

STATEMENT OF ENVIRONMENTAL EFFECTS

**S 4.55 (1A) APPLICATION TO MODIFY CENTRAL COAST COUNCIL
DEVELOPMENT CONSENT NO. 52083/2017 – PART 3
FOR ‘SHOP TOP HOUSING’ ON LOTS 19 & 20 DP 7861,
NOS. 5 & 7 CHURCH STREET, TERRIGAL.**

**PREPARED FOR ANGOLET PTY LTD &
NATVA INVESTMENTS PTY LTD.**

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NOVEMBER 2020

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the proposed modified development.**

1. INTRODUCTION.

Doug Sneddon Planning Pty Ltd has been engaged by Angolet Pty Ltd and Natva Investments Pty Ltd (c/- Slater Architects PO Box 552 Terrigal NSW 2260) to prepare this Statement of Environmental Effects to accompany an application to Central Coast Council pursuant to Section 4.55 (1A) of the Environmental Planning and Assessment Act 1979 to modify Development Consent No. 52083/2017 – Part 3, granted on the 4th September 2020 for the erection of a 5 storey building (*Shop Top Housing*) comprising ground floor business premises; twelve residential units and 36 car parking on Lots 19 and 20 DP 7861, Nos. 5 and 7 Church Street, Terrigal.

Application is made pursuant to S 4.55 (1A) of the EPA Act 1979 to modify Consent 52083/2017 – Part 3, so as to provide a new Level 6 penthouse, increasing the number of residential units from 12 (approved) to 13; consequentially revise the roof plan; and enlarge the terraces of the approved Level 5 residential units.

This Statement of Environmental Effects addresses relevant matters under Sections 4.55 (1A) and 4.15 (1) of the Environmental Planning and Assessment Act, 1979.

2. SUBJECT LAND.

The subject land is described as Part Lots 19 and 20 DP 7861, Nos. 5 – 7 Church Street, Terrigal. The following figures indicate the location and urban context of the subject land:

- Figure 1: Locality Plan;
- Figure 2: Site Aerial Photograph; and
- Figure 3: Zoning Plan (LEP 2014).

The subject land has an area of 942m²; a frontage to Church Street 24.385m; a rear boundary frontage to Hudson Lane of 24.385m; a northern side boundary of 38.605m and a southern side boundary of 38.66m. The site is relatively flat with a falling grade from Church Street (high point - RL4.09m AHD) towards Hudson Lane (low point - RL 2.72m AHD).

The subject land is functionally part of Terrigal Town Centre, having its principal frontage (24.385m) to Church Street and provides one of the few immediate opportunities for significant redevelopment consistent with the intended function of Church Street as one of the principal 'mixed use' streets within the Town Center.

Adjoining the northern side boundary is the side elevation of a two storey commercial building (No. 9 Church Street), whilst located adjacent to the southern boundary are one and two storey adjoining commercial/retail/restaurant premises fronting Kurrawyba Avenue.



Figure 1: Locality Plan.

Statement of Environmental Effects: S. 4.55 (1A) Application to modify Development Consent 52083/2017 - Part 3 for shop top housing and car parking on Lots 19 & 20 DP 7861, Nos. 5 & 7 Church Street, Terrigal

Doug Sneddon Planning Pty Ltd – November 2020.



Figure 2: Locality Aerial Photograph.

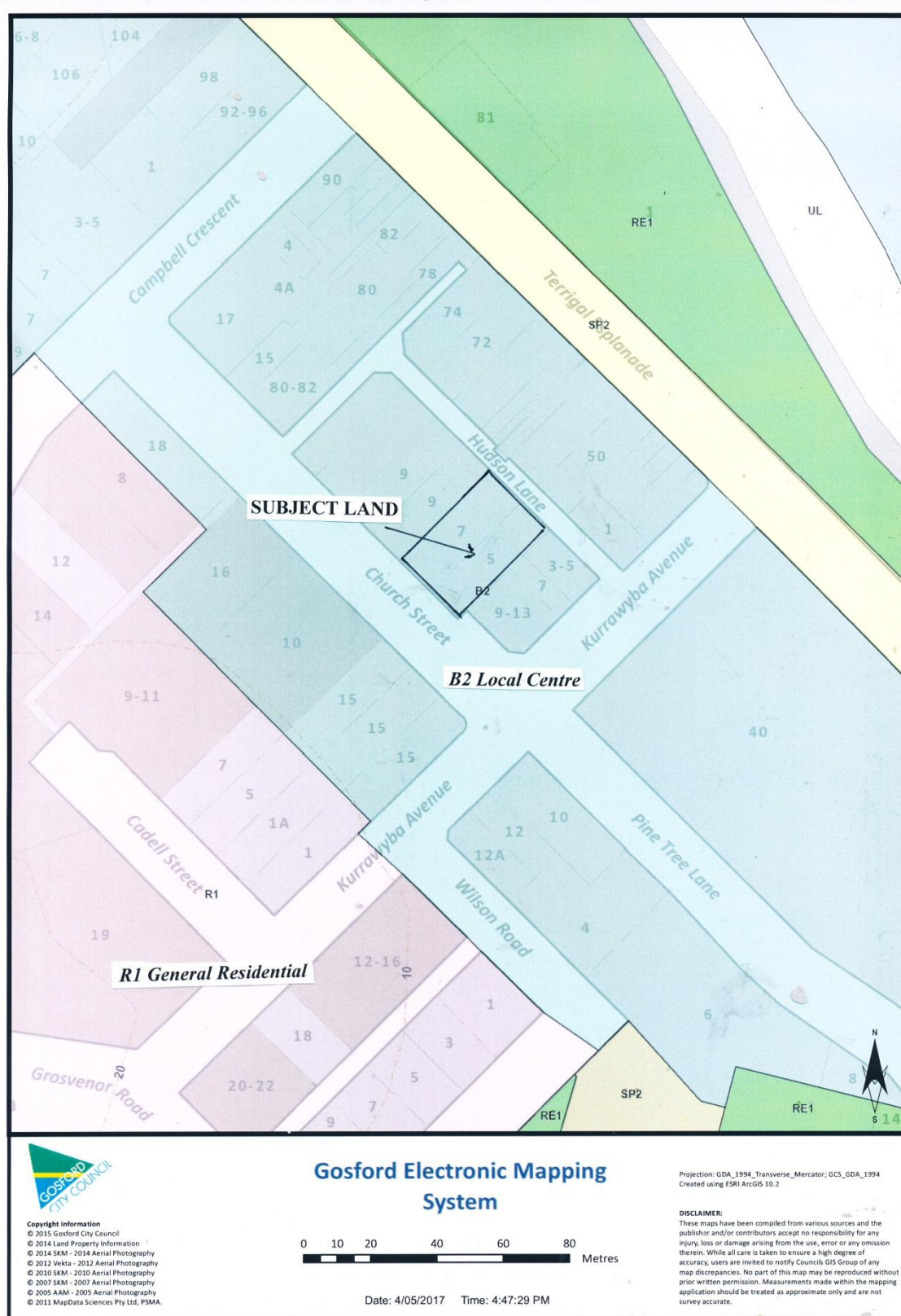


Figure 3: Zoning Plan (LEP 2014).

3. DEVELOPMENT CONSENT NO. 52083/2017.

(i) **Consent 52083/2017 – Part 1:** On the 28th October 2019 Central Coast Council granted Development Consent No. 52083/2017 – Part 1 for the erection of a five storey building on the subject land for *‘Shop Top Housing – Comprising of Two (2) Shops, Twelve (12) Residential Units & Car Parking’*.

(ii) **Modification Application 52083/2017 – Part 2 (withdrawn):** Modification application to convert the originally approved first floor car parking level to residential units and relocate that parking level to a basement, was withdrawn by the applicant on the 6th February 2020.

(iii) **Consent 52083/2017 – Part 3:** On the 4th September 2020 Central Coast Council **approved** the following modifications to the originally approved development:

- changing the approved category of use of ground floor premises from ‘shop’ to ‘Business Premises’;
- revised internal layout of Levels 1, 2, 3 and 4 to accommodate structural and service/amenities requirements;
- reconfiguration of car parking layout on Levels 1 and 2 to increase car spaces from the originally approved 23 spaces to 36 spaces (i.e. + 13 spaces);
- reduction of GFA of ground floor business premises from 315m² (approved) to 258m² (i.e. – 57m²) and provide 92m² of allocated storage for these tenancies;
- minor revision of ground floor foyer entry;
- minor change to floor set down levels to achieve 3.2m floor to floor for residential levels;
- Level 3 – minor change to internal layout of Units 2 and 6;
- Level 4 – reconfigure unit layouts; reduce Unit 7 from 3 to 2 bedrooms; and revise planter box depth/layout and privacy screens to suit;
- Level 5 – revise layout of Unit 11 and location of privacy screens;
- Elevations – revised materials/finishes to improve building aesthetics and minor window/privacy screen location to suit proposed internal building revisions; and
- minor increase to the height of the lift overrun from AHD RL 20.35m (approved) to AHD RL 20.43m (i.e. + 0.08m).

4. S.4.55 (1A) APPLICATION TO MODIFY CONSENT 52083/2017 – PART 3.

4.1 Application Overview.

Application is now made pursuant to S 4.55 (1A) of the EPA Act 1979 to modify Development Consent 52083/2017 – Part 3, so as to provide an additional storey (Level 6 Penthouse – 3 Bed/ Unit 13); revise the roof plan to suit; and modify the terrace arrangement of originally approved Level 5. There are no other modifications proposed to the approved architectural drawings.

A summary of the proposed design changes are provided in the accompanying Architectural Design Statement prepared by Slater Architects (October 2020), a copy of which is provided in Appendix B.

A numerical comparison of the approved and the proposed modified development is provided in the 'Areas Schedule' prepared by Slater Architects (October 2020), a copy of which is provided in Appendix C.

4.2. Proposed Modified Architectural Drawings.

A replacement set of architectural drawings has been prepared by Slater Architects (dated 17th November 2020) as presented in the following figures:

- Figure 4: Site & Roof Plan (Drawing DA001 – Revision 6);
- Figure 5: Level 1 – Ground & Site Plan (Drawing DA101 – Revision 8);
- Figure 6: Level 2 – First Floor Plan (Drawing DA102 – Revision 6);
- Figure 7: Adaptable Units – Floor Plans (Drawing DA102A – Revision 4)
- Figure 8: Level 3 - Second Floor Plan (Drawing DA103 – Revision 6);
- Figure 9: Level 4 – Third Floor Plan (Drawing DA104 – Revision 6);
- Figure 10: Level 5 – Fourth Floor Plan (Drawing DA105 – Revision 6);
- Figure 11: Level 6 – Fifth Floor Plan (Drawing DA106 – Revision 6);
- Figure 12: Elevations – Street & Laneway (Drawing DA200 – Revision 7);
- Figure 13: Elevations – Side (Drawing DA201 – Revision 8); and
- Figure 14: Sections (Drawing DA300 – Revision 8).

4.3 Proposed modification of consent conditions.

The proposed modified development will require the following modifications to the consent conditions of Development Consent 52083/2017 – Part 3:

- **Amend Consent 52083/2017 – Part 3 as required** to change the description of the approved development to “*Shop Top Housing – Comprising of Two (2) Business Premises, Thirteen (13) Residential Units & Car Parking*” to reflect the increase in residential units from the originally approved 12 units, to 13 units to reflect the proposed additional Level 6 - Penthouse;
- **Condition 1.1:** Amend so as to reference the replacement set of plans submitted with this S.4.55 (1A) application (as referenced in section 4.2 above); and
- **Condition 3.1:** Delete the first condition 3.1 referencing – “Submit notice of intention to commence subdivision, roads and stormwater drainage works” (Note: There are currently two 3.1 conditions in the consent) which is not relevant to the proposed development.

4.4 Basix Certificate.

An amended BASIX Certificate is provided in Appendix D.

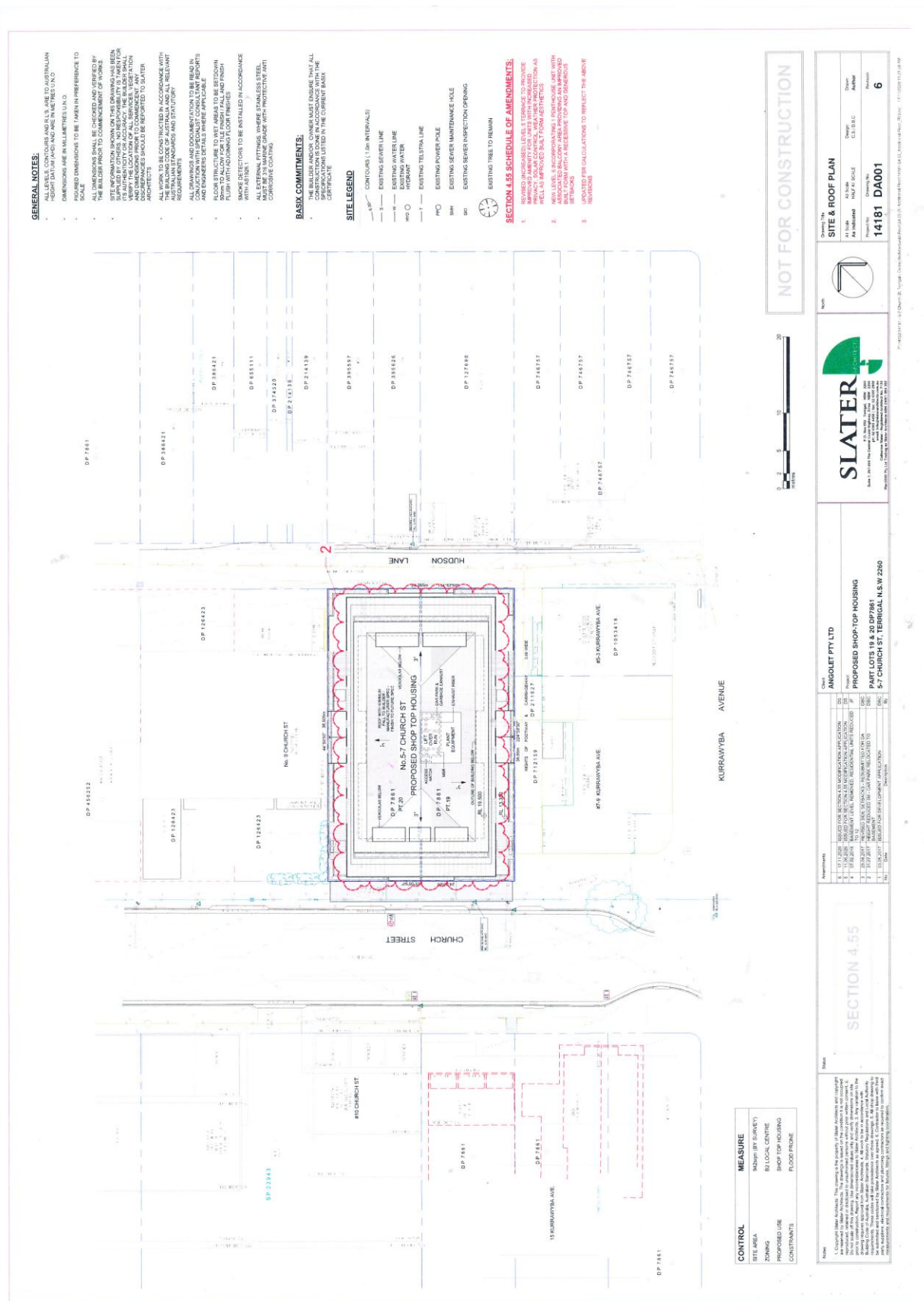


Figure 4: Site & Roof Plan.

Statement of Environmental Effects: S. 4.55 (1A) Application to modify Development Consent 52083/2017 - Part 3 for shop top housing and car parking on Lots 19 & 20 DP 7861, Nos. 5 & 7 Church Street, Terrigal

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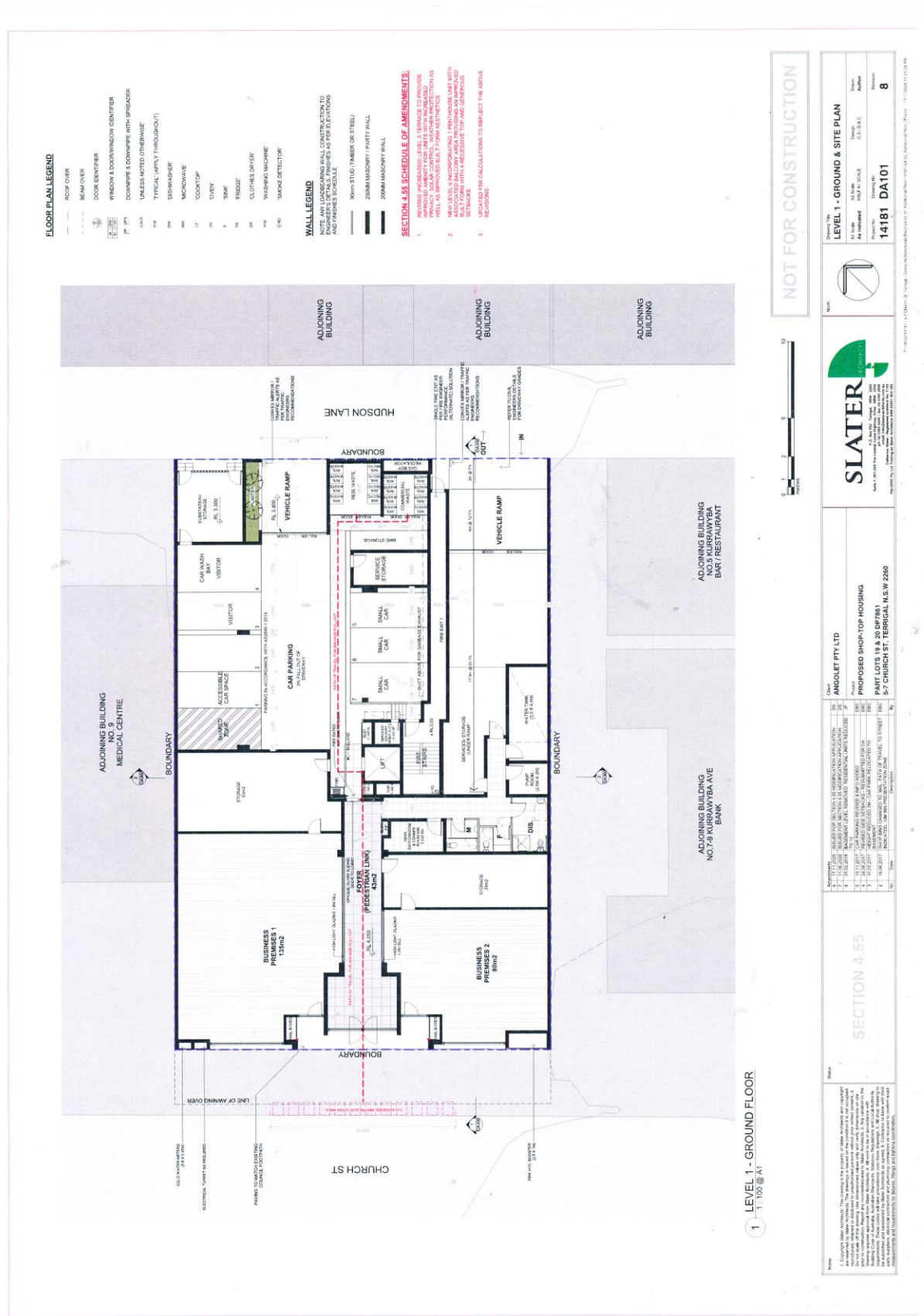


Figure 5: Level 1 – Ground & Site Plan.



Figure 6: Level 2 – First Floor Plan.

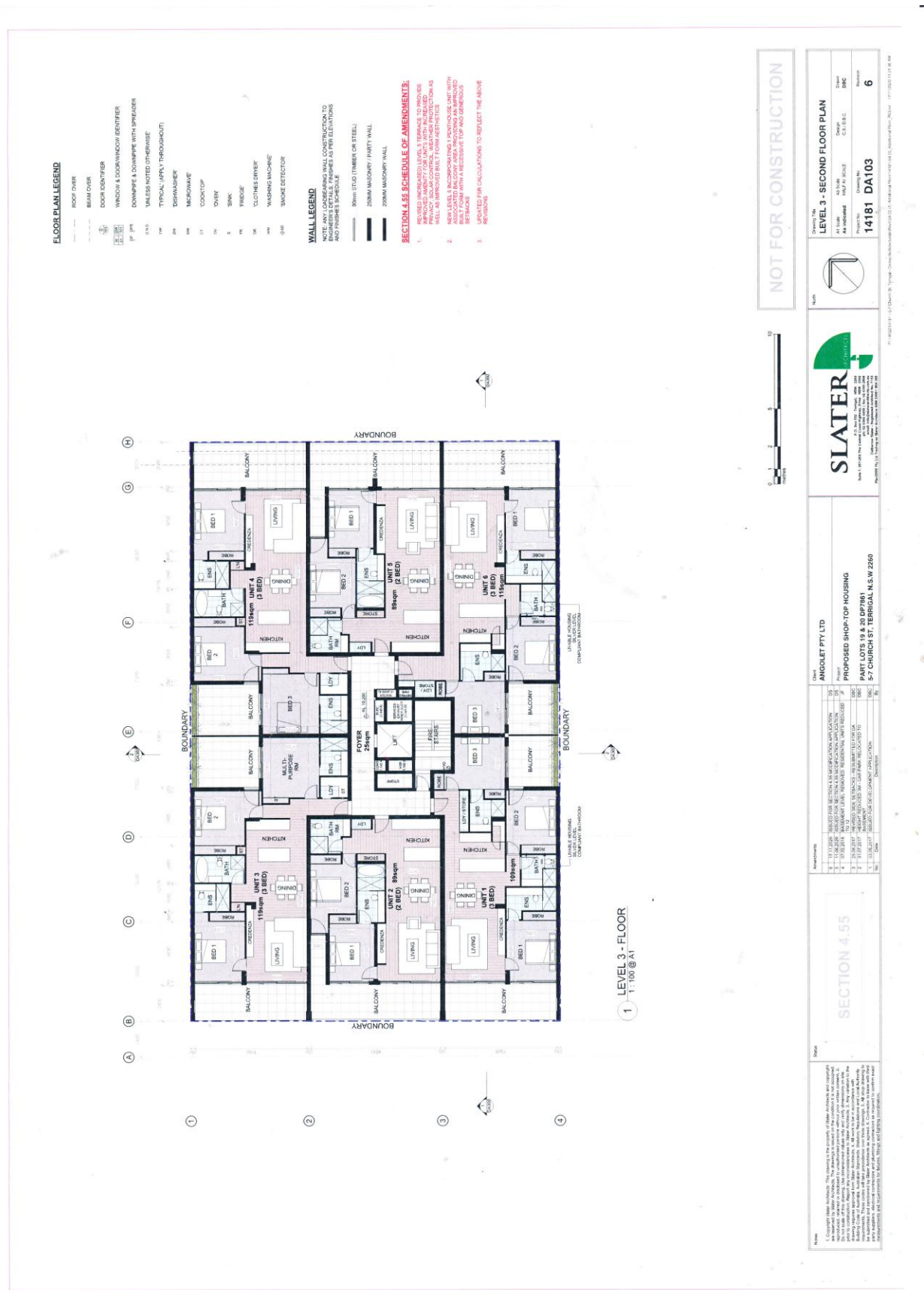


Figure 8: Level 3 – Second Floor Plan.

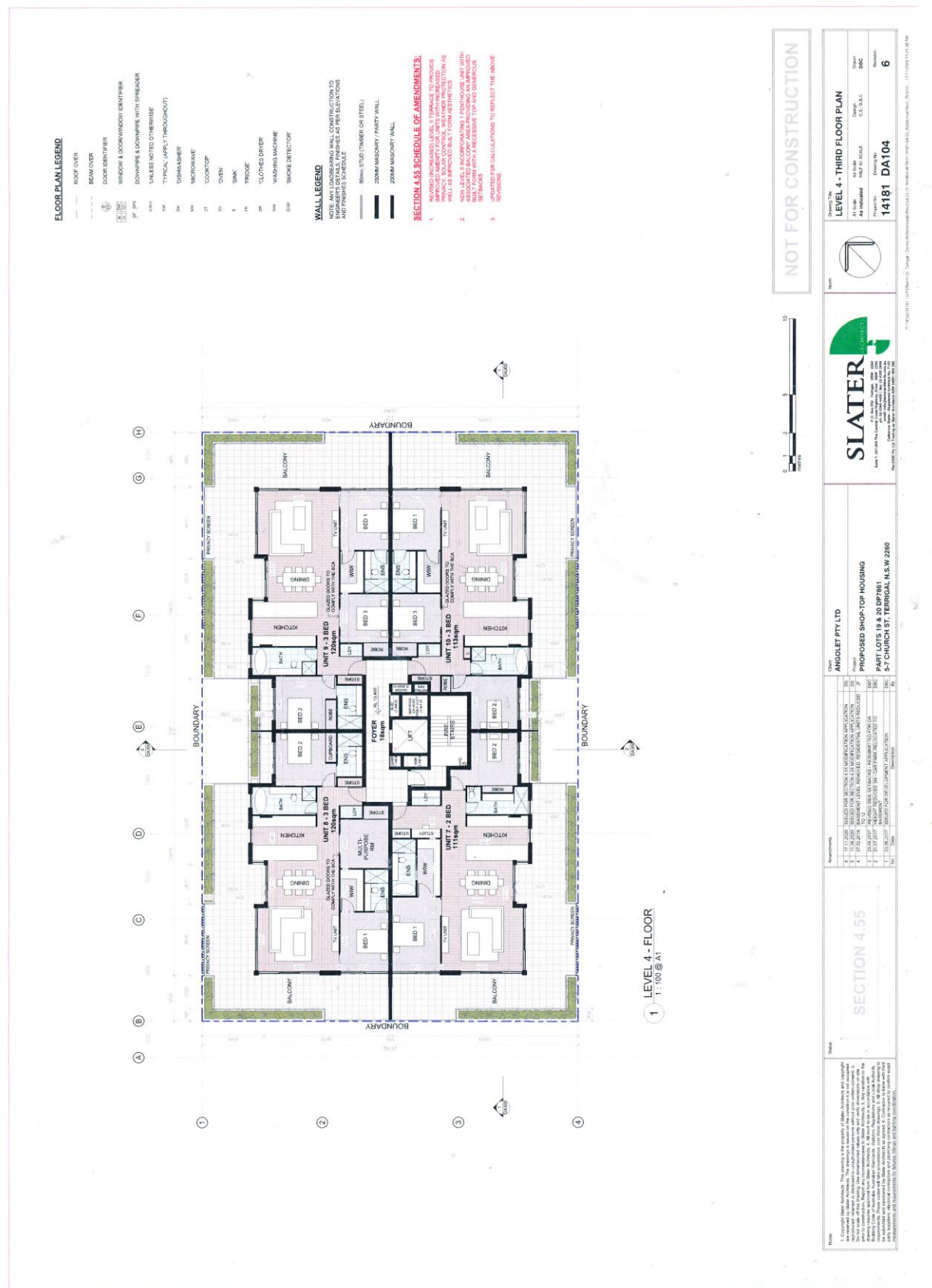


Figure 9: Level 4 – Third Floor Plan.

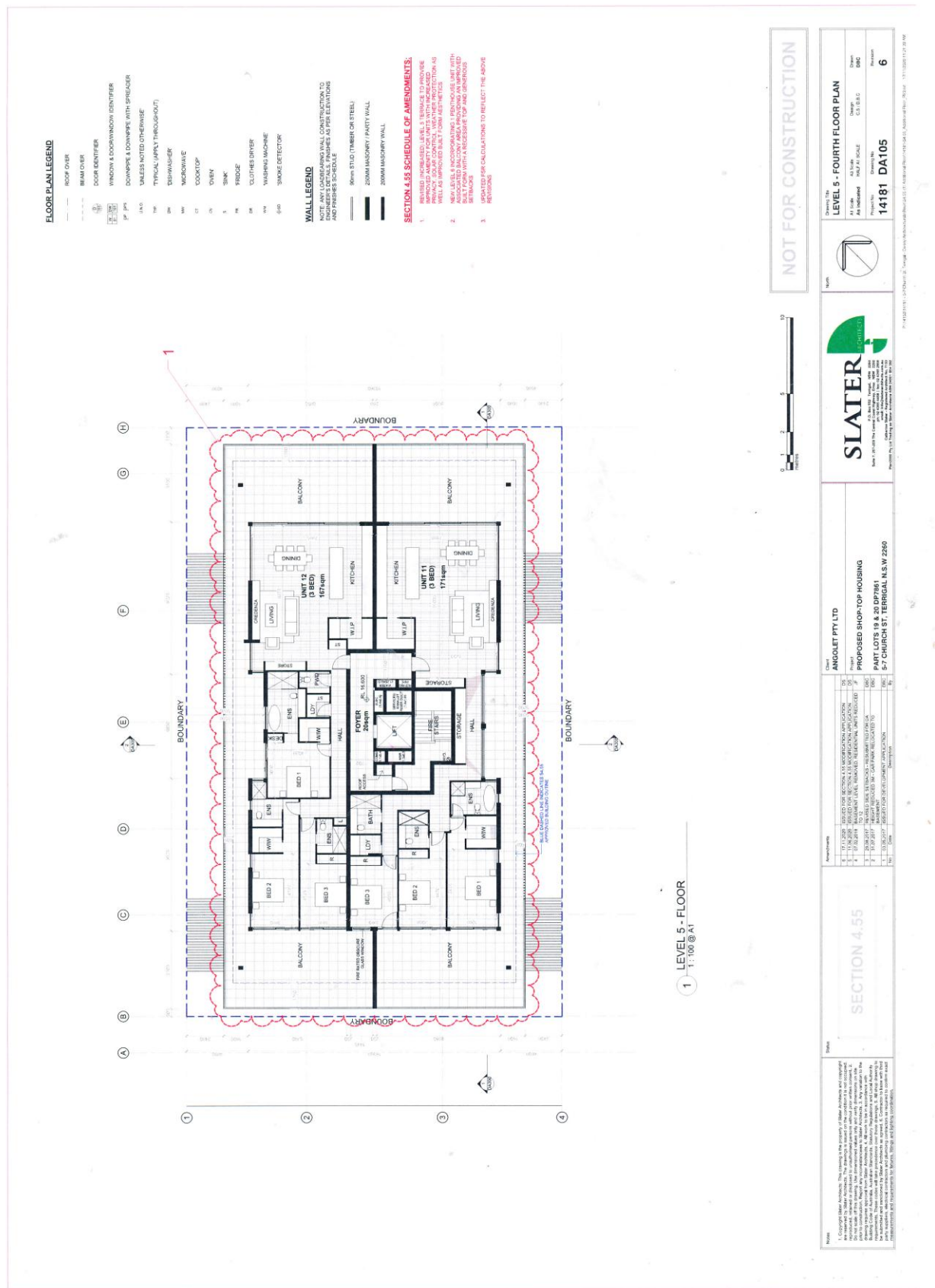


Figure 10: Level 5 – Fourth Floor Plan.

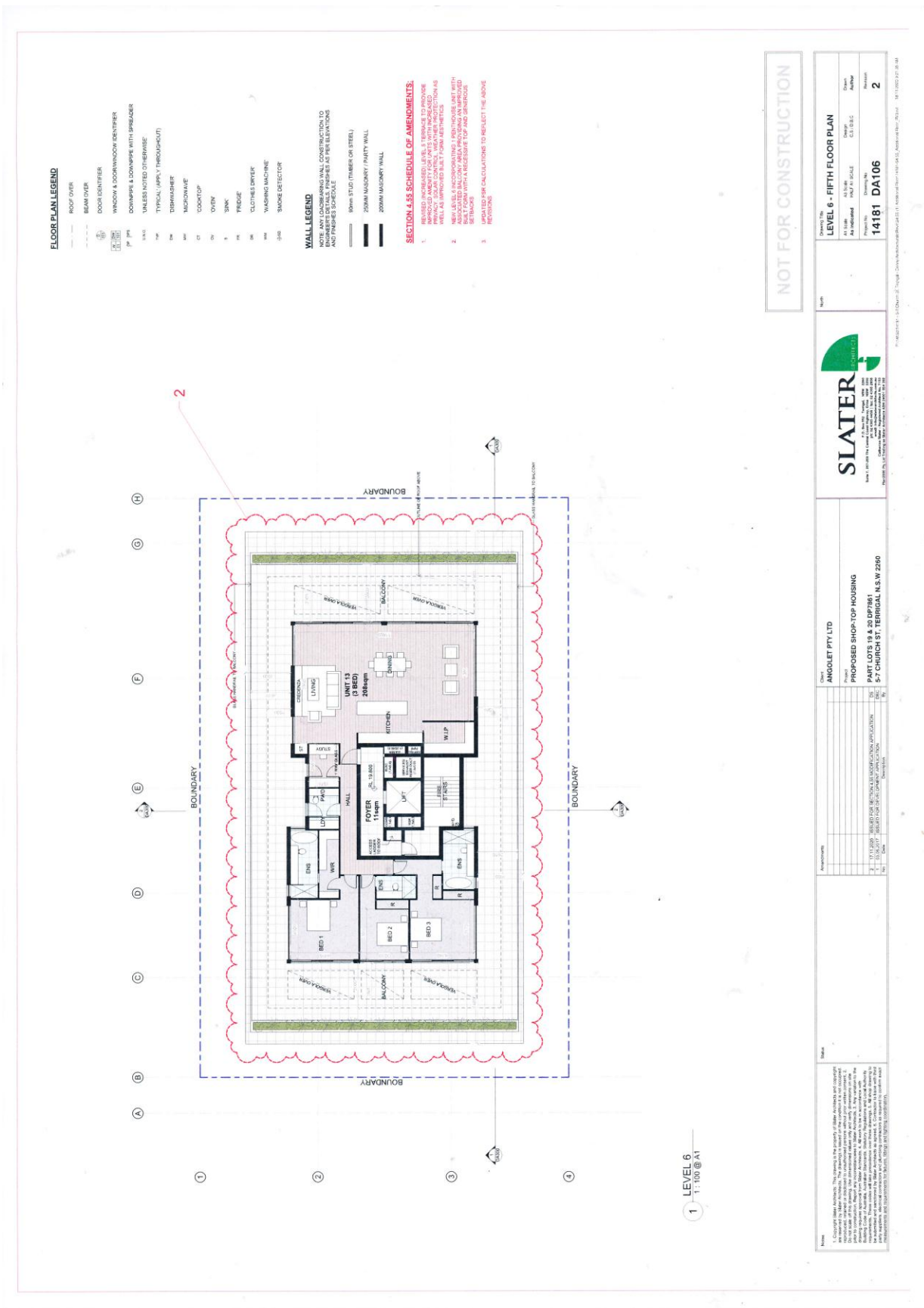
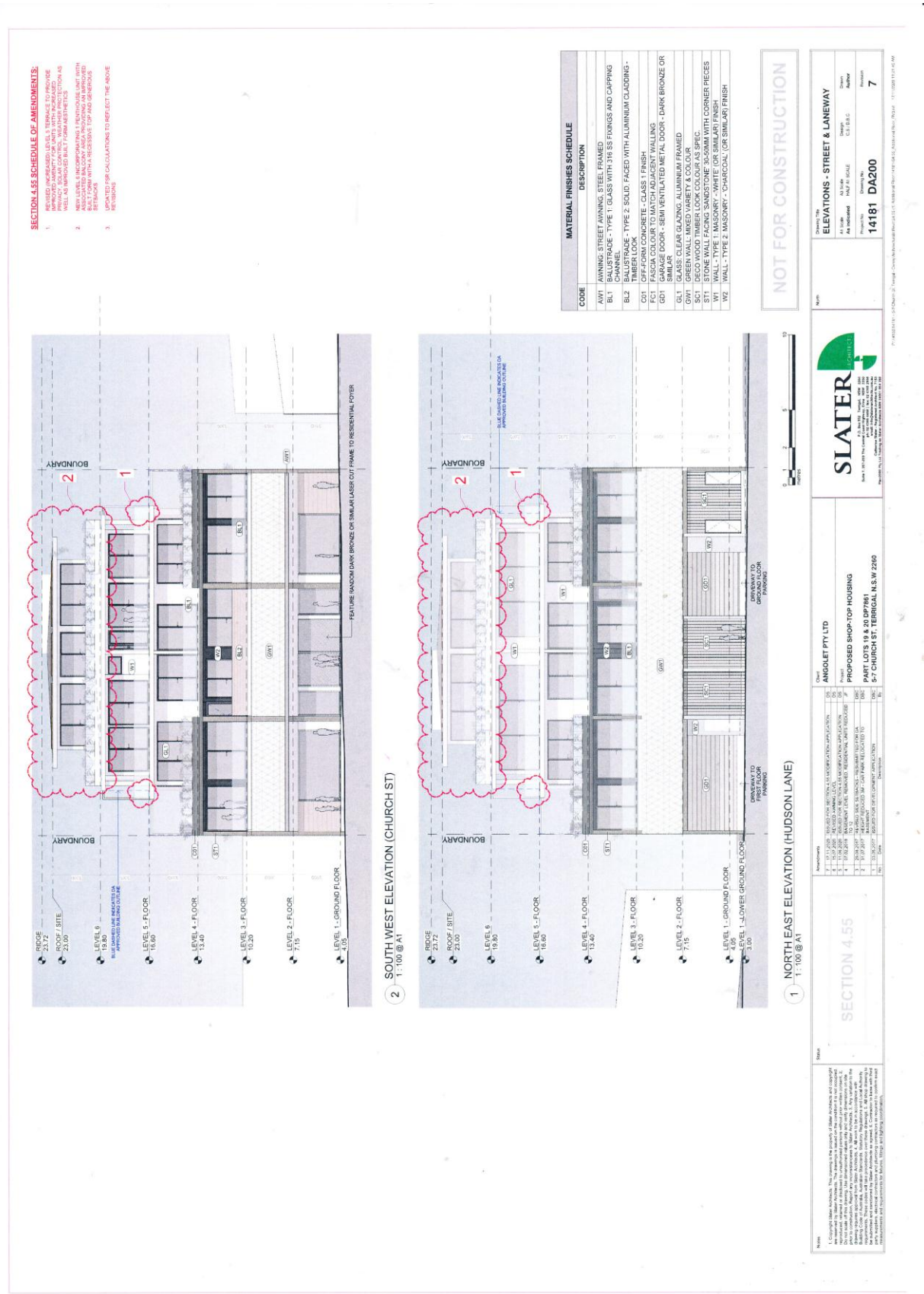


Figure 11: Level 6 – Fifth Floor Plan



5. SECTION 4.55 (1A) – MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT.

The following analysis demonstrates that Council can reasonably form the opinion that the proposed modifications to Consent No. 52083/2017 – Part 3:

- have minimal environmental impact;
- the development to which the proposed modifications relate is substantially the same development for which Consent No. 52083/2017 was originally granted; and
- following consideration of relevant matters under S.4.15 (1) of the Act, the council is able to exercise the modification power available to it under S.4.55 (1A) of the Act to approve this application to modify Development Consent 52083/2017 – Part 3.

5.1 Section 4.55(1A) – Modifications involving minimal environmental impact.

Section 4.55 (1A) 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 satisfied that the proposed modification is of minimal environmental impact and that the development to which the modification relates is substantially the same as originally approved:

“4.55 (1A - Modifications involving minimal environmental impact.

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 proposed modification is of minimal environmental impact, and

(b) it is 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), 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 for modification of a development consent, and

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

Subsections (1), (2) and (5) do not apply to such a modification.”

In determining an application for modification, Section 4.55 (3) requires that a consent authority must take into account 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”.

It is noted that in Report Item 2.2 to the Ordinary Meeting of Central Coast Council on the 28th October 2019, the consent authority gave the following reason for the original granting of Consent No. 52083/2017:

“The Development Application has been assessed against the heads of consideration of s4.15 of the EP&A Act and all other relevant instruments and policies. On balance, the proposed development is considered reasonable and it is therefore recommended that Council review its determination and grant development consent to DA 52083/2017, subject to the enclosed draft conditions”.

5.2 Section 4.55 (1A) (a) – ‘Minimum Environmental Impact’.

The proposed modifications to Development Consent No. 52083/2017 – Part 3 are of minimal environmental impact as:

- the footprint/height of the proposed additional penthouse level does not significantly increase the built form/massing of the approved structure;
- the maximum height of the proposed additional penthouse level is compatible with its ‘Terrigal Town Centre’ urban context (refer to Figure 15: Urban Context Analysis – Section, Slater Architects, Drawing DA CA02, Revision 2, 17th November 2020);
- there is no change to the approved floor levels, internal layout or external building façade of the currently approved building levels;
- there is no change to the approved vehicle access/servicing arrangements from Hudson Lane;
- there is no change the approved on-site car parking layout;
- the proposed additional penthouse level does not generate any significant additional shadowing impacts in comparison to the approved development (refer to the comparative shadow diagrams provided in Figure 16: Shadow Diagrams - Summer & Equinox – Slater Architects Drawing SHD01, Revision 2, dated 17th November 2020 and Figure 17: Shadow Diagrams – Winter – Slater Architects, Drawing SHD02, Revision 2, dated 17th November 2020). **Note:** The shadow cast by the approved development is edged red and the additional shadow cast by the proposed modified development is edged blue;
- the proposed penthouse level does not result in any amenity/privacy impacts on neighbouring properties;
- the proposed penthouse level does not adversely impact the utility of adjacent commercial properties;

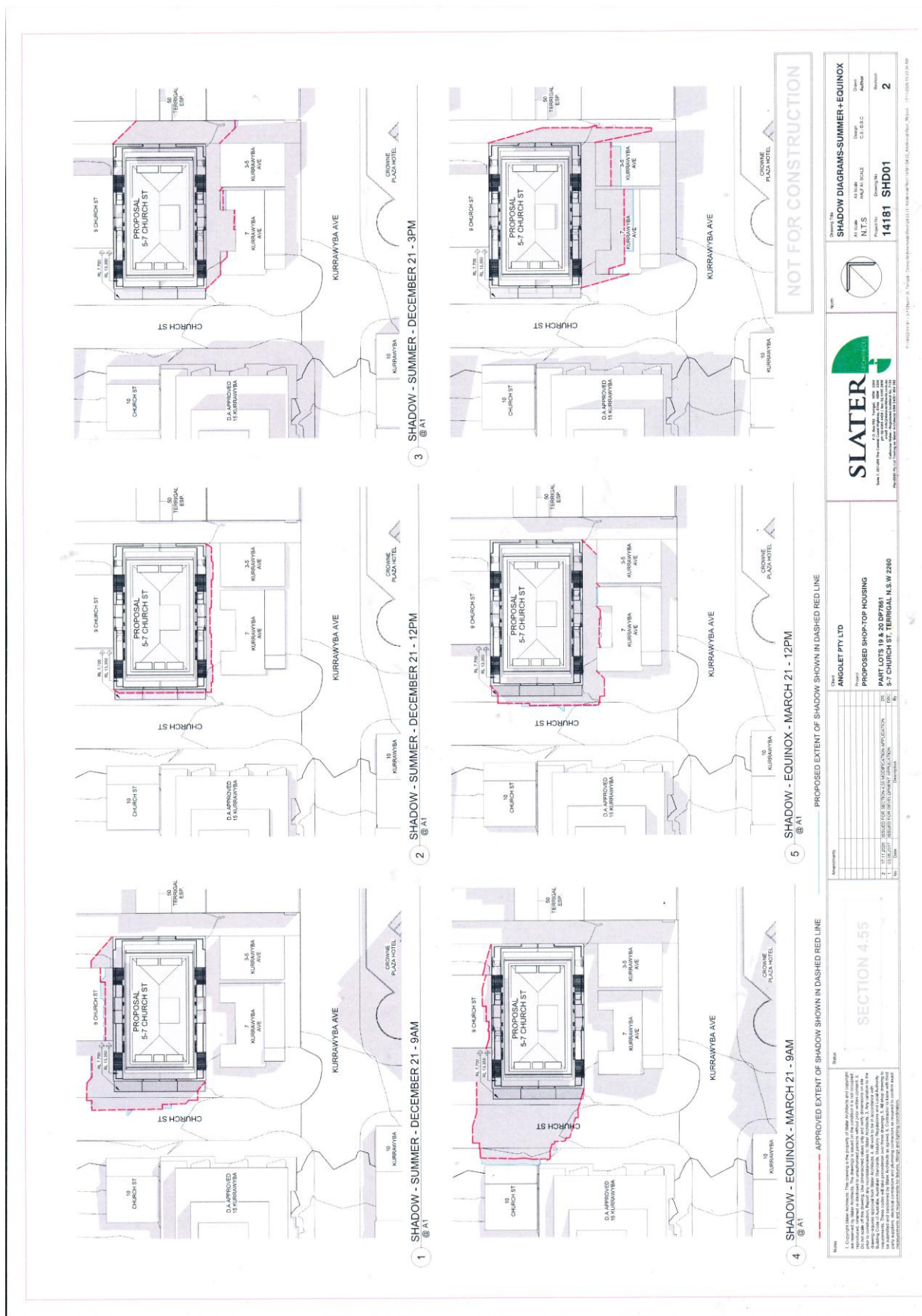


Figure 16: Shadow Diagrams - Summer & Equinox.

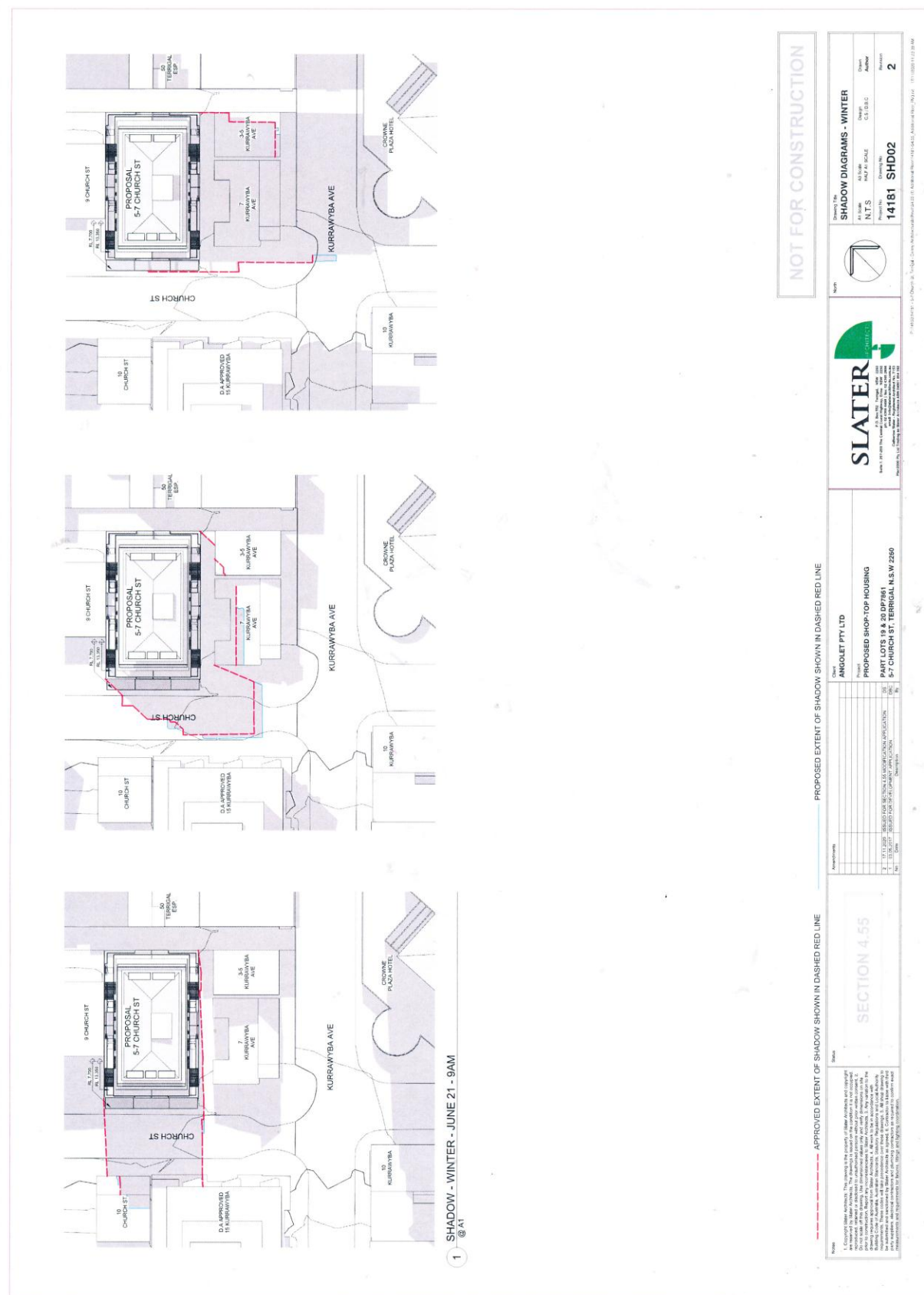


Figure 17: Shadow Diagrams – Winter.



Figure 19: View Analysis – 10 Church Street.



Figure 20: View Analysis – 1/10 Church Street.



Figure 21: View Analysis – 15 Kurrawyba Avenue

- the proposed penthouse level does not result in any significant additional view loss from neighbouring developments in comparison to the originally approved development. Refer to the following diagrams prepared by Slater Architects, dated 17th November 2020, comparing the view loss impact of the proposed modified development in comparison to the approved development :
 - Figure 18: View Analysis – 7A Cadell Street (Drawing VA01);
 - Figure 19: View Analysis – 10 Church Street (Drawing VA02);
 - Figure 20: View Analysis – 1/10 Church Street (Drawing VA02B); and
 - Figure 21: View Analysis – 15 Kurrawyba Avenue (Drawing VA03).
- the proposed penthouse level does not result in any adverse visual or amenity impacts on the public domain.

This Statement of Environmental Effects further demonstrates in sections 6.1 and 6.3 that the proposed modified development has *minimum environmental impact*.

In conclusion, the Council is able to reasonably form the view that the proposed modifications to Consent No. 52083/2017 – Part 3 have minimum environmental impact and consequently, the council is able to exercise the modification power available to it under S.4.55 (1A) of the Act to approve this application to modify Consent 52083/2017 – Part 3.

5.3 Section 4.55 (1A) (b) – ‘Substantially the same development’.

Section 4.55 (1A) (b) 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. 52083/2017 - Part 3 do not involve *alteration without radical transformation* of the approved development, for the following reasons:

Qualitative:

- The originally approved use of the subject land for shop top housing development does not change in the modification application;
- The bulk/scale/massing of the originally approved development does not significantly change in the modification application;
- The originally approved building footprint is not changed by the modification application;
- The internal layout and setbacks of the approved building levels are not changed by the modification application;
- The originally approved pedestrian access from Church Street and driveway access arrangements from Hudson Lane are not changed in the modification application; and
- The approved car parking arrangements are not changed by the modification application.

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

Quantitative:

A quantitative comparison of the originally approved development and the proposed modified development is provided in the ‘Areas Schedule’ prepared by Slater Architects (30th October 2020), a copy of which is provided in Appendix C, the main aspects of which are:

- The proposed consent modification does not change the number of approved business tenancies (2) from the original approval;
- The proposed modification results in a minor increase of residential units from the originally approved 12 units to the proposed 13 units (i.e. + 1 penthouse unit);
- The proposed modification results in a minor increase in GFA from 1765m² (the approved development) to 1988m² (i.e. + 223m²/12.6%);
- The proposed modification results in a minor increase in FSR from the approved development (1.87:1) to 2.11:1 (i.e. + 0.24:1);

- The originally approved maximum building height measured from ground floor level (16.38m) is not substantially increased by the proposed penthouse level (19.67m); and
- The number of approved car spaces (36) is not changed by the modification application.

As there is no ‘*radical*’ change to the configuration, bulk and scale 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 4.3 of this Statement of Environmental Effects) are merely directed to referencing the modified set of architectural drawings accompanying this modification application.

In conclusion, the Council is able to 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 approved under Consent 52083/2017 Part 3. Council is therefore able to approve this

application for modification of Development Consent No. 52083/2017 - Part 3 pursuant to S.4.55 (1A) of the EPA Act.

5.4 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 6 of this Statement of Environmental Effects, demonstrating that the proposed consent modifications 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 Report Item 2.2 to the Ordinary Meeting of Central Coast Council on the 28th October 2019, the consent authority gave the following reason for the granting of Consent No. 52083/2017 – Part 1:

“The Development Application has been assessed against the heads of consideration of s4.15 of the EP&A Act and all other relevant instruments and policies. On balance, the proposed development is considered reasonable and it is therefore recommended that Council review its determination and grant development consent to DA 52083/2017, subject to the enclosed draft conditions.”

The proposed consent modifications do not raise any matters contrary to relevant instruments and policies and consequently, the council is able to exercise the modification power available to it under S.4.55 (1A) of the Environmental Planning and Assessment Act to approve this application for modification of Development Consent No. 52083/2017 - Part 3.

6. 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 (1A) application to modify Development Consent 52083/2017 – Part 3.

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

6.1.1 State Environmental Planning Policies.

(i) State Environmental Planning Policy No. 55 – Remediation of Land.

Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land requires a consent authority not to consent to the carrying out of any development on land unless it considers 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 52083/2017.

(ii) State Environmental Planning Policy (Coastal Management) 2018.

The subject land is located within a ‘coastal management area’ identified under State Environmental Planning Policy (Coastal Management) 2018.

The provisions of the Policy are applicable to the granting of development consent. As the subject application is an application to modify Development Consent 52083/2017 – Part 3, the provisions of the Policy have no applicability to Council’s assessment of this modification application.

Notwithstanding, Council has sufficient information available to it to be satisfied that the proposed modified development:

- does not cause an adverse impact on the coastal environment; natural coastal processes; or the integrity of the biophysical, hydrological or ecological environment;
- does not cause an adverse impact on existing safe access to and along the foreshore;
- does not cause overshadowing of the foreshore;
- does not adversely impact the visual amenity and scenic qualities of the coast; and
- will not cause increased risk of coastal hazards on the subject land or other land.

The proposed modification application does not raise any additional matters to those coastal planning matters addressed by the Council in its consideration of the provisions of State Environmental Planning Policy No. 71 – Coastal Protection, which applied at the time of granting consent to the original application.

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

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

An amended BASIX Certificate is provided in Appendix D which confirms that the proposed development will meet the NSW Government's requirements for sustainability.

(iv) Other State Environmental Planning Policies.

No other State Environmental Planning Policy has practical application to the proposed modified development:

- State Environmental Planning Policy No. 19 – Urban Bushland, does not apply to the subject land as it does not contain a public reserve, nor is it adjacent to a public reserve containing bushland;
- there are no State Environmental Planning Policy No. 26 – Littoral Rainforests on the subject land; and
- State Environmental Planning Policy (Koala Habitat Protection) 2019 does not apply to the subject land or the proposed development as the subject land is not within the 'Koala Development Application Map'.

6.1.2 Gosford Local Environmental Plan 2014.

(i) Zoning/Permissibility.

Under Gosford Local Environmental Plan 2014 (LEP 2014), the subject land is zoned *B2 Local Centre*. A copy of the zoning plan is provided in Figure 3.

For the purposes of LEP 2014 the proposed development is defined as a '*mixed use development*' comprising "*Commercial Premises*" (including *retail premises* and *office premises*) and "*shop top housing*", being development which is permissible in the applicable *B2 Local Centre* zone with the consent of the Council.

As the development approved under Consent No.52083/2017 – Part 3 is permissible in the zone, the proposed modifications to Consent No. 52083/2017 – Part 3 are also permissible with the consent of the Council.

(ii) Zone Objectives.

Clause 2.3 (2) of LEP 2014 provides that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

Notwithstanding that this is a development consent modification application (not a development application) the following assessment demonstrates that the proposed modified development is consistent with the objectives of the *B2 Local Centre* zone applying to development on the subject land:

- ***"To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area"***.

Consistent: The proposed modified development retains ground floor business premises to serve the needs of the local community.

- ***"To encourage employment opportunities in accessible locations"***.

Consistent: The proposed modified development retains the ground floor business premises, thereby providing employment opportunities within Terrigal Village Centre.

- ***"To maximise public transport patronage and encourage walking and cycling"***.

Consistent: The proposed modified development is located in close proximity to bus routes circulating within Terrigal Village Centre and is within walking distance of all local facilities, services and the coastal foreshore.

- ***"To provide for residential uses, but only as part of a mixed use development"***.

Consistent: The proposed modified development continues to provide shop-top residential accommodation (13 apartments) as part of a mixed use development.

- ***"To ensure that development is compatible with the desired future character of the zone"***.

Consistent: The built form of the proposed modified development is substantially unchanged from that of the originally approved development and is consistent with the desired future character of the zone.

- ***"To promote ecologically, socially and economically sustainable development"***.

Consistent: The proposed modified development provides for the efficient and sustainable use of the subject land, located in an urban setting and which has no ecological values requiring protection.

- *"To ensure that the town centres of Erina and Woy Woy are recognised as providing a higher level, and greater diversity, of services and facilities to serve a wide population catchment from numerous localities and as key public transport nodes, secondary to Gosford City Centre".*

Not Applicable to Terrigal Village Centre and the proposed development.

- *"To ensure that village centres such as Avoca, East Gosford, Ettalong Beach, Kincumber, Lisarow, Niagara Park, Terrigal, Umina Beach, West Gosford and Wyoming are recognised as providing a broad range of services and facilities to serve the population of the locality".*

Consistent: The proposed modified development provides ground level business premises to service the local community and will provide additional residential accommodation (13 units) within Terrigal Village Centre.

- *"To ensure that villages are recognised as providing local level services and facilities and are developed at a scale that reflects their population catchment and as a focus for public transport routes".*

Consistent: The proposed modified development provides ground level business premises, which will provide local services to the community, accessible by public transport.

- *"To ensure that the different roles of villages are recognised with some villages being key tourist destinations with boutique activities in addition to serving the needs of local residents, while other villages are purpose-built centres to serve the needs of the local population".*

Consistent: The proposed modified development provides for a mix of uses appropriate to Terrigal Village Centre as a tourist destination.

- *"To encourage the residential population of villages and town centres to contribute to the vitality of those locations".*

Consistent: The proposed modified development provides 13 shop-top residential units and will result in an increased residential population contributing to the vitality of Terrigal Village Centre.

(iii) Other provision of Gosford LEP 2014.

There are no other provisions of Gosford LEP 2014 applicable to the assessment of this S4.55 (1A) modification application.

6.1.3 Gosford Development Control Plan 2013.

(i) Chapter 2.1 - Character.

Chapter 2.1 Character requires development applications to demonstrate consistency or compatibility with development objectives contained within the relevant “Statements of Desired Character” provided in Part 2.

The subject land is located within Character Place “Terrigal 8: Mainstreet Centre”.

As the proposed modified development fundamentally retains the streetscape and architectural character of the originally approved development and the Council previously considered that the approved development was consistent with the ‘Statements of Desired Character’ for Character Place “Terrigal 6 – Medium Density Hillsides”, the proposed modified development is also considered to be consistent with the ‘Statements of Desired Character’ for Character Place ‘Terrigal 6 – Medium Density Hillsides’.

(ii) Chapter 2.2 – Scenic Quality.

The aim of this chapter is to provide more detail with regard to management of the scenic quality of the former City of Gosford.

The objectives of the chapter are:

- (i) to provide a detailed assessment of Gosford’s landscape character which highlights the diversity between and within landscape units;*
- (ii) to detail the components of that landscape character;*
- (iii) to provide a comparative ranking of the landscapes; and*
- (iv) to develop appropriate guidelines for the management of the landscape character.*

DCP 2013 Chapter 2.2 presents guidelines for the management of the former City of Gosford’s landscape character. The DCP is required to be taken into consideration by the council where development applications will have an impact on the scenic quality of an area.

For the purposes of Chapter 2.2, the subject land is located within the “North Coastal Geographic Unit – Terrigal Landscape Unit” where the landscape character is described as;

“The Terrigal Landscape Unit is strongly enclosed as a result of landform characteristics and contains the most urban of the coastal settlements of Gosford centred on the beach, Terrigal Haven and The Skillion and surrounding the lagoon. As a result of the landform and vegetation characteristics, the landscape and development is co-dominant. The Terrigal area comprises significant coastal landscape features including the beach to Wamberal Lagoon and foreshore areas and The Skillion. The primary urban and commercial areas concentrate on the sea side of the lagoon while the area to the west is more suburban and surrounded by rural-residential hinterland. The rural-residential hinterland occupies higher ground in the unit and provides a natural backdrop to the unit and a contrast to highly urbanised sections of the unit.”

As the proposed modified development retains the fundamental streetscape/architectural character of the originally approved development and is demonstrated in this Statement of Environmental Effects to be substantially the same as the originally approved development, the proposed modified development will not detract from the scenic quality of the coastal foreshore.

(iii) Chapter 4.3 – Terrigal Town Centre.

DCP 2013 Chapter 4.3 applies to all properties within the Terrigal Village Centre, including the subject land.

The aims of Chapter 4.3 are to implement recommendations/resolutions arising from the Terrigal Bowl Strategic Plan; provide detail controls supporting the provisions of Gosford LEP 2014; establish contemporary urban design based controls for mixed use development; and supplement the provisions of Chapter 2.1 - Character and Chapter 2.2 – Scenic Quality that apply to coastal areas, including Terrigal Town Centre.

As the proposed modified development does not significantly alter the physical form or architectural character of the originally approved development, there are no development guidelines within Chapter 4.3 which would act to prevent the Council approving the proposed consent modifications.

(iv) Chapter 6.3 – Erosion and Sedimentation Control.

DCP 2013 - Chapter 6.3 applies to any activity that involves, or could involve:

- disturbance of, or placing fill on, the soil surface, and/or changes to the contours of the land; or
- changing the rate and/or volume of runoff flowing over land or directly/indirectly entering receiving waters.

As ground disturbance associated with the proposed modified development is the same as that of the originally approved development, the proposed modified development does not require any alteration or addition to the erosion and sedimentation mitigation/control measures currently approved under Consent No. 52083/2017 – Part 3.

(v) Chapter 6.7 – Water Cycle Management.

The purpose of DCP 2013 - Chapter 6.7 is to minimise the impact of development on the natural predevelopment water cycle.

The proposed modified development does not involve any altered stormwater management arrangements to those currently approved under Consent 52083/2017 – Part 3.

(vi) Chapter 7.1 – Car Parking.

The proposed modified development retains the vehicle access arrangements (from Hudson Lane) of the originally approved development.

The approved development provides 36 car spaces, allocated as reflected in development consent condition 2.13 (f) – (h):

- 5 ‘commercial’ spaces;
- 29 resident spaces; and
- 2 resident visitor spaces.

The approved development currently provides 13 car spaces in excess of DCP minimum requirements. The proposed additional 3 bedroom penthouse unit generates a requirement for 1.5 resident spaces and 0.2 resident visitor spaces. This requirement is readily accommodated in the current surplus of 13 on-site car spaces.

(vii) Chapter 7.2 – Waste Management.

The proposed modified development does not involve any altered waste management arrangements to those currently approved under Consent No. 52083/2017 – Part 3.

6.2 “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)”.

Draft Central Coast Local Environmental Plan 2018 (DLEP 2018) and Draft Central Coast Development Control Plan 2018 (DDCP 2018) have been publicly exhibited.

Neither DLEP 2018 nor DCP 2018 contains any prohibitions, restrictions or design/development guidelines that would prevent this modification application being approved by Council.

DLEP 2018 and DDCP 2018 adopt the same planning controls for the subject land as currently exists under Gosford LEP 2014 and Gosford DCP 2013 and considered in this Statement of Environmental Effects.

6.3 “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”.

6.3.1 Topography/Geology.

There are no topographical or geological impediments which would prevent the proposed modifications to Consent No. 52083/2017 – Part 3 from being approved.

6.3.2 Flora and Fauna.

There is no native vegetation or fauna habitat on the subject land and consequently the proposed consent modifications have no adverse impact on any native flora, fauna, wildlife corridors or critical habitat in the locality.

6.3.3 Soil Disturbance and Sediment Control.

As ground disturbance associated with the proposed modified development is the same as that of the originally approved development, the proposed modified development does not require any alteration or addition to the erosion and sedimentation mitigation/control measures currently approved under Consent No. 52083/2017 – Part 3.

6.3.4 Drainage and Stormwater Management.

The proposed modified development does not involve any altered stormwater management arrangements to those currently approved under Consent 52083/2017 – Part 3.

6.3.5 Natural Hazards - Coastal Erosion.

The subject land is not identified as being subject to the threat of coastal erosion.

6.3.6 Access, Traffic Generation and Car Parking.

The proposed modified development retains the vehicle access arrangements (from Hudson Lane) of the originally approved development.

The approved development provides 36 car spaces, allocated as reflected in consent condition 2.13 (f) – (h):

- 5 ‘commercial’ spaces;
- 29 resident spaces; and
- 2 resident visitor spaces.

The approved development currently provides 13 car spaces in excess of DCP minimum requirements. The proposed additional 3 bedroom penthouse unit generates a requirement for 1.5 resident spaces and 0.2 resident visitor spaces. This requirement is readily accommodated in the current surplus of 13 car spaces.

6.3.7 Scenic Quality/Visual Impact/Streetscape.

The proposed modified development does not result in any significant change to the overall built form; bulk and scale; building setbacks; or architectural presentation in comparison to the originally approved development.

Consequently, in comparison with the approved development, the proposed modified development will not result in increased visual impact on the scenic quality of the Terrigal coastal locality or have any significant increased visual prominence when viewed from the public domain.

6.3.8 Potential Amenity Impacts on Neighbours.

The proposed modified development does not adjoin any residential development or residential zone and will not have any adverse amenity impacts (overshadowing, privacy,

noise or loss of scenic views) on the occupants of any dwelling in the immediate locality (refer to the view impact analysis provided in Figures 18-21). Adjoining properties are all occupied by commercial premises.

The proposed modified development substantially retains the approved bulk and scale and configuration of the originally approved development and will not have any adverse impacts on the utility or operation of neighbouring business premises.

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

The proposed modifications to the approved development are demonstrated to raise no adverse impacts or consequences in regard to the principles of Ecologically Sustainable Development and the site is demonstrated to be suitable for the proposed modified development.

Having regard to the analysis and assessment provided in this Statement of Environmental Effects, Council can be satisfied that the proposed modification of Consent 52083/2017 – Part 3 has minimal environmental impact.

6.5 “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 development as it has not yet been publicly notified.

6.6 “SECTION 4.15 (1) (e): The Public Interest”.

The proposed modifications to Development Consent No. 52083/2017 – Part 3 do not raise any matter which may be regarded as contrary to the public interest and which would prevent this modification application from being approved.

7. CONCLUSION.

This Statement of Environmental Effects demonstrates that the proposed modifications to Development Consent No. 52083/2017 – Part 3 for the erection of a 5 storey shop top housing development comprising two (2) business premises, twelve (12) residential units and car parking on Lots 19 and 20 DP 7861, Nos. 5 and 7 Church Street, Terrigal, are consistent with relevant State and local planning frameworks for the locality and Council is able to reasonably form the view that the proposed modified development is of *minimum environmental impact and is 'substantially' the same as the originally approved development.*

Consequently, Council is requested to exercise the modification power available to it under S.4.55 (1A) of the Environmental Planning and Assessment Act 1979 to approve this application for modification of Development Consent No. 52083/2017 – Part 3 in the manner detailed in section 4 of this Statement of Environmental Effects, so as to permit the construction of a penthouse residential level (comprising one 3 bedroom apartment), thereby increasing the number of residential units from 12 (approved) to 13 and increasing maximum building height from RL 20.43m AHD (5 storeys) to RL 23.72m AHD (6 storeys).

Doug Sneddon
22nd November 2020.

APPENDIX A: DEVELOPMENT CONSENT 52083/2017 – PART 3

(Central Coast Council – 4th September 2020).

Telephone: 1300 463 954
Please Quote: 52083/2017
Responsible Officer: R A Eyre



Angolet Pty Ltd
26 Birnam Grove
STRATHFIELD NSW 2135

sneddondoug@gmail.com

APPLICATION NUMBER: 52083/ 2017 Part 3
PROPOSAL: Amendment under section 4.55(1A) of the *Environmental Planning and Assessment Act* to the Approved Shop Top Housing - Comprising of Two (2) Shops, Twelve (12) Residential Units & Car Parking
Section 4.55 Amendment Modifications to the built form and internal layout
PROPERTY: **Lot: 19 DP: 7861, Lot: 20 DP: 7861** No. 5 Church Street TERRIGAL, 7 Church Street TERRIGAL

Dear Sir/Madam

I refer to your application lodged 8 July 2020 for modification of consent 52083/2017.

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 10 December 2018 is modified in the following manner:

i Amendment of conditions 1.1, 1.4, 2.7, 2.8, 2.9, 2.11, 2.13, 3.1, 3.12, 5.7, 6.11, and 6.18.

The original development consent is therefore replicated incorporating amendment/s and/or deletion/s.

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 Regulation 2000*.



Wyang 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 | W centralcoast.nsw.gov.au | ABN 73 149 644 003

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: *R. Eyre*

Date: 4 September 2020

AMENDED CONDITIONS OF CONSENT PART 3

1. PARAMETERS OF THIS CONSENT

1.1 Approved Plans and Supporting Documents

Implement the development 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 Slater Architects

Drawing	Description	Sheets	Issue	Date
DA0001	Site & Roof Plan	1	5	07.02.2018 11/06/2020
DA101	Level 1 – Ground & Site Plan	2	7	07.02.2018 11/06/2020
DA102	Level 2 – First Floor Plan	3	5	07.02.2018 11/06/2020
DA 102- A	Adaptable Units – Floor Plans	4	3	31.07.2017 11/06/2020
DA103	Level 3 – Second Floor Plan	5	5	07.02.2018 11/06/2020
DA104	Level 4 – Third Floor Plan	6	5	07.02.2018 11/06/2020
DA105	Level 5- Fourth Floor Plan	7	5	07.02.2018 11/06/2020
DA200	Elevations – Street & Laneway	8	6	07.02.2018 15/07/2020
DA201	Elevations - Side	9	7	07.02.2018 15/07/2020
DA300	Sections	10	7	07.02.2018 15/07/2020

Supporting Documentation:

Title	Prepared by	Date
Statement of Environmental Effects	Doug Sneddon Consulting	June 2020
Traffic Impact Assessment	SECA Solutions	04.05.2017
Waste Management Plan	Slater Architects	16 .06.2017
Preliminary Geotechnical Investigations	Douglas Partners	09.03.2016
Cover Letter – Amended Design	Slater Architects	14.02.2018
Renders, Shadow Plans, View Analysis	Slater Architects	ECM Doc No. 26374986
Crime and Safety Report	Slater Architects	ECM Doc No. 24460305

SEPP 65 Design Verification Statement	Slater Architects	April 2017
BCA Report	City Plan Services	03.05.2017
Access Review	MGAC	03.05.2017
Storm Water Management Plan	Northrop	02.05.2017
Erosion and Sediment Control Plan	Northrop	02.05.2017
Preliminary Cost Plan	MCG Quantity Surveyors	21.04.2017

- 1.2 Carry out all building works in accordance with the Building Code of Australia.
- 1.3 Comply with all commitments listed in the BASIX Certificate for the development as required under clause 97A of the *Environmental Planning and Assessment Regulation 2000*.
- 1.4. No approval is granted or implied under this consent for an artificial green wall to the south west (Church Street) and north east (Hudson Lane) Level 2 elevations of the building.

Prior to the appointment of any Certifying Authority, in order to ensure adequate provision is made for landscaping within and/ or adjacent to the south west (Church Street) and north east (Hudson Lane) Level 2 elevations of the building, and within all landscaped planters located on Levels 3 and 4, a Landscape Plan is required to be submitted to Central Coast Council for approval prior to the issue of a Construction Certificate.

This Landscape Plan must be prepared by a qualified Landscape Architect or Landscape Designer, clearly identifying the following: -

- a. The scale to which they are drawn and the true north point;
 - b. The provision of a self-maintaining (in term of irrigation) vegetated wall to the south west (Church Street) and north east (Hudson Lane) Level 2 elevations of the building;
 - c. The finished ground levels relative to Australian Height Datum (AHD); and
 - d. A Planting Schedule, appropriate for a vegetated wall in this locale, including the botanical and common names of all proposed plant species.
 - e. Provide detailed drawings showing planters including internal sizes, irrigation methods and a planting schedule prepared by a landscape architect
- 1.5. Prior to the appointment of any Certifying Authority, in order to ensure adequate provision is made for the provision of external materials and finishes as detailed in the approved plan set, an External Finishes and Material Schedule is required to be submitted to Central Coast Council for approval prior to the issue of a Construction Certificate. This External Finishes and Material schedule must be prepared by a qualified Architect or Urban Designer.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1 All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2 No activity is to be carried out on site until the 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.
- 2.3 Submit to Council street lighting and reticulation design drawings associated with the awning on Church Street. The design is to be prepared in accordance with *Australian Standard AS 1158: Lighting for roads and public spaces*.
- 2.4 Pay to Council a total contribution amount of **\$154,846.00** that may require adjustment at the time of payment, in accordance with the relevant Council

Contribution Plans No. 47A Terrigal.

Open Space Embellishment	A	(Key No 804)	\$2,530.00
Footpaths Capital	A	(Key No 805)	\$6,598.00
Town Centre / Foreshore Improvements	A	(Key No 835)	\$87,104.00
Stormwater & Flood Mitigation	A	(Key No 836)	\$58,614.00
TOTAL AMOUNT			\$154,846.00

The total amount must be indexed each quarter in accordance with the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician as outlined in the contributions plan.

Contact Council's Contributions Planner on Tel 4325 8222 for an up to date contribution payment amount.

Any Construction Certificate must not be issued until the developer has provided the accredited certifier with a copy of a receipt issued by Council that verifies that the contributions have been paid. A copy of this receipt must accompany the documents submitted by the certifying authority to Council under Clause 104 of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the Contribution Plan may be inspected at the office of Central Coast Council, 49 Mann Street Gosford or on Council's website: [Development Contributions former Gosford LGA](#)

- 2.5 Submit to the Accredited Certifier lighting design drawings for the car park and public places. The design must be prepared in accordance with the requirements of Australian Standard AS 1158: *Lighting for roads and public spaces* and Australian Standard AS 4282:1997, including the provision of current best practice energy efficient lighting and be approved by the Accredited Certifier.
- 2.6 Apply for and obtain from Council (Water Authority) a Section 307 Certificate of Compliance under the *Water Management Act 2000*. Conditions and contributions may apply to the Section 307 Certificate.

The 'Application for 307 Certificate under Section 305 *Water Management Act 2000*' form can be found on Council's website www.gosford.nsw.gov.au. Early application is

recommended.

- 2.7 Submit engineering details prepared and certified by a practicing 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 including protections and work method statement to protect the Cast Iron 100mm water main. The submission of contractor's documentation and sewer inspection fees may apply. Subject to approval of the engineering plans the developer must contact Council's Water and Sewer Quality Inspector a minimum one week prior to commencement of any work involving building over / adjacent to sewer mains. Any disused Sewer Junctions shall be decommissioned on Council's inspection.
- 2.8 ~~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.~~

~~Design the required works as follows:~~

- ~~a. Heavy duty vehicle crossings in Hudson Lane (if required) constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.~~
- ~~b. All redundant dish crossings and / or damaged kerb and gutter across the site frontage in Church St must be removed and replaced with new kerb and gutter.~~
- ~~c. All redundant vehicular crossings in Church St are to be removed and footway formation reinstated with paving the same as the remaining frontage.~~
- ~~d. The piping of stormwater from within the site to Council's drainage system.~~
- ~~e. Erosion and sedimentation control plan.~~

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 1300 463 954.

- 2.8 Obtain a Roads Act Works Approval by submitting an application to Council for a Section 138 Roads Act Works Approval for all works required within the road reserve. The application is to be lodged using an *Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works* form.

The application is to be accompanied by detailed design drawings, reports and other documentation prepared by a suitably experienced qualified professional in accordance with Council's *Civil Works Specifications*.

Fees, in accordance with Council's Fees and Charges, will be invoiced to the applicant following lodgement of the application. Fees must be paid prior to Council commencing assessment of the application.

Design drawings, reports and documentation will be required to address the following works within the road reserve:

- a) Heavy-duty vehicle crossings in Hudson Lane (if required) constructed with 200mm thick concrete reinforced with 1 layer of SL steel fabric top and bottom.
- b) Removal of all redundant vehicle gutter crossings / laybacks across the Church St frontage and replacement with kerb.
- c) Removal and replacement of all damaged kerb and gutter across the Church St frontage with new kerb and gutter.
- d) Removal of all redundant vehicular access crossings across the Church St frontage. The road verge/footway formation is to be reinstated with construction and pavers to match existing finish.
- e) Construction of any works required to transition new works into existing infrastructure and the surrounding land formation.
- f) Construction of a storm water drainage connection from the development site to Council's storm water drainage system within the road reserve.

The section 138 Roads Act Works Approval must be issued by Council and all conditions of that approval must be addressed prior to occupying and commencing any works in the road reserve.

- 2.9 ~~Submit a dilapidation report to Council with the *Roads Act 1993* 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.~~

- 2.9 Submit to Council a dilapidation report detailing the condition of all Council assets within the vicinity of the development. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs, street lights or any other Council assets in the vicinity of the development. The dilapidation report will be required to be submitted to Council prior to the issue of the Section 138 Roads Act Works approval or the issue of any construction certificate for works on the site. The dilapidation report may be updated with the approval of Council prior to the commencement of works. The report will be used by Council to establish damage to Council's assets resulting from the development works.
- 2.10 Pay a security deposit of \$34,020.00 into Council's trust fund. 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.
- 2.11 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. The proposed vehicle access from Hudson Lane to the basement car parking areas must have a minimum RL 3.8m AHD crest level.
 - b. The minimum level of all car parking spaces in the development above Hudson Lane must be RL 3.3m AHD.
 - 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. Onsite 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 reuse on the site and an operation and maintenance plan must accompany the design.
 - e. Piping of all stormwater from impervious areas within the site to Council's drainage system.
 - f. The minimum floor level of all shops and habitable rooms in the development must be RL 3.8m AHD.
 - g. All building materials used or located below RL 3.8m AHD must be of a type

that is able to withstand the effects of immersion.

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

- 2.11 Submit to the Accredited Certifier responsible for issuing the construction certificate for works within the development site detailed design drawings and design reports for the following engineering works:
- a) Construction of driveways, ramps and car parking areas in accordance with the requirements of the current edition Australian Standard AS/NZS 2890: Parking Facilities and other applicable Australian Standards.
 - b) Construction of nutrient and pollution control measures. Design in accordance with Chapter 6.7 - *Water Cycle Management* of the Gosford Development Control Plan. A nutrient and pollution control report including an operation and maintenance plan must accompany the design
 - c) Construction of on-site stormwater retention measures. Design in accordance with Chapter 6.7 - *Water Cycle Management* of the Gosford Development Control Plan 2013. A report detailing the method of stormwater harvesting, sizing of retention tanks for re-use on the site and an operation and maintenance plan must accompany the design
 - d) Construction of stormwater drainage collection and piping of all stormwater runoff from areas within the site to the approved connection to Council's storm water drainage system.
 - e) Construction of buildings with the minimum floor level of all shops and habitable rooms in the development being Reduced Level (RL) 3.8m Australian Height Datum (AHD).
 - f) Construction of buildings from materials that are used or located below Reduced Level (RL) 3.8m Australian Height Datum (AHD) must be of a type that is able to withstand the effects of immersion.
 - g) The minimum level of all car parking spaces in the development above Hudson Lane must be RL 3.3m AHD.

Detailed design drawings and design reports acceptable to the Accredited Certifier must be included in the Construction Certificate documentation.

- 2.12 Submit to Council, the accredited certifier and relevant adjoining property owners a dilapidation report, prepared by a practicing structural engineer, detailing the structural characteristics of all buildings located on adjoining properties and any Council asset in the vicinity of the development. The report must indicate the structure's ability to withstand the proposed excavation, and any measures required to ensure that no damage to these structures will occur during the course of works.

In the event that access to an adjoining property(s) for the purpose of undertaking the dilapidation report is denied, the applicant must demonstrate in writing that all steps were taken to obtain access to the adjoining property(s).

2.13. 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. Mail boxes:

- i. Provide mail boxes for each residential building in one accessible location adjacent to the main entrance to the development;
- ii. They should be integrated into a wall where possible and be constructed of materials consistent with the appearance of the building;
- iii. Mail boxes shall be secure and large enough to accommodate articles such as newspapers;

b. Locate satellite dish and telecommunication antennae, air conditioning units, ventilation stacks and any ancillary structures:

- i. Away from the street frontage;
- ii. Integrated into the roof-scape design and in a position where such facilities will not become a skyline feature at the top of any building;
- iii. Adequately setback from the perimeter wall or roof edge of buildings;

c. A master antenna must be provided for residential apartment buildings. This antenna shall be sited to minimise its visibility from surrounding public areas;

d. The reflectivity index (expressed as a percentum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%;

e. A depth of ~~one (1) metre~~ 450mm must be provided to all landscape planters located on Level 3 and 4;

f. ~~Twelve (12)~~ Twenty-nine (29) residential car parking spaces, including two (2) accessible car parking spaces must be provided onsite;

g. ~~Nine (9)~~ Five (5) commercial car parking spaces must be provided on site;

h. Two (2) residential visitor car parking spaces must be provided on site;

- i. A minimum of one (1) visitor car parking space must be provided within the development with a drain and water supply for the washing of vehicles. The drain is to be connected to the onsite nutrient control facility;
- j. The external colour and finishes schedule of the development must be consistent with Condition 1.5 of this Consent.
- k. Two (2) units are to be provided on Level 2, designed to be capable of adaptation for disabled or elderly residents. These dwellings must be designed in accordance with the *Australian Adaptable Housing Standard (AS 4299-1995)*, which includes preadaptation design details;
- l. Provision is to be made for cyclists on the ground floor level via the installation of five (5) bicycle parking facilities in accordance with *Australian Standard AS 2890.3*.

3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1 All conditions under this section must be met prior to the commencement of any works. Submit to Council a completed *Notice of Intention to Commence Subdivision, Roads and Stormwater Drainage Works* form with supporting documentation prior to the commencement of any Subdivision Works Certificate works, Roads Act Works Approval works, or Section 68 Local Government Act Stormwater Drainage Works Approval works. These works are not to commence until a pre-commencement site meeting has been held with Council.
- 3.1 Appoint a Principal Certifying Authority after the construction certificate for the building work has been issued.
 - a. The Principal Certifying Authority (if not 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 two (2) days before the building work commences.
 - b. Submit to Council a *Notice of Commencement of Building Works* or *Notice of Commencement of Subdivision Works* form giving at least two (2) days notice of the intention to commence building or subdivision work. The forms can be found on Council's website

www.gosford.nsw.gov.au

- 3.2 Do not commence site works until the sediment control measures have been installed in accordance with the approved plans / Gosford DCP 2013 Chapter 6.3 *Erosion Sedimentation and Control*.
- 3.3 Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must 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 can be contacted outside of working hours; and
 - c. That unauthorised entry to the work site is prohibited.

Remove the sign when the work has been completed.

- 3.4 Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the Plumbing and Drainage Act 2011 (to be provided by licensed plumber). These documents can be found on Council's website at: www.centralcoast.nsw.gov.au

Contact Council prior to submitting these forms to confirm the relevant fees.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage). This condition does not apply to swimming pool plumbing that does not physically connect / break into the sewer system.

- 3.5 Provide and maintain a garbage receptacle at the work site until the works are completed. The garbage receptacle must have a tight fitting lid and be suitable for food scraps and papers.
- 3.6 Notify the intention to commence works by giving written notice to the owner of the adjoining property affected by the proposed excavation and/or structural protective works. The required notice must be accompanied by details of the proposed work at

least seven (7) days prior to the commencement of proposed excavation and/or structural protection works.

- 3.7 Submit a dilapidation report to Council, the Accredited Certifier and relevant adjoining property owners. The report is to be prepared by a suitably qualified person detailing the structural characteristics of all buildings located on properties immediately adjoining the site boundaries and any council asset in the vicinity of the development. The report must document and provide photographs that clearly depict any existing damage to the improvements erected upon allotments immediately adjoining the development site and to the road, kerb, footpath, driveways, water supply and sewer infrastructure, street trees and street signs or any other Council asset in the vicinity of the development.

In the event that access to an adjoining property(s) for the purpose of undertaking the dilapidation report is denied, submit evidence in writing demonstrating that all steps were taken to obtain access to the adjoining property(s).

- 3.8 Erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works, if the works:
- a. could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
 - b. could cause damage to adjoining lands by falling objects, or
 - c. involve the enclosure of a public place or part of a public place

Note 1: A structure on public land or on or over a public road requires the prior approval of the relevant authority under the [Local Government Act 1993](#) or the [Roads Act 1993](#), respectively.

Note 2: The [Work Health and Safety Act 2011](#) and [Work Health and Safety Regulation 2011](#) contain provisions relating to scaffolds, hoardings and other temporary structures.

- 3.9 Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site. Each toilet must:

- a. be a standard flushing toilet connected to a public sewer, or
- b. have an onsite effluent disposal system approved under the *Local Government Act 1993*, or
- c. be a temporary chemical closet approved under the *Local Government Act 1993*

3.10 Undertake any demolition involving asbestos in accordance with the *Work Health and Safety Act 2011*. The person having the benefit of this consent must ensure that the removal of:

- a. more than 10m² of nonfriable asbestos or asbestos containing material is carried out by a licensed non friable (Class B) or a friable (Class A) asbestos removalist, and
- b. friable asbestos of any quantity is removed by a licensed removalist with a friable (Class A) asbestos removal licence

The licensed asbestos removalist must give notice to the regulator before work commences in accordance with Clause 466 of the *Work Health and Safety Regulation 2011*.

3.11 ~~Submit to the Principal Certifying Authority a Traffic and Pedestrian Management Plan prepared by a suitably qualified professional.~~

~~The Plan must be prepared in consultation with Council, and where required, the approval of Council's Traffic Committee obtained.~~

~~The Plan must address, but not be limited to, the following matters:~~

- a. ~~Ingress and egress of vehicles to the subject site loading and unloading,~~
- b. ~~Construction zones predicted traffic volumes, types and routes pedestrian and Traffic management methods, and~~
- c. ~~Other relevant matters~~

~~The Applicant must submit a copy of the final Plan to Council, prior to the commencement of work.~~

3.12 Prepare a Construction Traffic and Pedestrian Management Plan (CTPMP) for all activities related to works within the site. The plan must be prepared and implemented only by

persons with Roads and Maritime Service accreditation for preparing and implementing traffic management plans at work sites.

The CTPMP must describe the proposed construction works, the traffic impacts on the local area and how these impacts will be addressed.

The CTPMP must address, but not be limited to, the following matters:

- Ingress and egress of construction related vehicles to the development site.
- Details of the various vehicle lengths that will be used during construction and the frequency of these movement.
- Use of swept path diagrams to demonstrate how heavy vehicles enter, circulate and exit the site or Works Zone in a forward direction.
- Deliveries to the site, including loading / unloading materials and requirements for work zones along the road frontage to the development site. A Plan is to be included that shows where vehicles stand to load and unload, where construction plant will stand, location of storage areas for equipment, materials and waste, locations of Work Zones (if required) and location of cranes (if required).
- Works Zones if heavy vehicles cannot enter or exit the site in a forward direction.
- Control of pedestrian and vehicular traffic where pre-construction routes are affected.
- Temporary Road Closures.

Where the plan identifies that the travel paths of pedestrians and vehicular traffic are proposed to be interrupted or diverted for any construction activity related to works inside the development site an application must be made to Council for a Road Occupancy Licence. Implementation of traffic management plans that address interruption or diversion of pedestrian and/or vehicular traffic must only take place following receipt of a Road Occupancy Licence from Council or the Roads and Maritime Service where on a classified road.

Where a dedicated delivery vehicle loading and unloading zone is required along the road frontage of the development site a Works Zone Application must be lodged and approved by Council. A minimum of 3 months is required to allow Traffic Committee endorsement and Council approval.

The Construction Traffic and Pedestrian Management Plan must be reviewed and updated during construction of the development to address any changing site conditions.

A copy of the Construction Traffic and Pedestrian Management Plan must be held on site at all times and be made available to Council upon request.

- 3.12 Prevent public access to the construction site as required by Clause 298 of the *Work Health and Safety Regulation 2011* when building work is not in progress or the site is unoccupied. Site fencing specifications are outlined under Australian Standard AS1725.12010 *Chainlink fabric fencing Security fencing and gates*. The use of barbed

wire and/or electric fencing is not to form part of the protective fencing to construction sites.

A separate application made under the *Roads Act 1993* will need to be lodged with Council if a hoarding or construction site fence must be erected on the road reserve or a public place.

- 3.14. Provide certification to the Principal Certifying Authority that the structural engineer's details have been prepared in accordance with the recommendations of the geotechnical report(s) listed as supporting documentation in this consent.

4. DURING WORKS

- 4.1 All conditions under this section must be met during works.
- 4.2 Keep a copy of the stamped approved plans on site for the duration of site works and make the plans available upon request to either the Principal Certifying Authority or an officer of Council.
- 4.3 Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the *Plumbing and Drainage Act 2011*.
- 4.4 Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 4.5 Carry out construction or demolition works during the construction phase of the development only between the hours as follows:
 - 7.00am and 5.00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.

- 4.6 During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:
- a. All excavation or disturbance of the area must stop immediately in that area, and
 - b. The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the National Parks and Wildlife Act 1974.

Note: If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.

- 4.7 Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 4.8 Keep a copy of the stamped approved plans onsite for the duration of site works and make the plans available upon request to either the Principal Certifying Authority or an officer of Council.
- 4.9 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 finished floor level is in accordance with the approved plans.
- 4.10 Demolish all buildings and / or building components in a safe and systematic manner in accordance with Australian Standard AS 26012001: *The demolition of structures*. Waste materials must be disposed of at a waste management facility.
- 4.11 Implement dust suppression measures onsite during bulk earthworks to suppress dust generated by vehicles and equipment. Dust must also be suppressed at all other stages of construction in order to comply with the *Protection of the Environment Operations Act 1997*.

4.12 Classify all excavated material removed from the site in accordance with NSW EPA (1999) *Environmental Guidelines: Assessment, Classification and Management of Liquid and NonLiquid Wastes* prior to disposal. All excavated material must be disposed of to an approved waste management facility, and receipts of the disposal must be kept onsite.

4.13 Cease work immediately in that area if any relics are uncovered during excavation onsite. Contact the Heritage Office in accordance with section 146 of the NSW Heritage Act 1977.

Work must not recommence until any necessary Excavation Permit has been obtained from the Heritage Council under section 140 of the NSW Heritage Act, 1977.

4.14 Comply with Demolition and Construction commitments detailed in the Waste Management Plan dated 16 June 2017 by Slater Architects.

4.15 Construct the works within the road reserve that required approval under the *Roads 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*.

4.16 Arrange with the relevant service provider / Authority (e.g. Ausgrid, Jemena, communications provider) for the supply of services concurrent with the engineering work. Arrangements must include where required any relocation of existing mains and services and dedication of easements for mains and services.

4.17 Action the following when an excavation extends below the level of the base of the footings of any building, structure or work on adjoining land:

- a. notify the owner of the adjoining land, and
- b. protect and support the building, structure or work from possible damage from the excavation, and
- c. 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.

- 4.18. Implement all recommendations of the geotechnical report(s) listed as supporting documentation in this development consent. Furthermore, the geotechnical engineer must provide written certification to the Principal Certifying Authority that all works have been carried out in accordance with the recommendations contained within the geotechnical report(s).

5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1 All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2 Submit an application for the Occupation Certificate to the Principal Certifying Authority for approval.
- 5.3 Do not occupy the premises until the Occupation Certificate has been issued.
- 5.4 Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the Plumbing and Drainage Act 2011.
- 5.5 Provide the Principal Certifying Authority with written certification from a qualified landscape designer certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent.
- 5.6 Provide to the Principal Certifying Authority a design verification statement from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the Design Quality Principles set out in Part 2 of *State Environmental Planning Policy No 65 Design Quality of Residential Flat Development*.
- 5.7 Provide 29 off street car parking spaces for residents of the building, and 2 spaces for the sole use of residential visitors to the building. The 5 remaining car spaces in the

development must be allocated to commercial tenancies.

- 5.8 Implement the following Crime Prevention through Environmental Design (CPTED) principles and strategies to minimise the opportunity for crime:
- a. provide adequate lighting to common areas as required under Australian Standard AS 1158: *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
 - f. install a system of Closed Circuit Television of a type and in locations on the site that will record high quality images of all public areas within the site.
- 5.9 Provide mail receptacles appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.
- 5.10 Complete the building in accordance with the relevant provisions and requirements of the National Construction Code Series.
- 5.11 Complete works within the road reserve that required approval under the *Roads Act 1993*. 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.
- 5.12 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.
- 5.13 Complete the internal engineering works within private property in accordance with

the plans and details approved with the construction certificate.

5.14 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 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 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.

- 5.15. Provide certification from a geotechnical engineer to the Principal Certifying Authority that all works have been carried out in accordance with the recommendations contained within the geotechnical report(s) listed as supporting documentation in this development consent.

6. ONGOING OPERATION

- 6.1 Operate and maintain all external lights in accordance with *the AS42821997: Control of the obtrusive effects of outdoor lighting*.
- 6.2 Line mark and maintain the line marking of all car parking areas and spaces required by this consent. Such spaces are to be made available to all users of the site at all times during trading hours.
- 6.3 Do not exceed 5dBA above the ambient noise level from the development or business measured at the boundary of the property.
- 6.4 Do not store materials, waste matter or products outside the building or the approved waste storage area at any time.
- 6.5 Do not obstruct loading bays when not in use.
- 6.6 Maintain the site landscaping for the life of the development.
- 6.7 Maintain the installed system of Closed Circuit Television (CCTV) that monitors / records all public areas within the site.
- 6.8 Load and unload delivery vehicles wholly within the site. Delivery vehicles must enter and exit the site in a forward direction.
- 6.9 Do not give to offensive noise as defined in the *Protection of the Environment Operations Act 1997*.
- 6.10 No obstructions to the wheel out of the waste bins are permitted including grills, speed humps, barrier kerbs etc.

- 6.11 Locate the approved waste storage enclosure / area as indicated on Project 14181, Drawing No DA101, Revision 6 7, dated ~~7 February 2018~~ 11 June 2020, prepared by Slater Architects.
- 6.12 Place the mobile garbage/recycling waste containers at a suitable location at the kerbside no earlier than the evening prior to the collection day and return to the approved Residential waste storage enclosure as soon as possible after service. The residents, caretaker, owner, Body Corporate are responsible for the placement and return of the mobile waste containers.
- 6.13 No obstructions to the wheel out of the waste bins are permitted including grills, speed humps, barrier kerbs, steps etc.
- 6.14 Comply with Ongoing Use commitments detailed in the Waste Management Plan dated 16 Jun 2017 by Slater Architects.
- 6.15 Commercial waste to be serviced by a side loading waste collection vehicle at such times that do not conflict with Residential waste servicing.
- 6.16 Commercial mobile garbage bins to be transferred to the kerbside in Church Street on arrival of the private commercial waste contractor for servicing by a side lift waste collection vehicle and immediately returned to the approved Commercial waste storage enclosure.
- 6.17 Maintain the nutrient / pollution control facilities in accordance with the operation and maintenance plan.
- 6.18 The development will provide the following waste servicing requirements:
- a. 4 x 360L / 1 x 240L mixed waste MGB's serviced weekly
 - b. 4 x 360L recyclable waste MGB's serviced weekly
 - c. No 240 litre Green waste MGB's for kerbside collection

Note: No Green waste MGB's to be provided due to insufficient storage within the Residential waste storage enclosure. All garden/landscaping green waste to be

removed off site by the garden/landscaping contractor.

7. PENALTIES

- 7.1 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.

ADVISORY NOTES

- Ensure the proposed building or works comply with the requirements of the *Disability Discrimination Act*.

NOTE: The *Disability Discrimination Act* (DDA) is a Federal antidiscrimination 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. This development consent does not indicate nor confirm that the application complies with the requirements of the DDA.

- The inspection fee for works associated with approvals under the Roads Act is

calculated in accordance with Council's current fees and charges policy.

- 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.
- Carry out all work under this Consent in accordance with SafeWork NSW 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.
- 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 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.
- Separate application is required should the applicant require a new or upsized water supply connection to Council's water supply system.

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements 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. Central Coast Council in respect to the location of water, sewerage and drainage services
- Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: www.centralcoast.nsw.gov.au

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

**APPENDIX B: Architect's Design Statement – Proposed Modifications to
Consent 52083/2017 – Part 3**

(Slater Architects – October 2020).

DESIGN STATEMENT

TO ACCOMPANY A SECTION 4.55 APPLICATION

Project description:

S4.55 PROPOSED MODIFICATIONS TO DA 52083/2017 PART 3

Located at:

**PART LOTS 19 & 20 IN DP 7861
NO. 5-7 CHURCH STREET,
TERRIGAL NSW 2260**

Submitted to:

CENTRAL COAST COUNCIL

Prepared for:

**Angolet Pty Ltd & Natva Investments Pty Ltd
co/-Slater Architects**

REVISION 2 / OCTOBER 2020

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1.0 DESIGN STATEMENT – SUMMARY OF CHANGES

The following summary has been prepared to describe the proposed S4.55 modifications to approved Development Application No 52083/2017 Part 3 in order to modify the external built form and internal layout of the approved development consent and as indicated in the schedule of amendments and areas indicated by 'cloud' as well as the following notations on the following applicable drawings:

1.1 Site and Roof Plan: DA001

- Revised layout to Roof plan to accommodate new roof
- Updated outline of the terrace of Level 5

1.2 Level 1 - Ground and Site Plan: DA101

- No change

1.3 Level 2 – First Floor Plan: DA102

- No change

1.4 Level 3 – Second Floor Plan: DA103

- No change

1.5 Level 3A – Adaptable Units Floor Plan: DA102-A

- No change

1.6 Level 4 – Third Floor Plan: DA104

- No change

1.7 Level 5 – Fourth Floor Plan: DA105

- Updated outline of the terrace floor of Level 5

1.8 Level 6 – Fifth Floor Plan: DA106

- New Level 6 Floor Plan

1.9 Elevations – Street and Laneway: DA200

- Updated to show new Level 6
- Updated outline of the terrace of Level 5

1.10 Elevations - Side: DA201

- Updated to show new Level 6
- Updated outline of the terrace of Level 5

1.11 Sections: DA300

- Updated to show new Level 6
- Updated outline of the terrace of Level 5

APPENDIX C: Numerical Comparison Schedule of the approved and proposed modified development (Slater Architects, 30th October 2020).

5-7 CHURCH ST, TERRIGAL NSW 2261

30.10.2020

AREAS SCHEDULE

FLOOR	S4.55 APPROVED AREA - SQM	S4.55 PROPOSED AREA - SQM	DIFFERENCE
SITE AREA: 942sqm (survey)			
LEVEL 1 - GROUND			
COMMERCIAL 1	135	135	NO CHANGE
COMMERCIAL 2	80	80	NO CHANGE
FOYER	43	43	NO CHANGE
TOTAL	258	258	NO CHANGE
LEVEL 1 - CAR SPACES	7	7	NO CHANGE
LEVEL 2 - CAR SPACES	29	29	NO CHANGE
LEVEL 3 - SECOND			
UNIT 1 (3 BED)	109	109	NO CHANGE
UNIT 2 (2 BED)	89	89	NO CHANGE
UNIT 3 (2 BED + FLEXI)	119	119	NO CHANGE
UNIT 4 (3 BED)	119	119	NO CHANGE
UNIT 5 (2 BED)	89	89	NO CHANGE
UNIT 6 (3 BED)	115	115	NO CHANGE
FOYER	25	25	NO CHANGE
TOTAL	665	665	NO CHANGE
LEVEL 4 - THIRD			
UNIT 7 (3 BED)	112	112	NO CHANGE
UNIT 8 (3 BED)	120	120	NO CHANGE
UNIT 9 (3 BED)	120	120	NO CHANGE
UNIT 10 (3 BED)	114	114	NO CHANGE
FOYER	18	18	NO CHANGE
TOTAL	484	484	NO CHANGE
LEVEL 5 - FOURTH			
UNIT 11 (3 BED)	172	172	NO CHANGE
UNIT 12 (3 BED)	167	167	NO CHANGE
FOYER	19	19	NO CHANGE
TOTAL	358	358	NO CHANGE
LEVEL 6 - FOURTH			
UNIT 13 (3 BED)	0	208	+208
FOYER	0	15	+15
TOTAL	0	223	+223
GRAND TOTAL	1765sqm	1988sqm	+223
Floor Space Ratio -	1.87:1	2.11:1	0.24:1

Note: All calculations are to the nearest sqm.

APPENDIX D: BASIX CERTIFICATE

(Under Separate Cover)