5.19. Amend the deposited plan (DP) to include a Section 88B instrument under the *Conveyancing Act 1919* to indemnify Council against claims for loss or damage to the pavement and against liabilities losses, damages and any other demands arising from any on-site collection service, at the applicant's cost.
- 5.20. Submit certification from a consulting engineer to Council stating that all slabs, footings and / or retaining walls within the zone of influence associated with the Council stormwater system and / or drainage easement have been constructed in accordance with the Construction Certificate.
- 5.21. Council is to be notified upon completion of work and following the issue of the occupation certificate, prior to trading commencing to enable the premises to be inspected by Council's Environmental Health Officer and for the premises to be registered with the Council as a food premises.
- 5.22. Compliance with Part 5.4.1 Refuse Collection as detailed in the Traffic Impact Assessment Ref. 80514016, dated 25 November 2015 by Cardno.
- 5.23. Develop and implement a detailed Waste Management Strategy to clearly identify responsibilities, processes and procedures for management of waste generated within the completed development from all proposed uses.
- 5.24. Details of any proposed mechanical ventilation systems, detailing compliance with the relevant requirements of Clause F4.12 of the Building Code of Australia (BCA) and Australian Standard AS1668 Parts 1 & 2 (including exhaust air quantities and discharge location points)



are to be submitted to and approved by the PCA prior to the issuing of an Occupation Certificate.

A certificate being submitted at the completion of the installation from a practising Mechanical Engineer certifying that the construction, installation and operation of the exhaust hood ventilation system meets the requirements as AS 1668.1 and/or AS 1668.2.

## 6. ONGOING OPERATION

- 6.1. The motor, filter, pump and all sound producing equipment or fitting associated with or forming part of the pool filtering system is to be sound insulated and/or isolated so as not to create an offensive noise to the occupants of the adjoining premises as defined in the *Protection of the Environment Operations Act 1997*.
- 6.2. All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.
- 6.3. All loading and unloading of goods are to be conducted wholly within the site. Loading facilities, internal docks or goods handling areas are to be maintained free of obstruction for the sole use of delivery vehicles.
- 6.4. Maintain the on-site stormwater detention facility in accordance with the operation and maintenance plan.
- 6.5. Maintain the nutrient / pollution control facilities in accordance with the operation and maintenance plan.
- 6.6. Permanent signage to be prominently displayed within the waste room on each residential level to ensure no glass or bagged recycling is disposed of via the recycling chute.
- 6.7. All commitments detailed under Ongoing Management of the approved Waste Management Plan by Cardno dated 25 November 2015 (as modified by Condition 2.16) to be fully implemented.
- 6.8. Do not store materials, waste matter or products outside the building or the approved waste storage area at any time.
- 6.9. Line-mark and maintain the line-marking of all car parking areas and spaces required by this consent. Such spaces must be made available to all users of the site at all times during trading hours.
- 6.10. Waste storage to be as indicated on Drawing DA-103, Revision E, dated 24 June 2016 by Thrum Architects, Drawing DA-104, Revision F, dated 24 June 2016 by Thrum Architects and Drawing No. DA-105, Revision F, dated 24 June 2016 by Thrum Architects.



- 6.11. Commercial waste to be serviced by a Private Commercial waste contractor at times that do not conflict with Residential waste servicing.
- 6.12. The Commercial waste contractor to undertake risk assessment of the required reverse manoeuvre from Parlour Lane into Georgiana Terrace and implement relevant procedure/s to ensure the commercial waste contractor can safely service commercial waste from the commercial waste storage enclosure accessed off Parlour Lane.
- 6.13. Commercial waste to be serviced at a frequency to ensure adequate storage space is available at all times.
- 6.14. Commercial food waste ie restaurant/café to be double bagged and serviced at maximum 3 day intervals to minimise odour/vermin nuisance etc.
- 6.15. Prominent signage to be installed adjacent to the Residential waste chute to each floor to state "Mixed waste only disposed of into garbage chute".
- 6.16. A bin lifter is to be provided within the Residential and Commercial waste storage enclosures.
- 6.17. A mechanical waste bin transfer device to be available for transfer of bulk waste bins and mobile garbage bins at all times.
- 6.18. The person/s responsible for transfer of waste containers to be suitably trained and skilled in the operation of mechanical bin transfer devices and bin lifters.
- 6.19. Comply with On-going Use requirements generally as detailed in the Waste Management Plan dated 25 November 2015 by Cardno. **Note:** No recyclables disposal through chutes permitted and the supplementary Waste Management Report dated 24 June 2016 by Cubo Consulting.

## 7.ADVISE

- 7.1. The public authorities may have separate requirements and should be consulted in the following aspects:
  - a *Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - b *Jemena Asset Management* for any change or alteration to the gas line infrastructure;
  - c *Ausgrid* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - d *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.
  - e *Gosford City Council* in respect to the location of water, sewerage and drainage services.

- 7.2. All work carried out under this Consent should be done in accordance with WorkCover requirements including the Workplace Health and Safety Act 2011 No 10 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.

7.3. Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

- 7.4. The inspection fee for works associated with approvals under the Roads Act is calculated in accordance with Council's current fees and charges policy.
- 7.5. Payment of a maintenance bond may be required for civil engineering works associated with this development. This fee is calculated in accordance with Council's fees and charges.
- 7.6. The inspection fee for works associated with approvals under the Local Government Act is calculated in accordance with Council's current fees and charges policy.
- 7.7. It is the sole responsibility of the owner, builder and developer, to ensure that the proposed building or works complies with the requirements of the *Disability Discrimination Act*.  
NOTE: The *Disability Discrimination Act* (DDA) is a Federal anti-discrimination law. The DDA covers a wide range of areas including employment, education, sport and recreation, the provision of goods, services and facilities, accommodation and access to premises. The DDA seeks to stop discrimination against people with any form of disability including physical, intellectual, sensory, psychiatric, neurological, learning, disfigurement or presence in the body of a disease-causing organism. Whilst this development consent issued by Council is in accordance with the relevant provisions of the current *Building Code of Australia*, it does not indicate nor confirm that the application complies with the

requirements of the DDA.

## 8. PENALTIES

Failure to comply with this development consent and any condition of this consent may be a **criminal offence**. Failure to comply with other environmental laws may also be a **criminal offence**.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

### Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

## 9. REVIEW OF DETERMINATION

- 9.1. Subject to provisions of Section 82A of the Act the applicant may make an application seeking a review of this determination, providing it is made in time for Council to determine the review within six (6) months of this determination.

## 10. RIGHT OF APPEAL

- 10.1. Section 97 of the Act, confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court within six (6) months, from the date of determination.
- 10.2. To ascertain the date upon which the determination becomes effective refer to Section 83 of the Act.

**APPENDIX C: PHYSICAL COMMENCEMENT OF DEVELOPMENT CONSENT  
No. 46209/2014**

- **Doug Sneddon Planning Pty Ltd – Correspondence to Central Coast Council dated 6<sup>th</sup> November 2019; and**
- **Stormwater Augmentation - Work as Executed Drawings (Prepared by Northrop, Dated 26<sup>th</sup> July 2019 & 6<sup>th</sup> August 2019).**



Chief Executive Officer  
Central Coast Council  
49 Mann Street  
GOSFORD NSW 2250

Attention: Robert Eyre.

**RE: PHYSICAL COMMENCEMENT OF DEVELOPMENT CONSENT 46209/2014 –  
PART 3 FOR MIXED RETAIL, COMMERCIAL, RESTAURANT AND  
RESIDENTIAL DEVELOPMENT AT 27-37 MANN STREET &  
125 GEORGIANA TERRACE, GOSFORD.**

On the 18<sup>th</sup> January 2018 Central Coast Council approved a 12 month extension (i.e. to the 15<sup>th</sup> December 2019) for compliance with the conditions of Development Consent No. 46209/2014 – Part 3, for mixed use retail, commercial, restaurant, residential development and demolition of existing structures on land at Nos. 27-37 Mann Street and 125 Georgiana Terrace, Gosford.

Consistent with Consent Condition 2.1 (a) – (c) ('Prior to issue of any Construction Certificate') the following early site works associated with the '*Environmental, Construction and Site Management Plan for Early Works*' submitted to Central Coast Council on the 12<sup>th</sup> September 2019 have now been carried out and completed:

- Undertake services location work;
- Finalisation of Construction Management Plan for early works;
- Demolition of two (2) existing buildings to allow geological core drilling investigation of ground strata within the site and commence site clearing of empty buildings not currently leased;
- Asbestos removal associated with the approved Stage 1 building demolitions;
- Geotechnical investigation; and
- Site survey work.

The proponents have also worked in conjunction with Central Coast Council in coordinating and resolving the required stormwater diversion located in the south-eastern corner of the site (Parlour Lane) and are currently awaiting confirmation from Council that this work has been completed by Council in conjunction with stormwater drainage work also required on the adjacent property.

The timeframe for carrying out the above activities was as follows:

- **Week commencing 26<sup>th</sup> August 2019** - Rola Property Group (owners) approved commencement of site investigation, first stage demolition works;

2/101 Excelsior St,  
Lisarow NSW 2250  
**Tel:** 02 4328 3851  
**Mob:** 0408 432 838  
sneddondoug@gmail.com  
ABN: 20 100 396 914

- **Week starting 2<sup>nd</sup> September 2019** – Finalise scope of work with geotechnical contractor;
- **Week Starting 9<sup>th</sup> September 2019** – Complete/issue Construction Management Plan to contractor;
- **Week starting 16<sup>th</sup> September 2019** – Commence works; and
- **30<sup>th</sup> September 2019** – Complete early site investigation and first stage demolition works.

Having regard to the commencement and completion of early site works under the authority of development consent condition 2.1 (a) - (c), the physical commencement of Consent 46209/2014 – Part 3 has been achieved within the timeframe provided by the consent (i.e. the 15<sup>th</sup> December 2019) and consequently the consent is now operational.

**Yours Sincerely**



**Doug Sneddon**  
**6<sup>th</sup> November 2019.**











## **APPENDIX D: ARCHITECTURAL DESIGN REPORT**

**(KannFinch – April 2022)**

**(Copy provided under separate cover)**

## **APPENDIX E: LANDSCAPE & PUBLIC DOMAIN DESIGN**

**(Site Image (NSW) Pty Ltd – 4<sup>th</sup> May 2022)**

**(Copy provided under separate cover)**



**APPENDIX F: BASIX CERTIFICATE - 294660M**

**(Efficient Living Pty Ltd – 21<sup>st</sup> April 2022)**

**(Under Separate Cover)**

## **APPENDIX G: VISUAL IMPACT ASSESSMENT**

**(Urbaine Architectural – May 2022)**

**(Under Separate Cover)**

## **APPENDIX H: STATEMENT OF HERITAGE IMPACT**

**(Heritage 21 – 29<sup>th</sup> April 2022)**

**(Under Separate Cover)**

**APPENDIX I; TRAFFIC ASSESSMENT**  
**(Traffic and Transport Planning Associates – April 2022)**  
**(Under Separate Cover)**



**APPENDIX J: ACCESS REPORT**  
**(East Coast Accessibility Pty Ltd – 4<sup>th</sup> May 2022)**  
**(Under Separate Cover)**

**APPENDIX K: OPERATIONAL WASTE MANAGEMENT PLAN**

**(Elephants Foot Recycling Solutions – 29<sup>th</sup> April 2022)**

**(Under Separate Cover)**