



Clause 4.6 Variation Request

Floor Space Ratio

(Clause 4.4) Marrickville LEP
2011

**3-7 & 13-17 Regent Street, 287-309 Trafalgar Street
and 16-20 Fisher Street, Petersham**


Submitted to Innerwest Council

On Behalf of Petersham RSL Club

c/- Deicorp Projects Petersham Pty Ltd

MAY 2019

REPORT REVISION HISTORY

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Appendix No	Document Title	Prepared by
1	Gross Floor Area Calculations	Candelepas and Nordon Jago

1. INTRODUCTION

This is a formal written request that has been prepared in accordance with clause 4.6 of the *Marrickville Local Environmental Plan 2011*. It has been prepared to support a Development Application (DA) submitted to Innerwest Council (Council) for the construction of an eight-storey residential flat building, a seven-storey residential flat building and an 11-storey mixed use building on three sites as follows:

- Site 1 – 3 to 7 Regent Street, Petersham;
- Site 2 – 13 to 17 Regent Street, Petersham; and
- Site 3 – 287 to 309 Trafalgar Street and 16 to 20 Fisher Street, Petersham.



Figure 1: Cadastral Map of site, subject site outlined in blue (Source: SIX Maps)

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development and it is noted that the development standard is not specifically excluded from the operation of Clause 4.6 of MLEP.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and relevant decisions in the New South Wales Land and Environment Court and New South Wales Court of Appeal¹.

In the most recent decision (*Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118), Chief Justice Preston provided further clarification on the application of cl 4.6 and the preconditions which must

¹ Relevant decisions include: *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46; *Wehbe v Pittwater Council* [2007] NSWLEC 827; *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009; *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90; *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248; *Moskovich v Waverley Council* [2016] NSWLEC 1015; *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

be satisfied for consent to be granted pursuant to cl 4.6(4). That is, the consent authority must form two positive opinions of satisfaction under cl. 4.6(4)(a), as summarised below:

- the **written request** has adequately demonstrated that the matters under cl 4.6(3) are satisfied, being that compliance with the standard is unreasonable or unnecessary, and there are sufficient environmental planning grounds to justify contravening the development standard. It is not the consent authority's role to directly form an opinion as to whether these matters are satisfied, rather indirectly by the satisfaction that the written request has addressed these matters.
- be **directly satisfied** that the proposed development satisfies cl 4.6(4)(a)(ii), being the proposed development will be in the public interest because it is consistent with the objectives of the zone and the objectives of the development standard. The consent authority must form this opinion directly, rather than indirectly satisfied that the written request has adequately addressed these matters.

In Sections 3 and 4 of this request, we have explained how flexibility is justified in this case in terms of the matters explicitly required by cl 4.6 to be addressed in a written request from the applicant. In Sections 4, 5, 6 and 7 we address additional matters that the consent authority is required to be satisfied of when exercising either the discretion afforded by cl 4.6 or the assumed concurrence of the Secretary.

The following request demonstrates that by exercising the flexibility afforded by cl 4.6, in the particular circumstances of this application, not only would the variation be in the public interest because it satisfies the relevant objectives of both the R4 High Density Residential zone and the Floor Space Ratio development standard, but it would also result in a better outcome for, and from, the development.

1.1. What is the Environmental Planning Instrument (EPI) that applies to the land and what is the development standard being varied?

The relevant EPI that applies to the land is the *Marrickville Local Environmental Plan 2011* (MLEP).

The development standard that this request seeks approval to vary is the Floor Space Ratio (FSR) standard in Clause 4.4 of the MLEP.

The numeric value of the FSR development standard for each of the sites is shown in in **Figure 1** below which provides an extract of the FSR Map. The relevant FSR's are as follows:

- Site 1 - 2.8:1
- Site 2 - 2.1:1
- Site 3 - 3.4:1

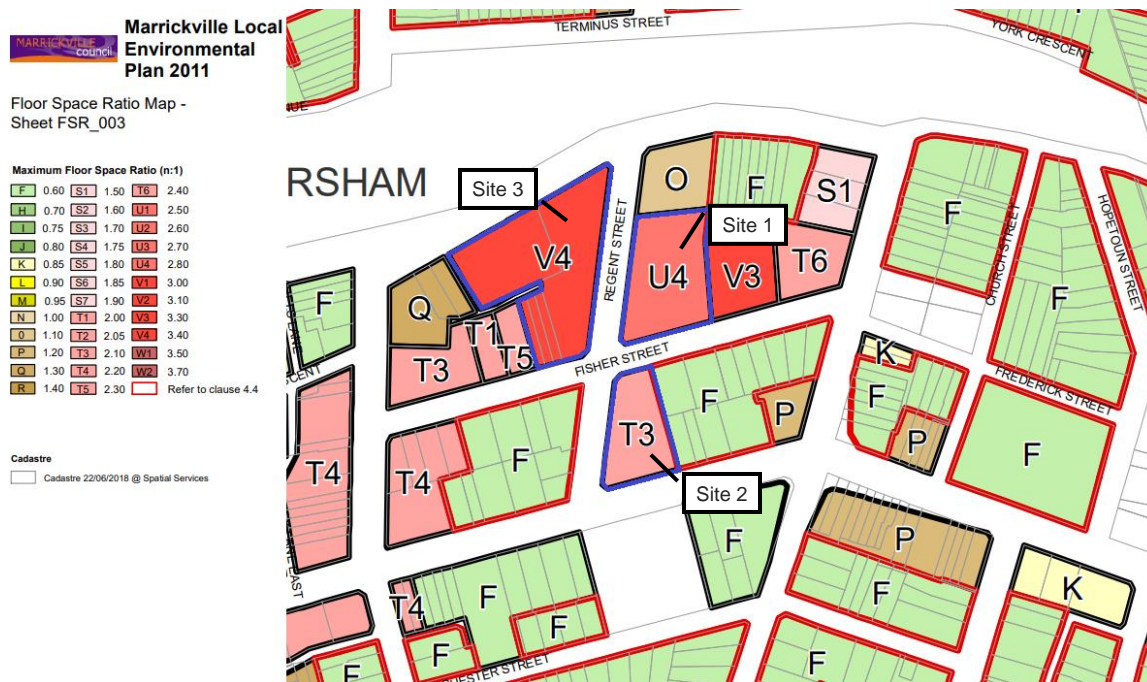


Figure 2: Floor Space Ratio Map extract, subject sites outlined in blue (Source: MLEP 2011)

2. EXTENT OF VARIATION

The proposed FSR for each site, and the extent of the FSR variation is set out in detail in Table 1 below.

The FSR for each site has been calculated in accordance with Clause 4.5 - *Calculation of floor space ratio and site area* and the definition of *gross floor area* provided in the MLEP.

It should be noted that the proposed development on the three sites includes buildings with gallery corridors, that is, corridors that are open on one side and exposed to the elements.

There have been various decisions by Commissioners of the Land & Environment Court regarding whether or not to include exposed or open corridors in the calculation of gross floor area (GFA).

GFA is defined in the MLEP as follows:

“gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from

any other building, **measured at a height of 1.4 metres above the floor, and includes ...**” (emphasis added)

In *GGD Danks Street P/L and CR Danks Street P/L v Council of the City of Sydney* [2015] NSWLEC 1521, Commissioner O’Neill formed the view that the corridor of the building in question did not form part of the gross floor area as it was contained on either side by the external walls of the units on either side of the corridor.

The Commissioner determined that the external face of the wall cannot be characterised as an internal face because an external wall has a specific function that distinguishes it, that being, weatherproofing. It was said that, the definition of gross floor area must refer to the interior surface of the wall that forms the facade or exterior of a dwelling, being the wall that weatherproofs the interior space, and cannot refer to the exterior surface of the outer wall.

In *Landmark Group Australia Pty Ltd v Sutherland Shire Council* [2016] NSWLEC 1577, the Danks case was referred to but Commissioner Morris accepted the Council’s argument that the “floor” of the building in the plan was the whole of the floor enclosed by the external face of the building, that being the face that surrounds the building footprint and which, notwithstanding articulation, recessing and the like within it, is generally that which presents to the street frontage and to the side and rear boundaries.

In *Ceerose Pty Ltd v Inner West Council* [2017] NSWLEC 1289, Commissioner Dickson took a similar approach to Commissioner Morris in the Landmark Group case.

Having regard to these decisions, gallery corridors have only been excluded from the calculation of GFA where the adjoining wall is unequivocally an external wall that forms part of the external face of the building. In application, and for abundant caution, this means that the gallery corridors on Site 1 have been included in the GFA calculation because although they are located within a large atrium and are exposed to the elements and therefore weatherproof the interior space, they may be argued to be on an internal face of the building because they do not present to the street frontage or front or rear boundaries.

The definition of GFA goes on to exclude certain floor area as follows:

“... but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) **car parking to meet any requirements of the consent authority** (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.” (emphasis added)

On this basis, car parking required to satisfy the requirements of the *Marrickville Development Control Plan 2011* (DCP) has been excluded from the calculation of GFA. The proposal exceeds the amount of carparking prescribed in the DCP, however, even though car parking is provided in accordance with the minimum amounts recommended in the *RMS Guide to Traffic Generating Development*. Car parking in excess of the DCP requirements has been included in the calculation of GFA.

It is worth noting that throughout the assessment of the development application the consent authority has raised no objection to and in fact supports the quantum of car parking proposed due to the limited availability of on-street car parking in and around Petersham and the likelihood of further on-street car parking being removed from Trafalgar Street in the vicinity of site 3 to improve traffic flows. While it could be said that the

car parking is therefore required to meet *any* requirements of the consent authority, for abundant caution it has been included in the GFA calculation and is included in this variation request.

The extent of the variation, therefore, is as set out in the Table 1 below.

Table 1: FSR and GFA variances

	Site 1	Site 2	Site 3
FSR Standard	2.8:1	2.1:1	3.4:1
Site Area	3,028m ²	1,960m ²	5,424m ²
GFA – permissible	8,478.4m ²	4,116m ²	18,441.6m ²
GFA – proposed	9,223m ²	4,311m ²	18,889m ²
FSR – proposed	3.04:1	2.20:1	3.48:1
Variation	744.6m ² (8.8%)	195m ² (4.7%)	447.4m ² (2.4%)
GFA - excess car parking	354m ²	Nil	447.4m ²
Variation - less excess car parking	390.6m ² (4.6%)	195m ² (4.7%)	50.4m ² (0.3%)

3. COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THIS CASE. [CL.4.6 (3)(A)]

3.1. Achieves the objectives of the standard

Compliance with the Floor Space Ratio standard is unreasonable or unnecessary in the circumstances of this case because, as explained in **Table 5** (below), the objectives of the development standard are achieved, notwithstanding non-compliance with the standard.²

Table 2: Achievement of Development Standard Objectives.

Objective	Discussion
(a) to establish the maximum floor space ratio	<p>The floor space ratio for the three sites was established by Amendment No.15 to the MLEP which was made for the purpose of facilitating the proposal as presented in the development application.</p> <p>The proposal is consistent with detailed development concept plans that were comprehensively reviewed by Council officers and the Inner West Architectural Excellence Panel in February 2018, following the exhibition of the planning proposal. Amendment No.15 to the MLEP was then made on 27 July 2018. The Amendment incorporated the adoption of the FSR standards and instigated incorporation of the site-specific master plan for the Petersham South Precinct into Part 9.6 of MDCP 2011. Amendment No. 15 and the master plan define the desired urban design and streetscape context and the desired future character of development in this locality.</p> <p>During the preparation of the LEP amendment, the FSR represented by the detailed concept plans was calculated by (incorrectly) excluding gallery and some semi open corridors. Hence although the development application is consistent with the concept plans, there is a minor discrepancy in the FSR.</p> <p>Notwithstanding the minor variation to the FSR standard, the proposal is consistent with the development outcome envisaged when the LEP</p>

² In *Wehbe v Pittwater Council* [2007] NSWLEC 827 Preston CJ identified 5 ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary and that it is sufficient for only one of these ways to be established. Although the decision concerned SEPP 1, it remains relevant to requests under clause 4.6 as confirmed by Pain J in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, notwithstanding that if the first and most commonly applied way is used, it must also be considered in 4.6(4)(a)(ii). The 5 ways in *Wehbe* are: 1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard; 2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary; 3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable; 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; or 5. The zoning of the land is unreasonable or inappropriate.

Objective	Discussion
	<p>amendment was made and the maximum FSR established.</p>
<p>(b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas</p>	<p>The GFA that is attributable to excess car parking is located in basement levels and does not contribute to building density and bulk.</p> <p>The additional GFA that is not attributable to excess car parking represents a variation of only 2% of permissible GFA across the three sites.</p> <p>As discussed above, notwithstanding the minor variation of the FSR standard the proposal is consistent with the desired future character for the locality. This is demonstrated by the proposal's consistency with the Petersham South (Precinct 6) building envelope control diagrams in the MDCP.</p> <p>The proposal will result in a building density and bulk which relates appropriately to the site area and is consistent with the desired future character of development in this locality as evident by the concept plans reviewed by Council and their Architectural Excellence Panel.</p>
<p>(c) to minimise adverse environmental impacts on adjoining properties and the public domain</p>	<p>The proposal has no adverse environmental impacts on adjoining properties or the public domain. This is discussed further in Part 4 (below) of this request.</p>

4. THERE ARE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE STANDARD. [CL. 4.6(3)(B)]

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 2018, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole.

The aspects or elements of elements of the development that contravene the standard are a 2% increase in the GFA measured above ground level and a 2.6% increase in the GFA that is attributable to basement car parking.

The additional GFA that is located above ground level consists primarily of gallery corridors within the atrium of the building on Site 1, elimination of the building setback above the sixth floor on the Fisher Street frontage of Site 3 and minor variations to the setback on the north eastern corner of Site 2.

Notwithstanding the inclusion of the gallery corridors within the atrium of the building on Site 1 in the calculation of GFA, the atrium is consistent with the dimensions shown in Figure 6.1b of the MDCP. The gallery corridors do not increase the visual bulk and scale of the building viewed from any public places nor will they have any unreasonable privacy impacts for future residents of the building.

The elimination of the building setback on the sixth floor on the Fisher Street frontage of Site 3 was undertaken at the suggestion of the Council's Architectural Excellence Panel to achieve a simpler built form that would respond more appropriately to the streetscape on Fisher Street. In this regard it results in an improved environmental outcome.

The variations to the setback on the north eastern corner of Site 2 are minor and create architectural interest without compromising amenity in the locality.

Overall, the minor variation of the FSR above ground level is barely discernible and causes no environmental harm.

The variation of the FSR created by the basement carparking in excess of the standard in the MDCP also causes no direct environmental harm. It has no impact on the bulk and scale of the building and as demonstrated in the Traffic and Parking Impact Assessment Report submitted with the development application, it does not adversely affect the functioning of the local road network.

We note that the car parking rates in the MDCP have been set to constrain the provision of car parking within accessible areas in order to promote greater use of sustainable transport. Sites 1 and 3 are deemed to be within accessible areas as they are located within 200m of Petersham railway station. As such, the parking rates provided in the DCP are less than those recommended in the *RMS Guide to Traffic Generating Development* - which are normally regarded to be the minimum acceptable rates.

It is necessary, therefore, to consider whether the provision of additional car parking on-site will cause environmental harm by eroding the use of sustainable transport, and to balance that against the impact that reduced on-site parking will have on the demand for on-street car parking. We note this is consistent with the first objective of the Parking provisions of the MDCP which reads: "*To balance the need to meet car parking demand on-site to avoid excessive spillover on to streets, with the need to constrain parking to maintain the Marrickville LGA's compact urban form and promote sustainable transport.*" An assessment of all the parking objectives from the MDCP is provided in **Table 3** below.

The provision of additional housing less than 200m from Petersham railway station will increase the use of sustainable transport irrespective of whether the dwellings also have car parking spaces. This is evident in the rapid growth of public transport patronage and the demand for park and ride facilities throughout the rail network. Public transport is a more cost effective and convenient form of travel particularly when you are located at a transport node.

Spill over of car parking onto streets, however, is a concern in Petersham which is reflected in the Council’s support throughout the assessment of the development application for the car parking proposed in the development application. On-street car parking is in limited supply, to the extent that the Council is also requiring, by way of a voluntary planning agreement, the provision of 24 public car parking spaces on Site 1.

One of the factors that is particular to Petersham and will further constrain car parking in the locality is the proposed Regional Bicycle Route 7 – the final design of which was adopted by the Inner West Council on 24 April 2018. Existing on-street parking on the northern side of Trafalgar Street will be lost to make way for the Regional Bicycle Route.

It is worth also noting that the impact of the proposal on-street car parking was a concern expressed in public submissions on the development application.

Table 3 below discusses the relevant objectives from Part 2 – Generic Provisions Parking of the MDCP. It is relevant to note that the principal local strategy which informed the car parking provisions in the MDCP was the Marrickville Integrated Transport Strategy 2007. This strategy has not been updated or revised since publication to account for changes including, but not limited to, the emergence of ride share services, the adoption of regional bicycle routes, changes in road user charges, the increased convenience of public transport since the implementation of integrated ticketing and other improvements to facilities and services that are reflected in the strong growth in patronage of public transport. While the strategy no doubt remains valid in many respects, it is important nonetheless to consider the characteristics of individual places and circumstances that may have changed, thereby affecting previous assumptions and analysis.

Table 3 - Objectives from Part 2 - Generic Provisions Parking of the MDCP.

Objective	Discussion
<p>O1 To balance the need to meet car parking demand on-site to avoid excessive spill over on to streets, with the need to constrain parking to maintain the Marrickville LGA’s compact urban form and promote sustainable transport.</p>	<p>As discussed already and reflected in the response to the public exhibition of the application, Petersham is particularly sensitive to parking spill over currently and this will be exacerbated with the eventual construction of Regional Bicycle Route 7. The provision of on-site car parking in accordance with the standards identified in the RMS Guide to Traffic Generating Development provides an appropriate balance between the need to avoid excessive spill over while promoting sustainable transport.</p>
<p>O2 To balance the need to provide service/delivery areas on-site to avoid excessive use of streets for this purpose, with the need to constrain those areas to maintain the Marrickville LGA’s compact urban form and promote sustainable transport.</p>	<p>Not directly relevant although it is noted that the proposal includes appropriate service and delivery areas.</p>
<p>O3 To improve the integration of land use and transport by applying strict constraints to car parking within accessible areas and more modest constraints in less accessible areas.</p>	<p>If this objective was applied without regard to the particular characteristics of individual localities it would conflict with the first objective which requires the need to constrain car parking to be balanced with excessive spill over on to streets. It would also mean that Council would not be providing additional public car parking in the locality as has been sought via the planning agreement. The integration of land use and transport is achieved via a number of strategies</p>

	of which restricting the availability of parking is only one. Other strategies which are realised by this development proposal include concentrating development on transport nodes and improving pedestrian access.
O4 To ensure parking provision and design is compatible with the particular development proposed.	Car parking has been provided in accordance with the minimum rates set out in the RMS Guide to Traffic Generating Development. These rates are not excessive but will ensure that the development does not place undue additional pressure on already constrained on-street parking.
O5 To allow for appropriate variation of provision rates and design parameters for developments with particular characteristics, such as affordable housing or re-use of older buildings.	Not directly relevant.
O6 To provide for current and future demand for bicycle parking and to ensure bicycle parking is well designed and located.	Not directly relevant, although it is noted that the proposal promotes sustainable transport by making provision for bicycle parking in accordance with the rates set out in the MDCP.
O7 To ensure all parking facilities are safe, functional and accessible to all through compliance with design standards.	Not directly relevant although achieved by the proposal.
O8 To ensure all parking facilities achieve positive visual, environmental, sustainable transport and pedestrian safety outcomes through adoption of best practice principles.	Not directly relevant although achieved by the proposal.
O9 To give priority, in larger developments and where appropriate, to certain users in allocating parking, including emergency vehicle parking, service/delivery, mobility parking, bus/bicycle priority and parking for carshare and environmental vehicles.	Achieved. It is noted that the proposal includes the dedication of 24 public car parking spaces to Inner West Council. Of these spaces the Council may choose, as it has done with public parking elsewhere, to dedicate one or more spaces for use by car share services.

Having regard to the foregoing discussion, the provision of car parking at the minimum rates set out in the RMS *Guide to Traffic Generating Development* provides the most appropriate balance between avoiding excessive spill over onto streets and promoting the use of sustainable transport. In this regard we conclude that sufficient environmental planning grounds exist in the circumstances of this application to justify contravening the FSR standard.

Finally, we also note on review of the publicly available register of variations that there have been numerous occasions where the consent authority has exercised similar flexibility, that is, the FSR standard has been varied because the additional FSR was created by excess car parking (see DAs 2009/00171, 2010/00276, 2012/00490, 2012/00599, 2013/00222, 2013/00595, 2015/00628).

5. THE PROPOSAL WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE STANDARD AND THE OBJECTIVES OF THE ZONE. [CL.4.6(4)(A)(II)]

In section 3 (above), it was demonstrated that the proposal is consistent³ with the objectives of the development standard. The proposal is also consistent with the objectives of the R4 – High Density Residential Zone of the MLEP, as explained in

Table 44 (below).

Table 4: Consistency with Zone Objectives.

Objective	Discussion
To provide for the housing needs of the community within a high-density residential environment.	The proposal will provide 357 new dwellings within a high-density residential environment as envisaged by the MLEP and the detailed master plan in the MDCP prepared on the basis of detailed concept plans that are consistent with the development application.
To provide a variety of housing types within a high density residential environment.	The proposal provides a mix of studio, 1, and 2-bedroom units to meet the market demand in the locality and complement the existing housing stock.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	The proposal facilitates the relocation of the Petersham RSL Club to the western side of Regent Street. The Club provides a variety of recreation and leisure facilities which are valued by the community.
To provide for office premises but only as part of the conversion of existing industrial and warehouse buildings or in existing buildings designed and constructed for commercial purposes.	Not applicable to the proposal.
To provide for retail premises in existing buildings designed and constructed for commercial purposes.	Not applicable to the proposal.
To provide for well connected neighbourhoods that support the use of public transport, walking and cycling.	The proposal improves connectivity within and surrounding the three sites including the widening of Fozzard Lane located adjacent to Site 3 and the creation of a publicly accessible open space through Site 3 connecting Trafalgar Street, Fozzard Lane and Regent Street; The proposal includes the provision of a total of 281 bicycle spaces within the three sites, encouraging and accommodating the use of active forms of transportation.

³ In *Dem Gillespies v Warringah Council* [2002] LGERA 147 and *Addenbrooke Pty Ltd v Woollahra Municipal Council* [2008] NSWLEC the term 'consistent' was interpreted to mean 'compatible' or 'capable of existing together in harmony'

	The provision of additional housing in close proximity to Petersham railway station will promote the increased use of public transport.
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As can be seen from **Table 2** and

Table 4, the proposal is consistent with the objectives of the standard and the objectives of the zone and is therefore considered to be in the public interest.

6. CONTRAVENTION OF THE DEVELOPMENT STANDARD DOES NOT RAISE ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING. [CL. 4.6(5)(A)]

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application.

7. THERE IS NO PUBLIC BENEFIT OF MAINTAINING THE STANDARD. [CL. 4.6(5)(B)]

The proposed development is consistent with the detailed development concept plans that were subject to a comprehensive review by Council's officers and its Architectural Excellence Panel in February 2018 following the exhibition of the planning proposal. This review was followed by the making of Amendment No.15 on 27 July 2018 and the adoption of the site-specific master plan for these three sites in the Petersham South Precinct in Part 9.6 of MDCP 2011.

The relatively minor variations of the FSR standard cause no environmental harm as discussed in Section 4 and the resulting building form is consistent with that envisaged at the time of making the planning controls.

Accordingly, there is no public benefit⁴ in maintaining strict compliance with the development standard as there are no unreasonable impacts which will result from the variation to the FSR standard.

We therefore conclude that the benefits of the proposal outweigh any disadvantage and as such the proposal will have an overall public benefit.

⁴ *Ex Gratia P/L v Dungog Council* (NSWLEC 148) established that the question that needs to be answered to establish whether there is a public benefit is "whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development"

8. CONCLUSION

This Clause 4.6 variation request demonstrates, as required by Clause 4.6 of the *Marrickville Local Environmental Plan 2011*, that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development;
- There are sufficient environmental planning grounds to justify the contravention;
- The development achieves the objectives of the development standard and is consistent with the objectives of the R4 High Density Residential Zone and Clause 4.4 of the MLEP 2011;
- The proposed development, notwithstanding the variation, is in the public interest and there is no public benefit in maintaining the standard;
- The proposal is consistent with the surrounding and desired character,
- The variation does not raise any matter of State or Regional Significance.

On this basis, therefore, it is considered appropriate to exercise the flexibility provided by Clause 4.6 in the circumstances of this application.

APPENDIX 1

Gross floor area calculations

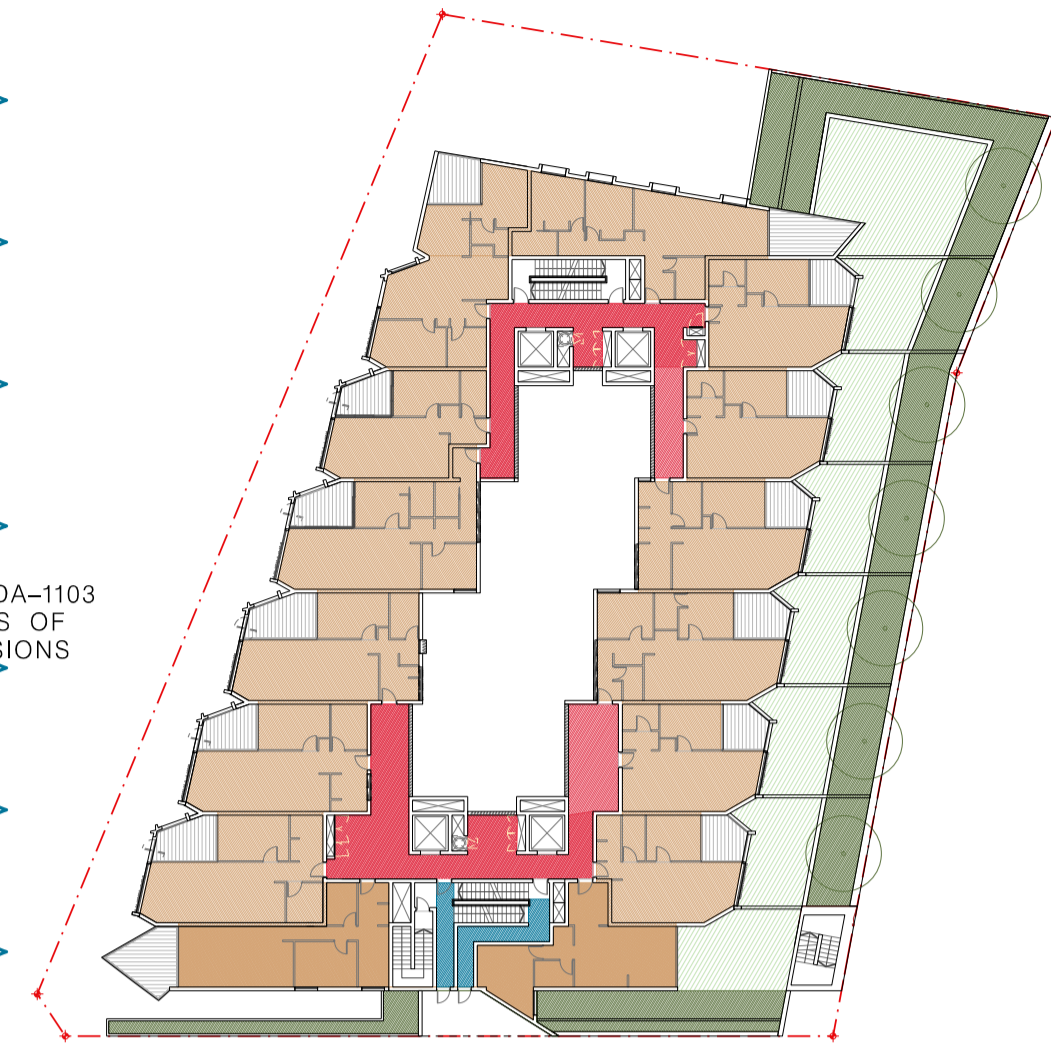


GROUND FLOOR	AREA
RESIDENTIAL	496 m ²
CIRCULATION	98 m ²
ADDITIONAL GFA	40 m ²
TOTAL LEVEL GFA	634 m²

LANDSCAPE	AREA
PLANTING AREA (SOIL DEPTH GREATER THAN 1M)	123 m ²
GENERAL LANDSCAPE (NOT DEEP PLANTING)	339 m ²
TOTAL LANDSCAPED AREA AT GF	462 m²

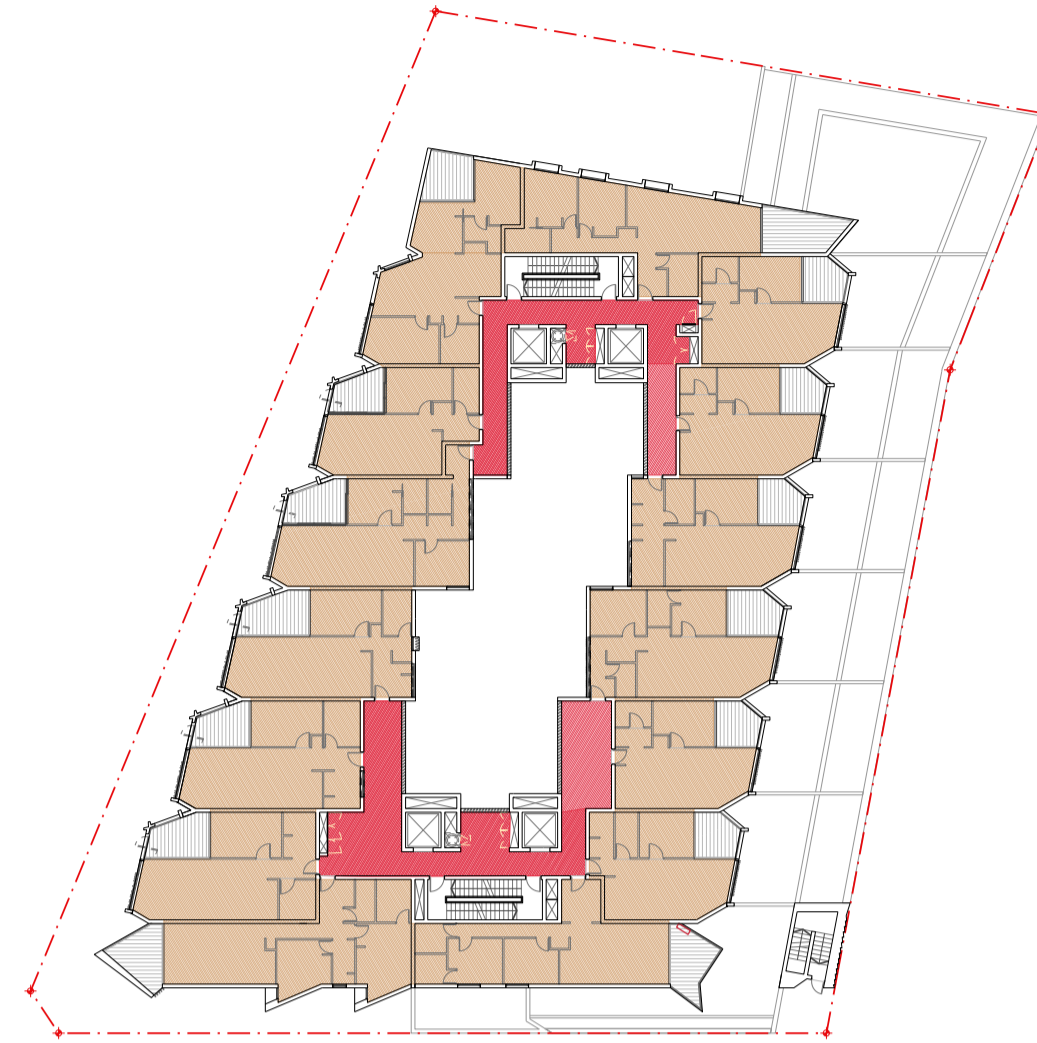
COMMUNAL SPACES	AREA
COMMUNAL SPACE AREA	269 m ²

CAR PARK	AREA
COUNCIL CARPARK (24 SPACES)	360 m ²

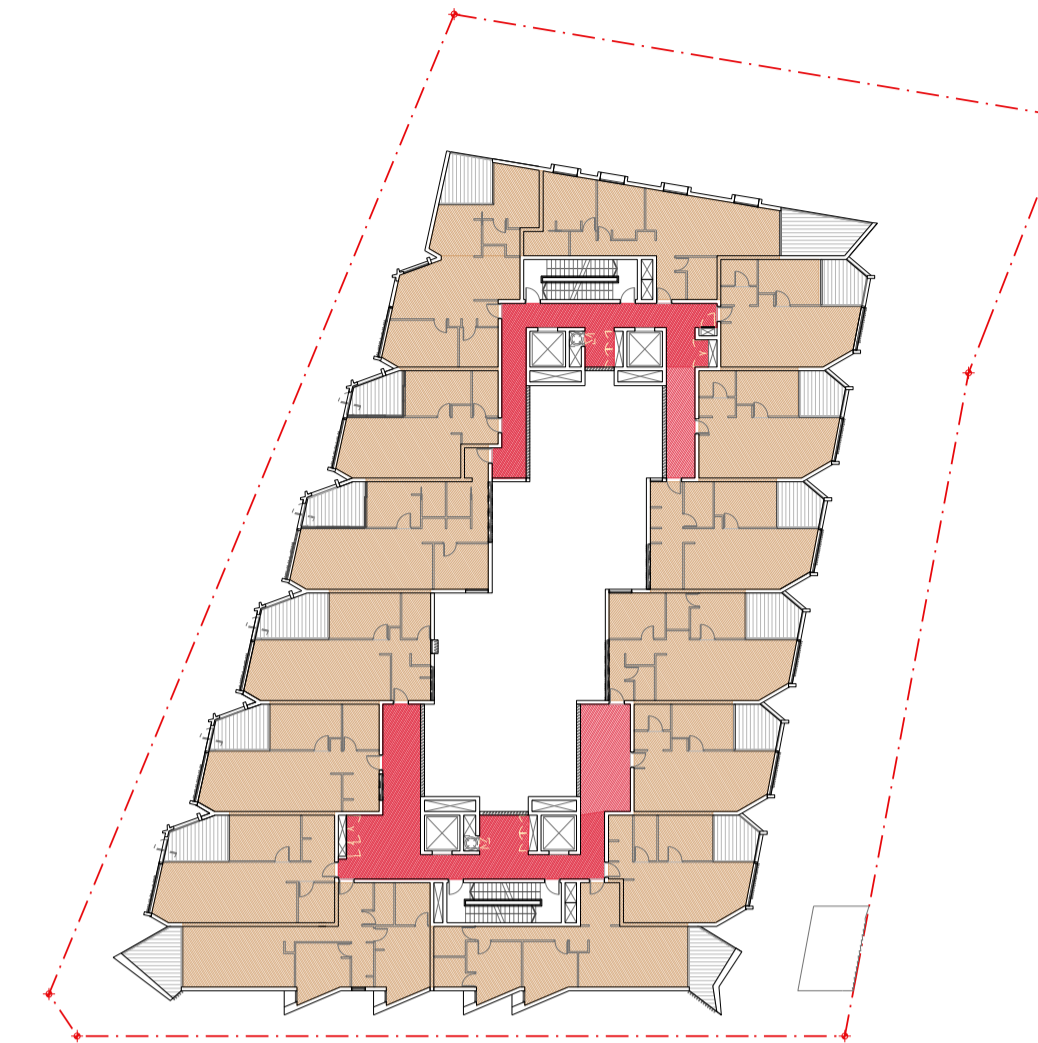


LEVEL 1 PLAN	AREA
RESIDENTIAL	1016 m ²
CIRCULATION	161 m ²
ADDITIONAL GFA	20 m ²
TOTAL LEVEL GFA	1197 m²

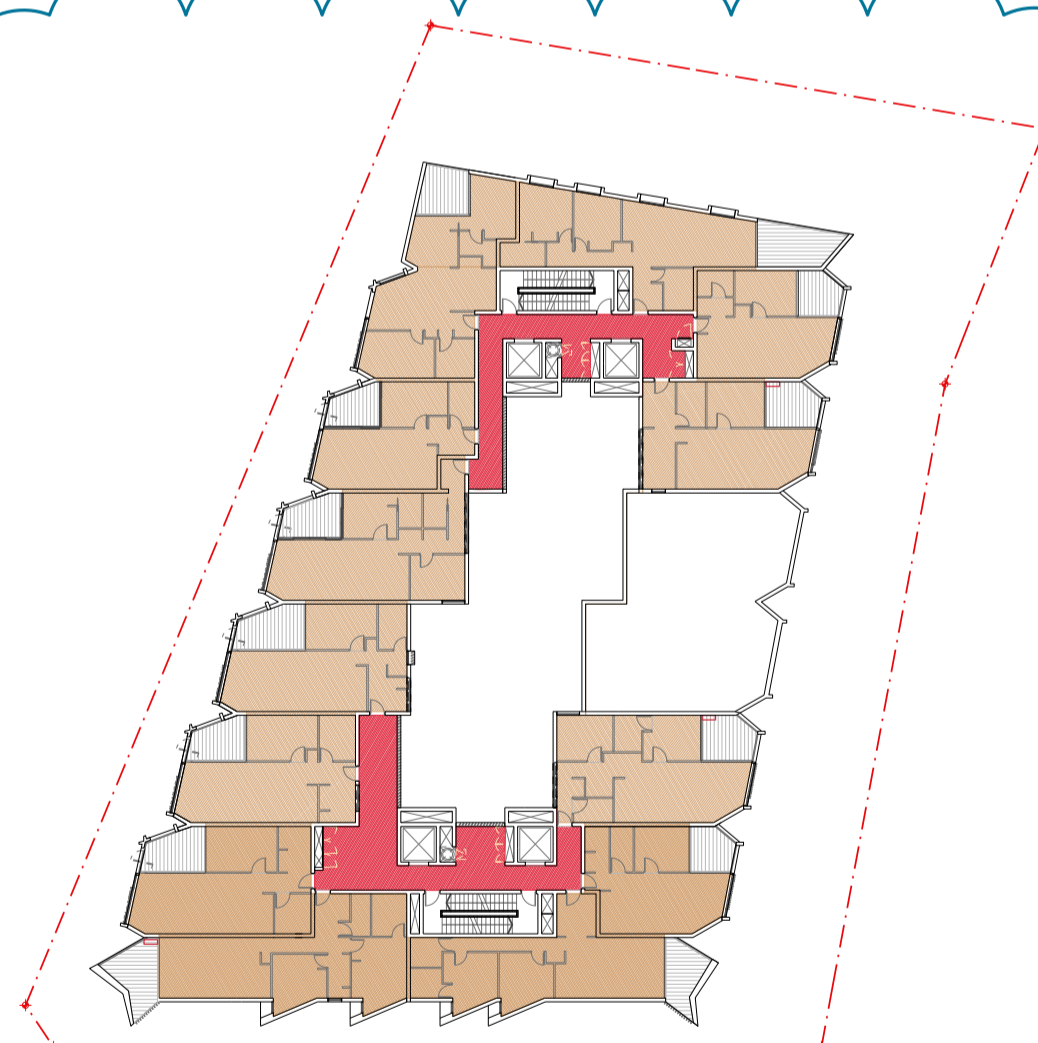
LANDSCAPE	AREA
PLANTING AREA (SOIL DEPTH GREATER THAN 1M)	277 m ²
GENERAL LANDSCAPE (NOT DEEP PLANTING)	306 m ²
TOTAL LANDSCAPED AREA AT L1	583 m²



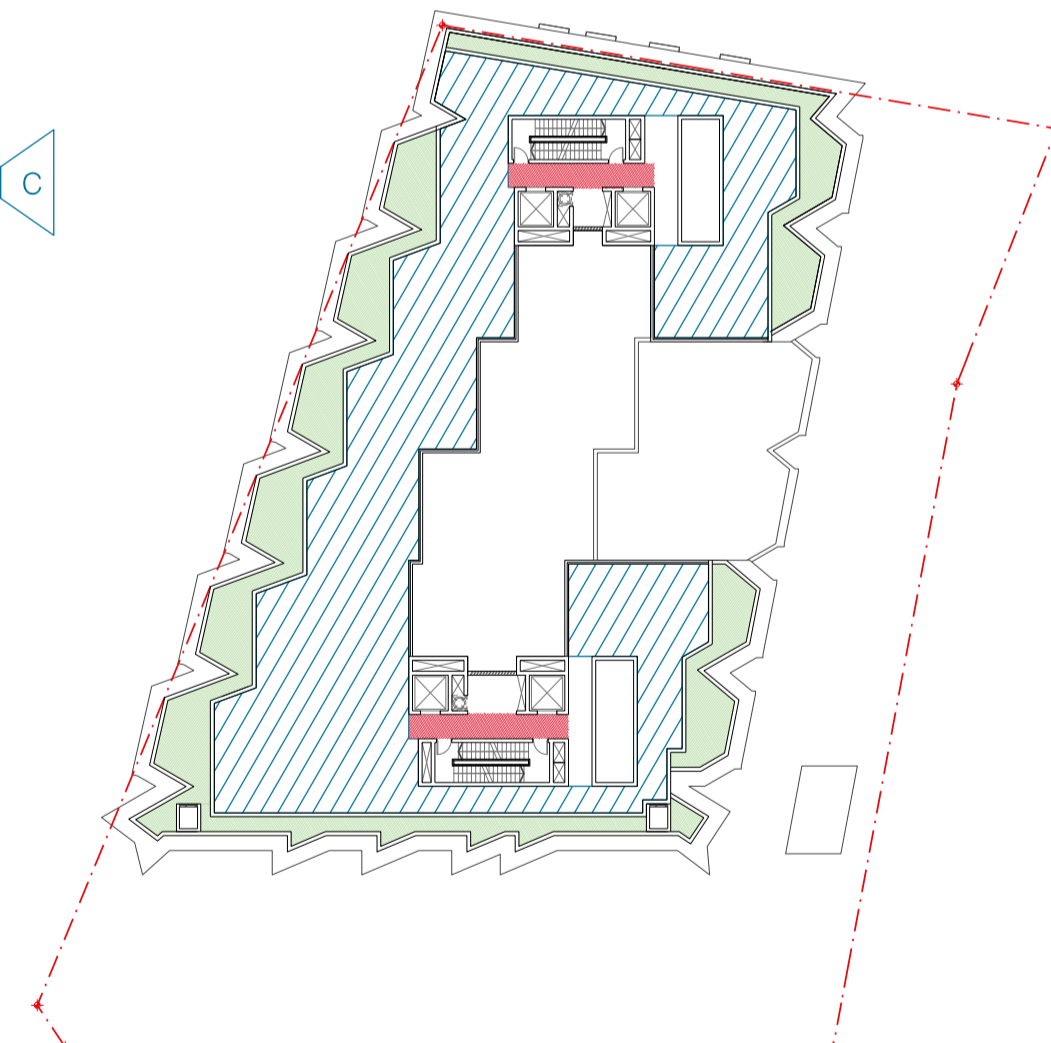
LEVEL 2 PLAN	AREA
RESIDENTIAL	1053 m ²
CIRCULATION	161 m ²
TOTAL LEVEL GFA	1214 m²



TYPICAL LEVELS 3-5 PLAN	AREA
RESIDENTIAL	1056 m ²
CIRCULATION	161 m ²
TOTAL LEVEL GFA	1217 m²



LEVELS 6-7 PLAN	AREA
RESIDENTIAL	946 m ²
CIRCULATION	124 m ²
TOTAL LEVEL GFA	1070 m²



LEVEL 8 PLAN	AREA
CIRCULATION	33 m ²
TOTAL LEVEL GFA	33 m²

LANDSCAPE	AREA
SOFT LANDSCAPING	253 m ²
HARD LANDSCAPING	628 m ²
TOTAL LANDSCAPED AREA AT ROOF	881 m²

COMMUNAL SPACES	AREA
COMMUNAL SPACE AREA	628 m ²



CAR PARK B2	AREA
22 ADDITIONAL CARPARK SPACES	354 m ²
TOTAL LEVEL GFA	354 m²

CURRENT KEY CONTROLS (MARRICKVILLE LEP 2011)	
SITE AREA	3 028 SQM (SURVEY)
PERMISSIBLE FSR	2.8 : 1
PERMISSIBLE GFA	8 478 SQM
LEP HEIGHT PLANE	23m
DEEP SOIL AREA	211 SQM
SITE COVERAGE	40%

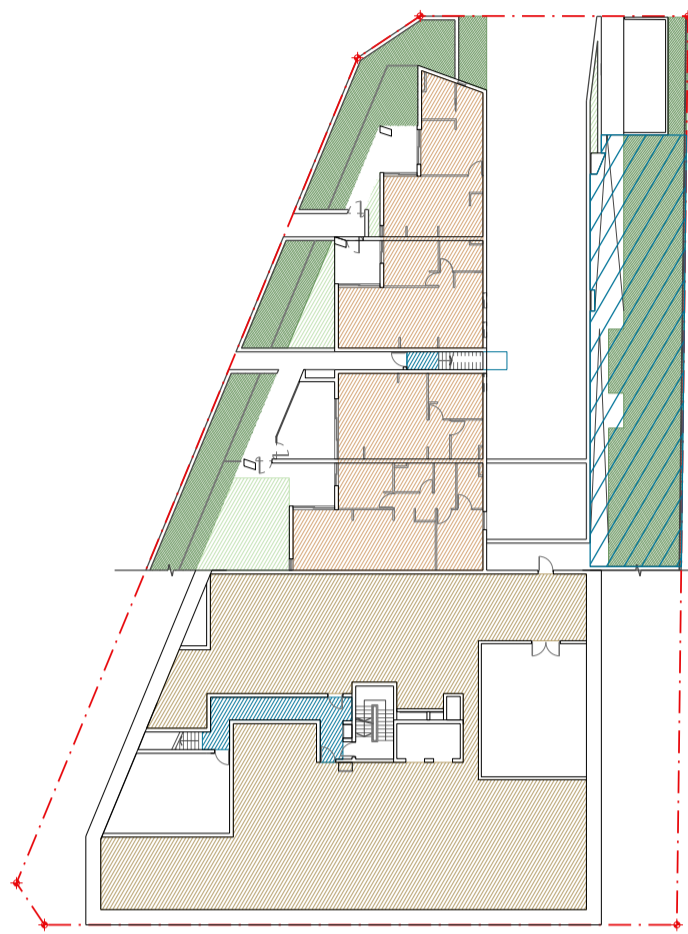
ADOPTED PLANNING CONTROLS	
FSR	2.8 : 1
GFA	8 478 SQM

PROPOSED APPLICATION	
TOTAL GFA	9 223 SQM
EXCESS CARPARKING GFA (22 SPACES)	354 SQM
PUBLIC CARPARKING GFA (24 SPACES)	360 SQM

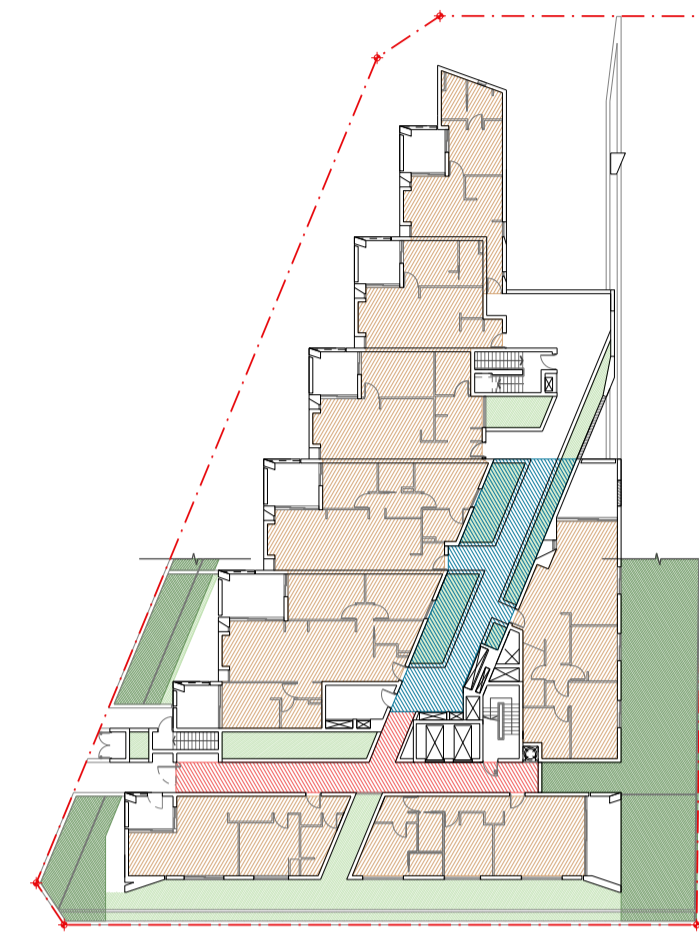
APARTMENT MIX				
NO. OF UNITS	TYP FLOOR	TOTAL	%	MDCP 2011
STUDIO	0	1	1	5-20 %
1 BED	9	67	62	10-40 %
2 BED	6	40	37	40-75 %
3 BED	0	0	0	10-45 %
TOTAL	15	108	100	

LANDSCAPE	AREA	% OF SITE AREA
DEEP PLANTING AREA (SOIL DEPTH GREATER THAN 1M)	404 m ²	13%
GENERAL LANDSCAPE (NOT DEEP PLANTING)	898 m ²	-
TOTAL LANDSCAPED AREA	1302 m²	
LANDSCAPED AREA AT GF	462 m²	15%

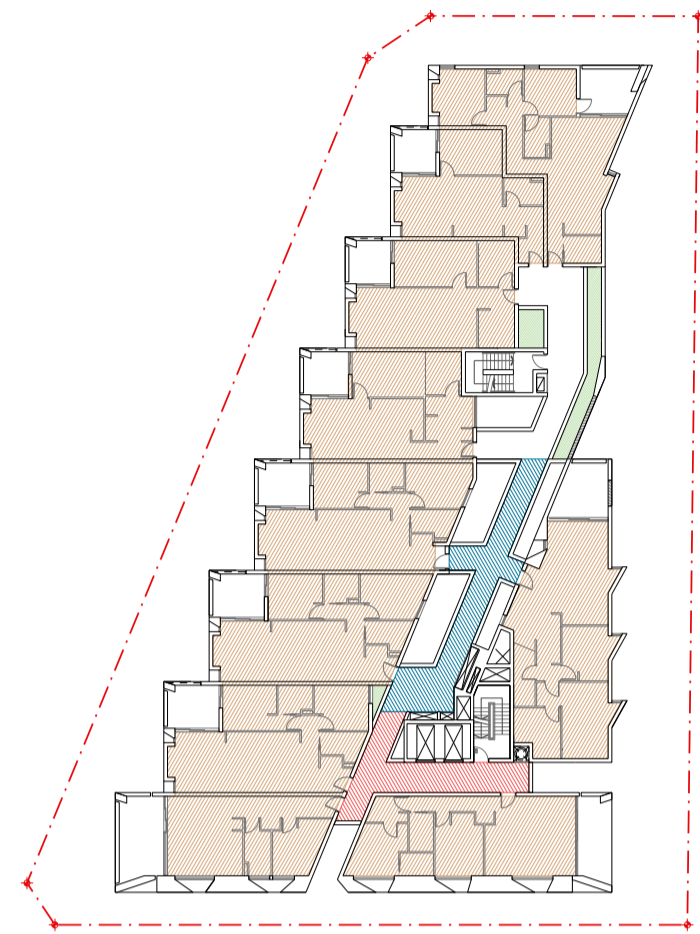
COMMUNAL OPEN SPACES	AREA	% OF SITE AREA
COMMUNAL OPEN SPACES AT GF	269 m ²	-
COMMUNAL OPEN SPACES AT L8	628 m ²	-
TOTAL COMMUNAL OPEN SPACES	897 m²	30%



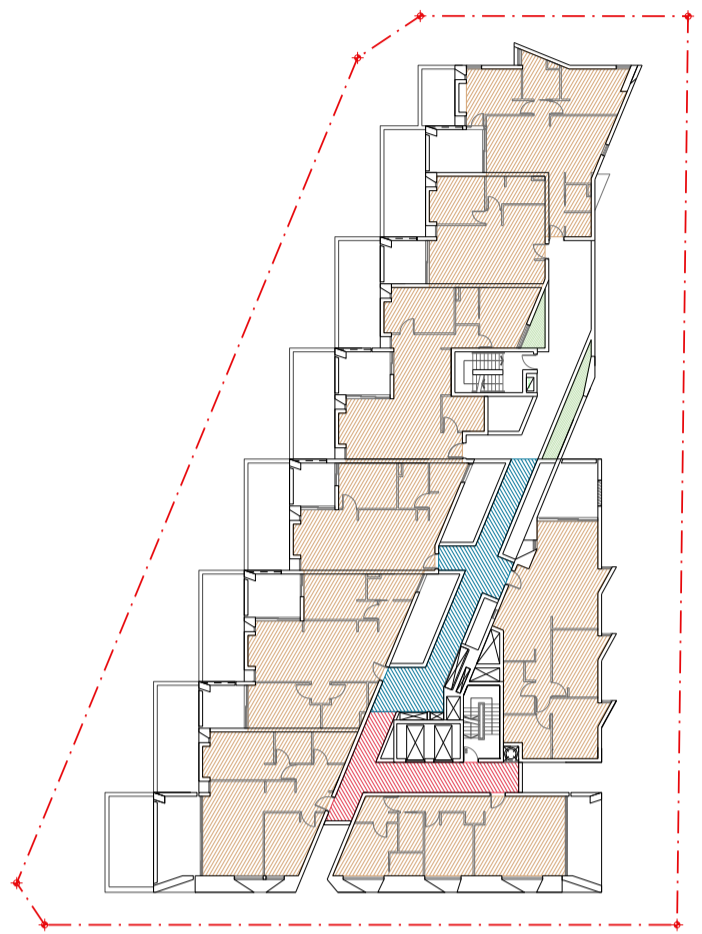
GROUND FLOOR		AREA
RESIDENTIAL		248 m ²
STORE		- m ²
INTERNAL CIRCULATION		- m ²
ADDITIONAL GFA		24 m ²
TOTAL LEVEL GFA		272 m²
COMMUNAL OPEN SPACES		AREA
COMMUNAL SPACE AREA		175 m ²



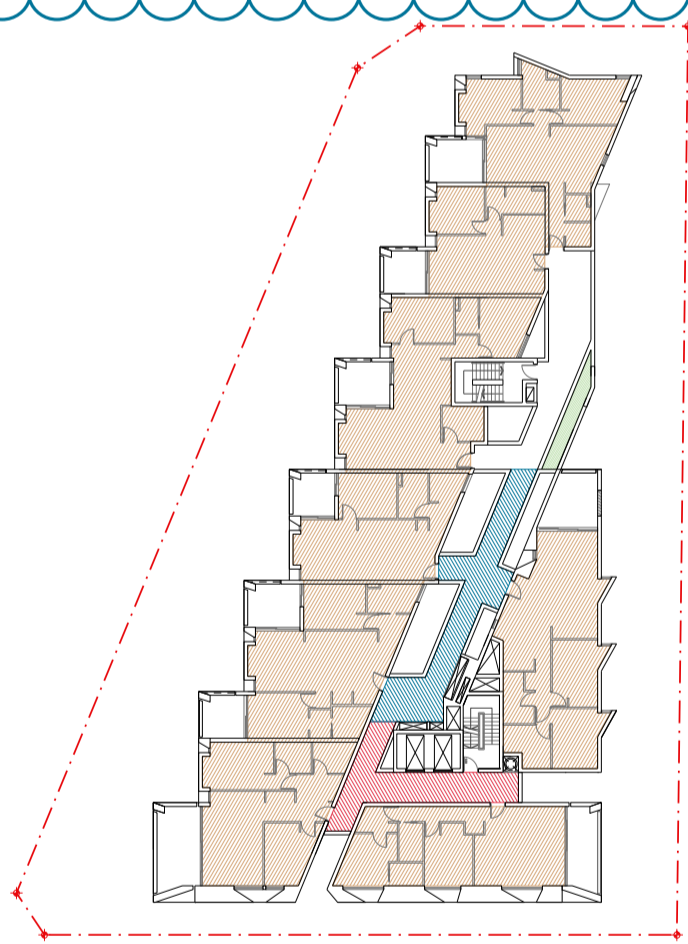
LEVEL 1 PLAN		AREA
RESIDENTIAL		588 m ²
INTERNAL CIRCULATION		54 m ²
ADDITIONAL GFA		87 m ²
TOTAL LEVEL GFA		729 m²



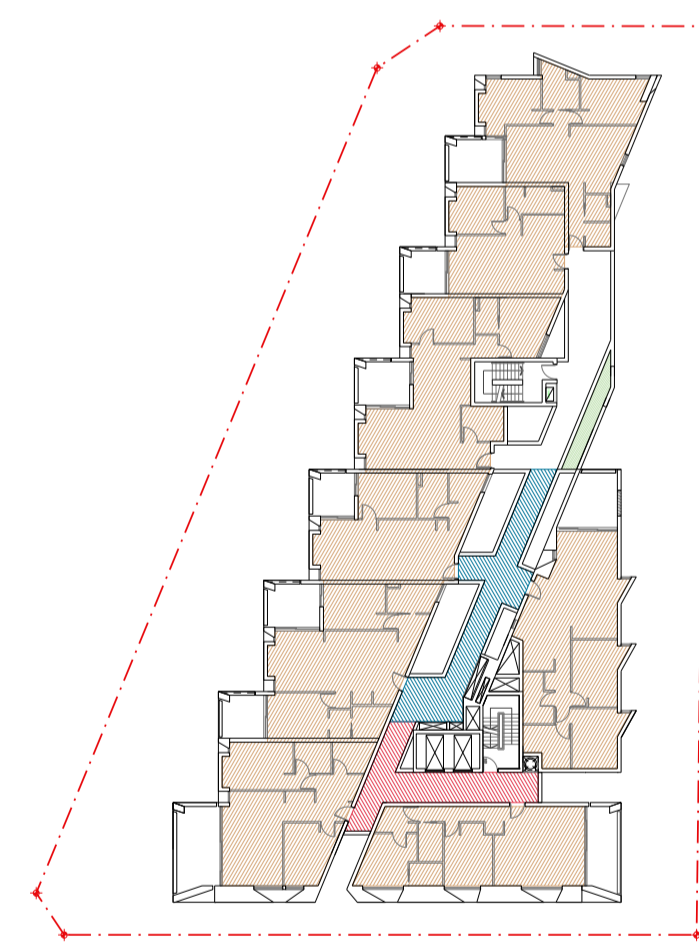
LEVEL 2 PLAN		AREA
RESIDENTIAL		750 m ²
INTERNAL CIRCULATION		32 m ²
ADDITIONAL GFA		42 m ²
TOTAL LEVEL GFA		824 m²



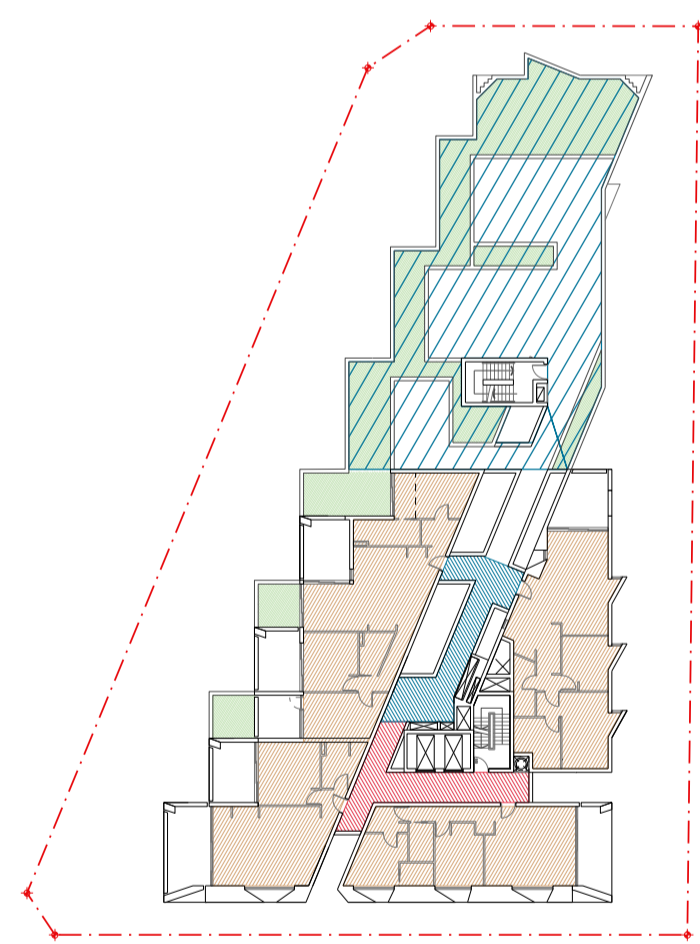
LEVEL 3 PLAN		AREA
RESIDENTIAL		618 m ²
INTERNAL CIRCULATION		32 m ²
ADDITIONAL GFA		43 m ²
TOTAL LEVEL GFA		693 m²



LEVEL 4 PLAN		AREA
RESIDENTIAL		618 m ²
INTERNAL CIRCULATION		32 m ²
ADDITIONAL GFA		43 m ²
TOTAL LEVEL GFA		693 m²



LEVEL 5 PLAN		AREA
RESIDENTIAL		618 m ²
INTERNAL CIRCULATION		32 m ²
ADDITIONAL GFA		43 m ²
TOTAL LEVEL GFA		693 m²



LEVEL 6 PLAN		AREA
RESIDENTIAL		342 m ²
INTERNAL CIRCULATION		32 m ²
ADDITIONAL GFA		33 m ²
TOTAL LEVEL GFA		407 m²
LANDSCAPE		AREA
HARD LANDSCAPING		158 m ²
SOFT LANDSCAPING		163 m ²
TOTAL LANDSCAPED AREA AT L6		321 m²
COMMUNAL OPEN SPACES		AREA
COMMUNAL SPACE AREA		312 m ²

13-17 REGENT STREET – SITE 2

CURRENT KEY CONTROLS (MARRICKVILLE LEP 2011)	
SITE AREA	1 960 SQM (SURVEY)
PERMISSIBLE FSR	2.1 : 1
PERMISSIBLE GFA	4 116 SQM
LEP HEIGHT PLANE	17m
DEEP SOIL AREA	137 SQM
SITE COVERAGE	40%
CAR PARKING SPACES	50

PROPOSED APPLICATION	
NO. OF STOREYS	7
SITE COVERAGE	1 287 SQM (65%)

APARTMENT MIX			
		%	MDCP 2011 REQ.'S
STUDIO	0	0	5-20 %
1 BED	18	36	10-40 %
2 BED	30	60	40-75 %
3 BED	2	4	10-45 %
TOTAL	50		

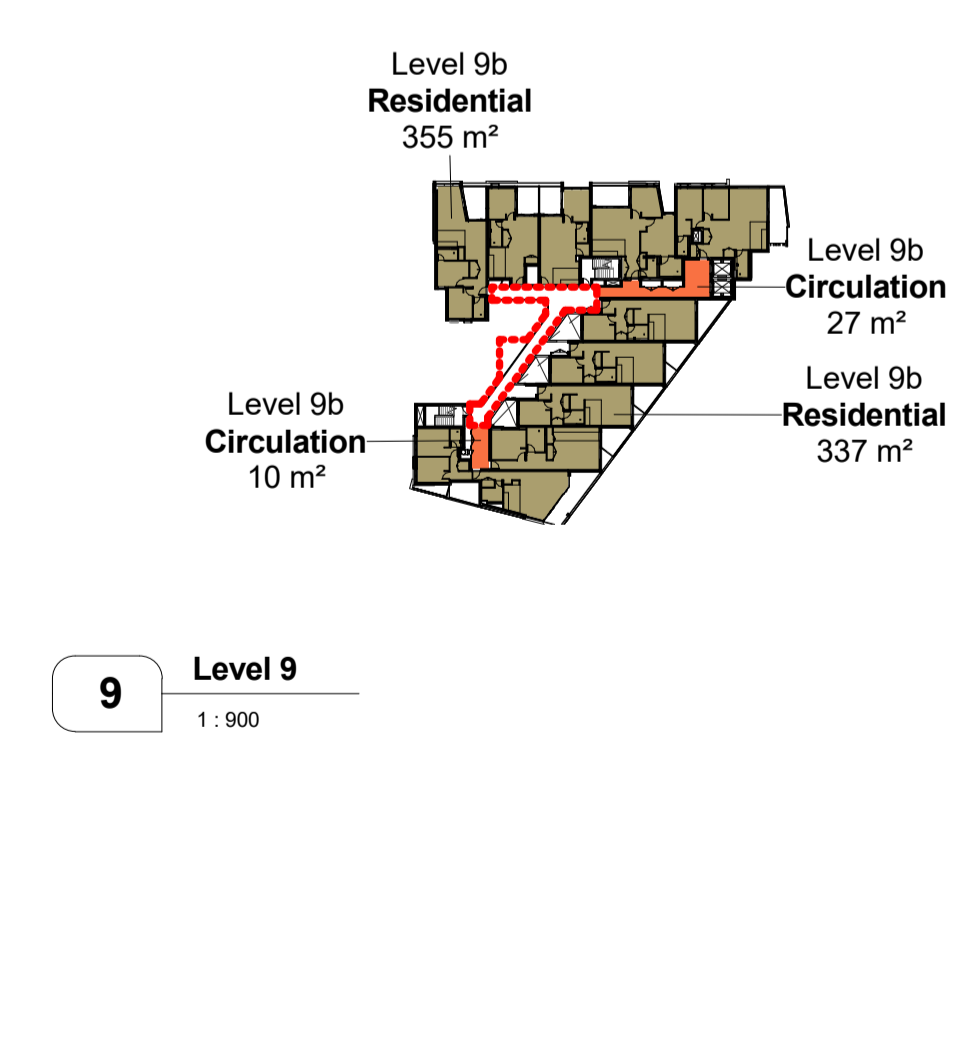
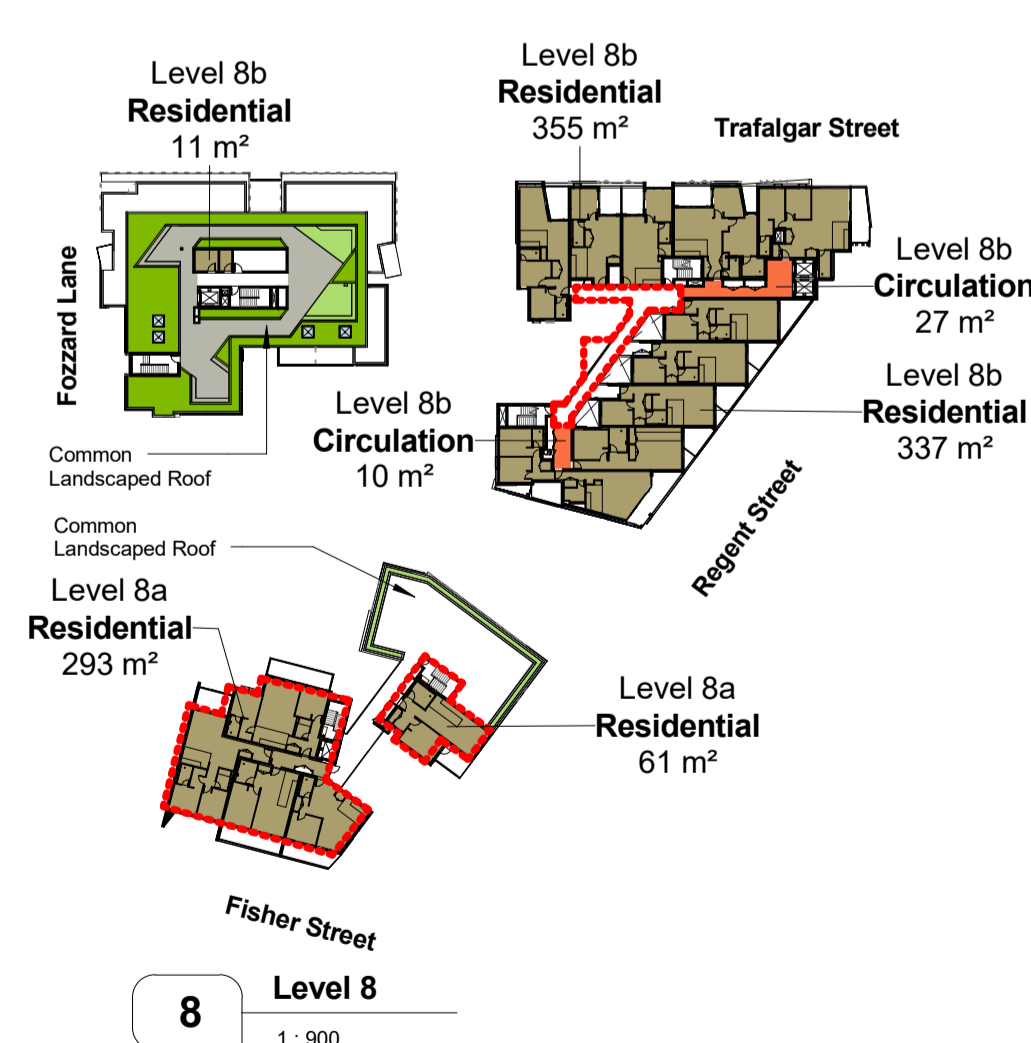
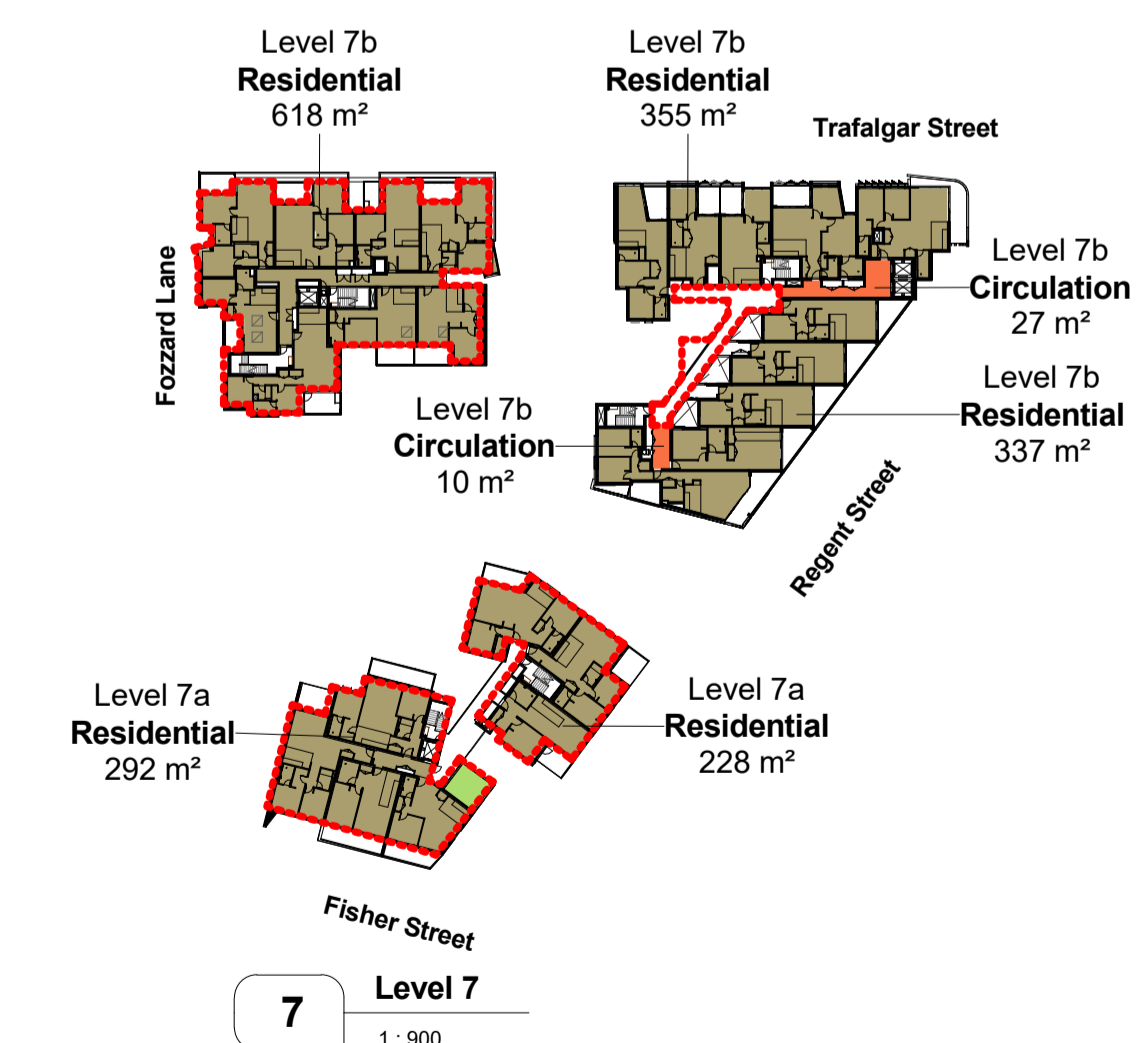
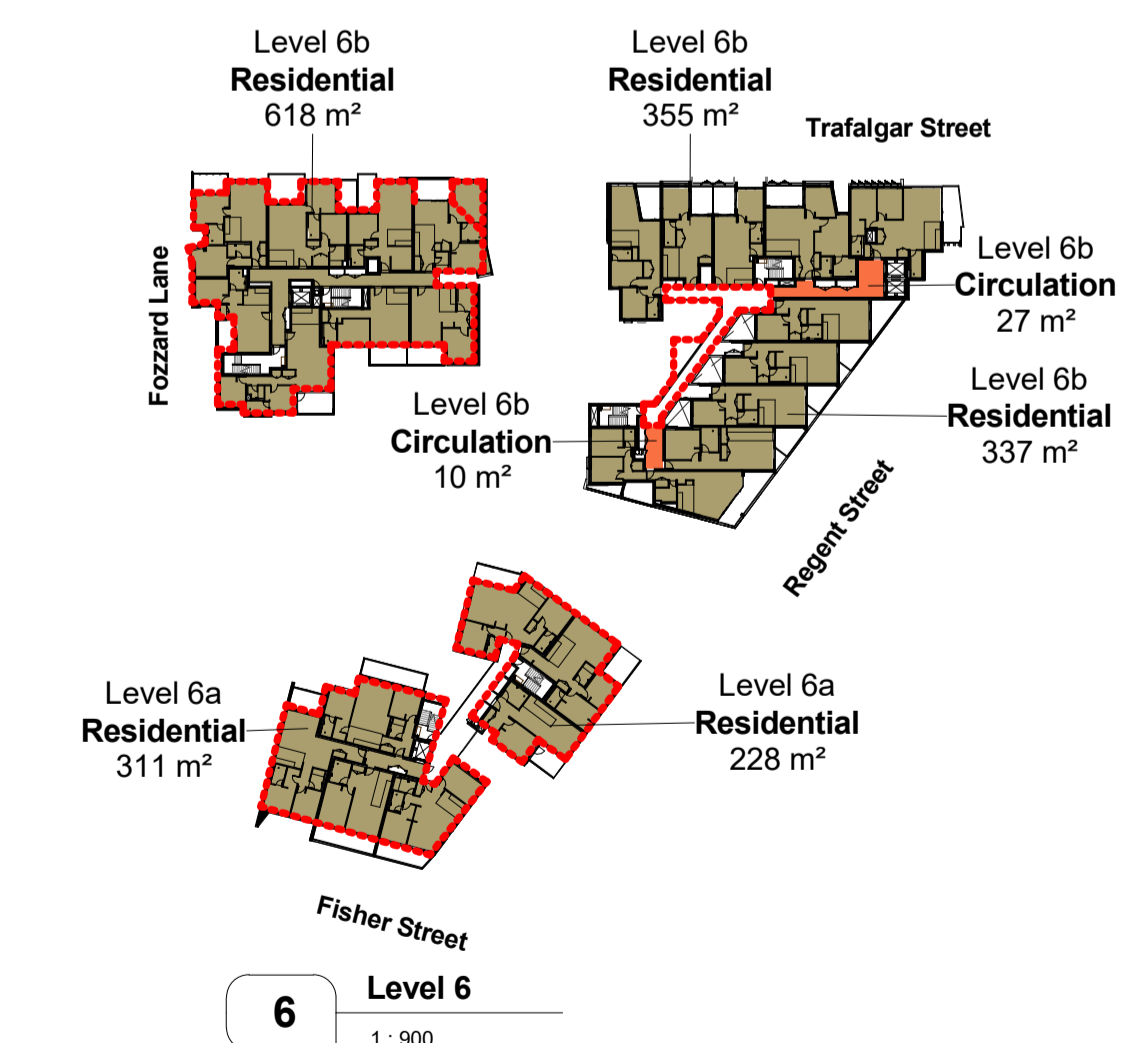
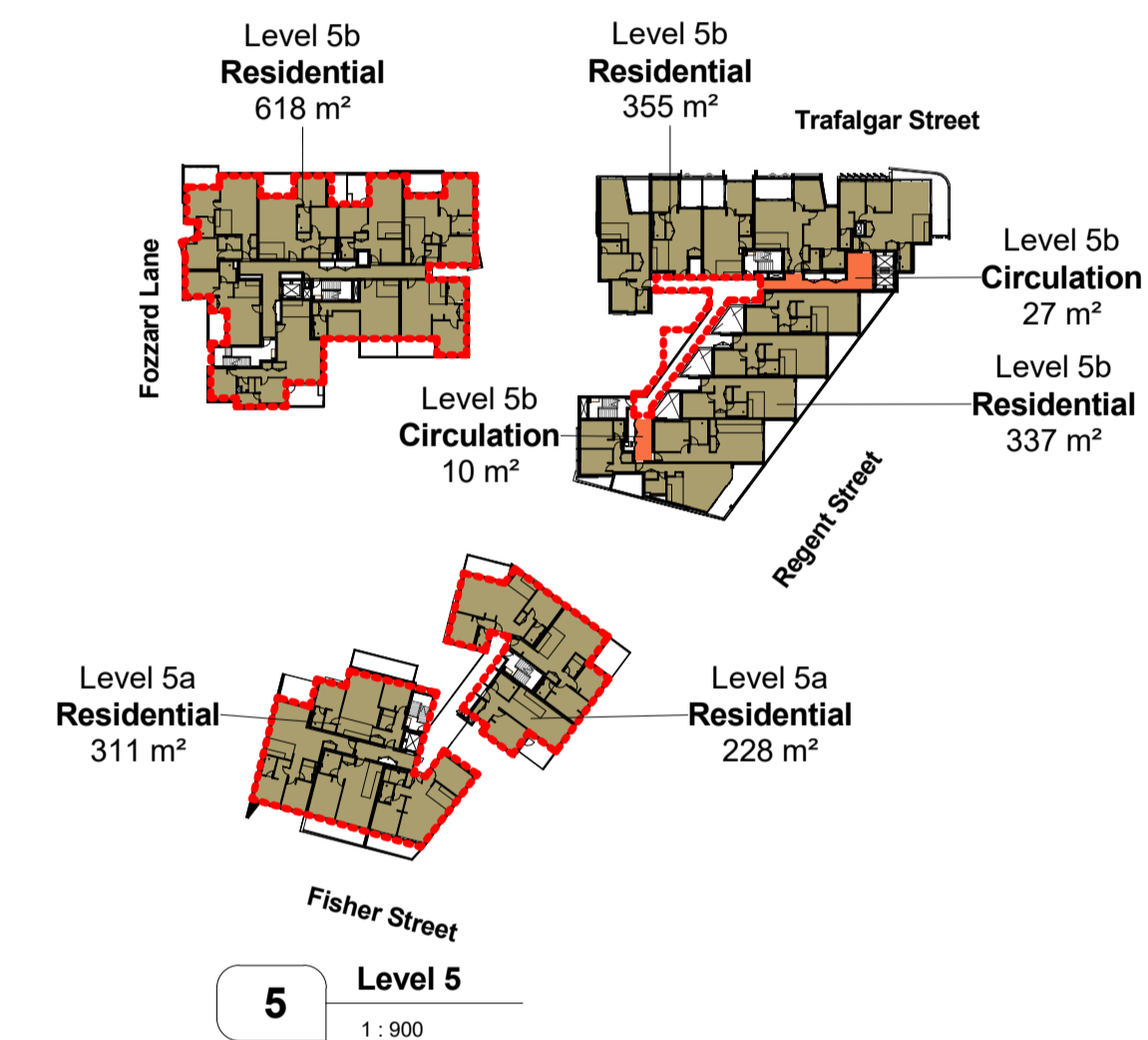
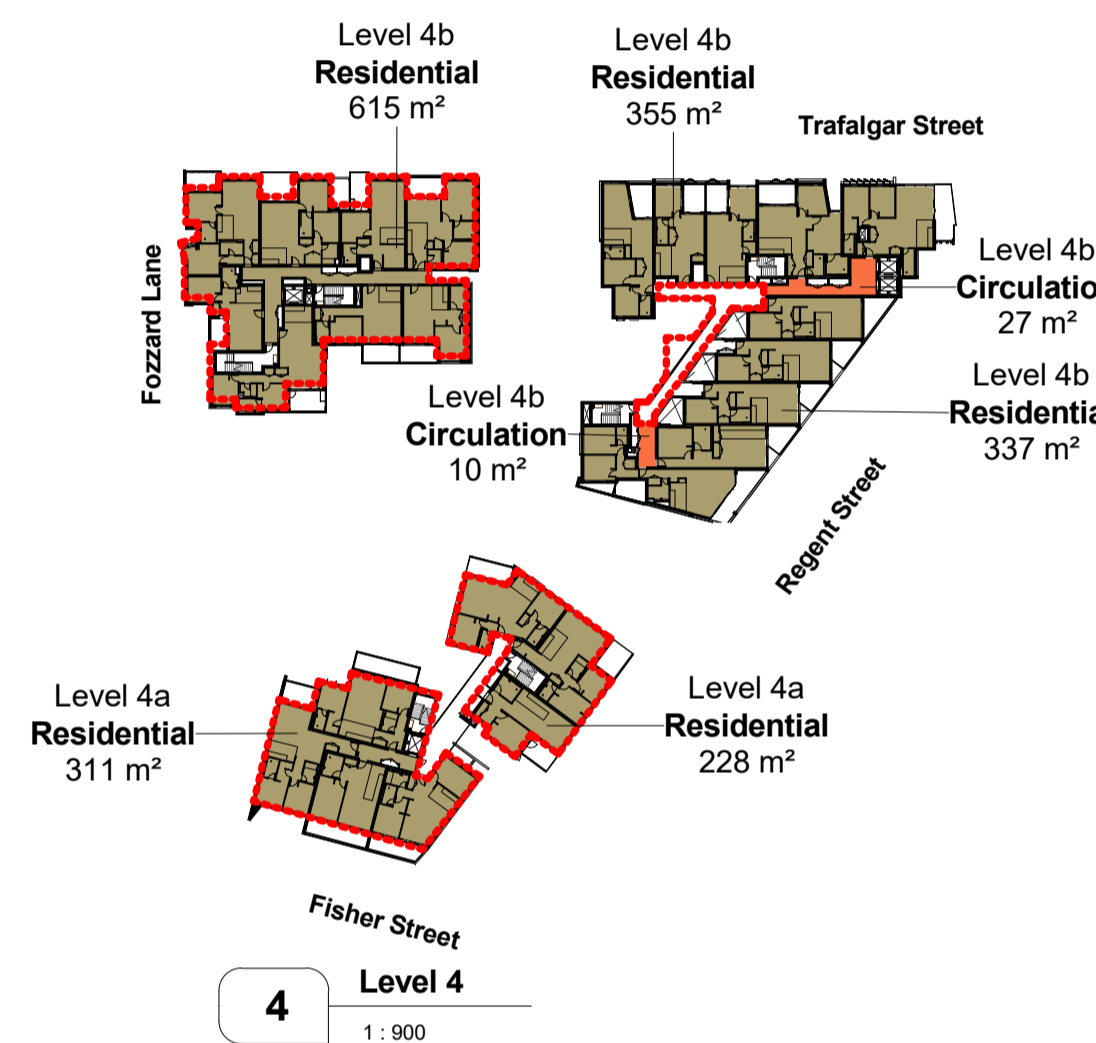
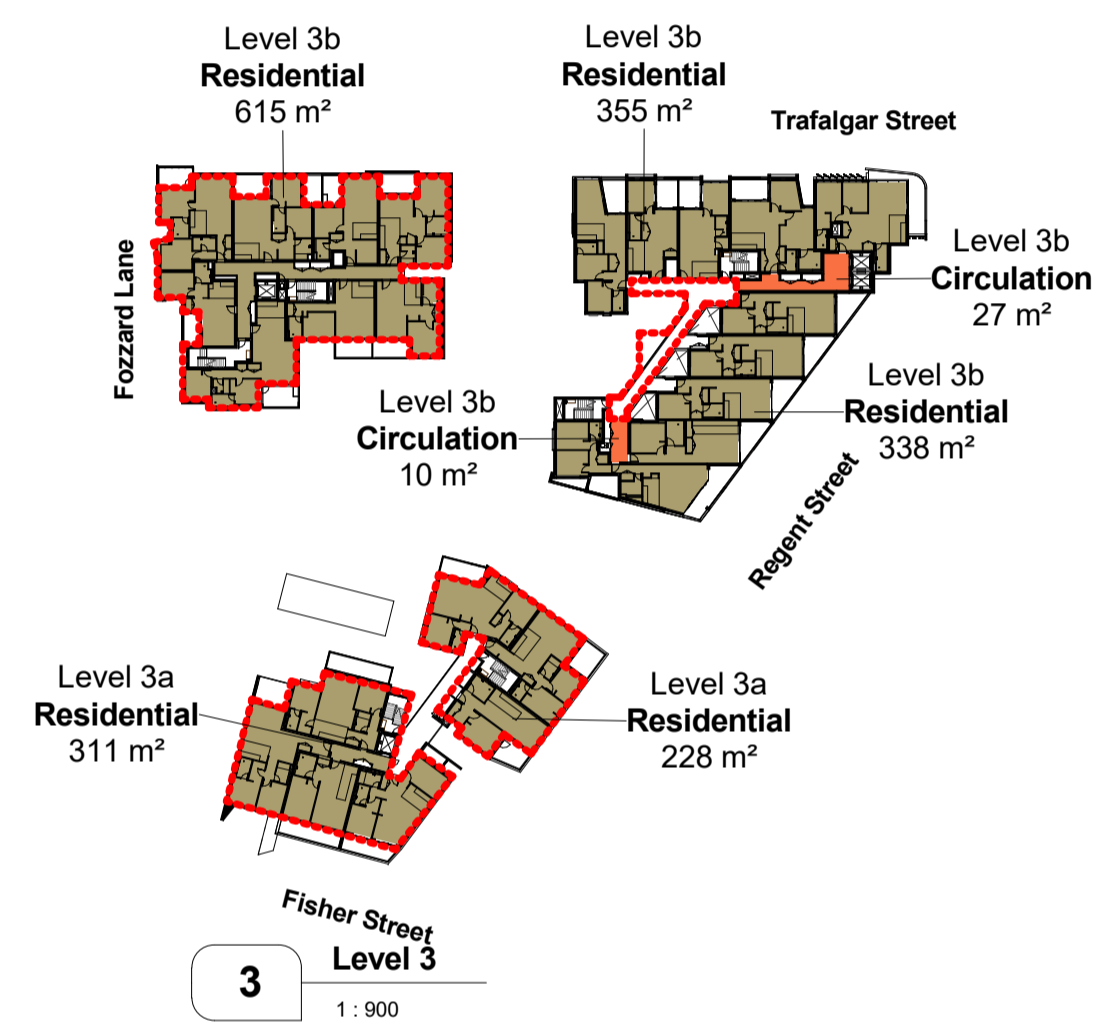
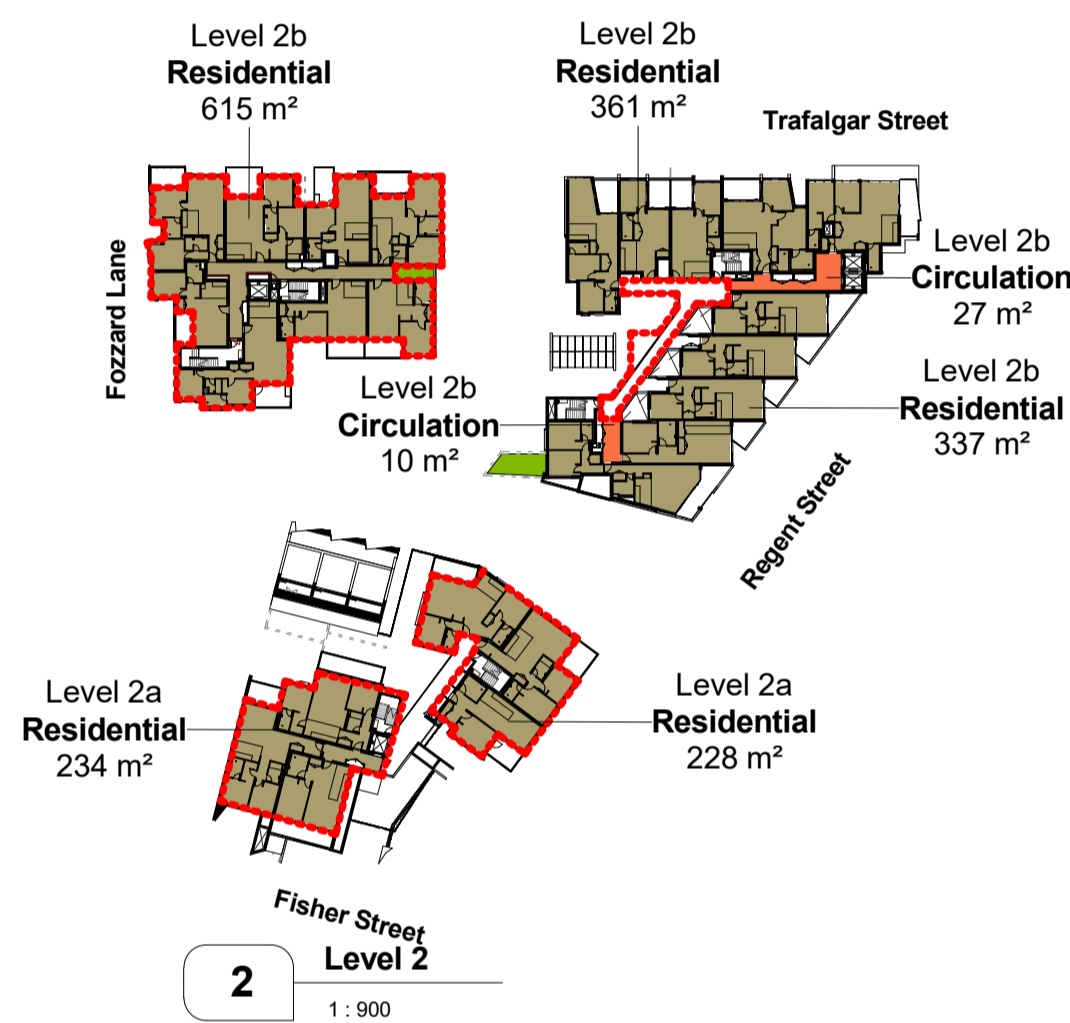
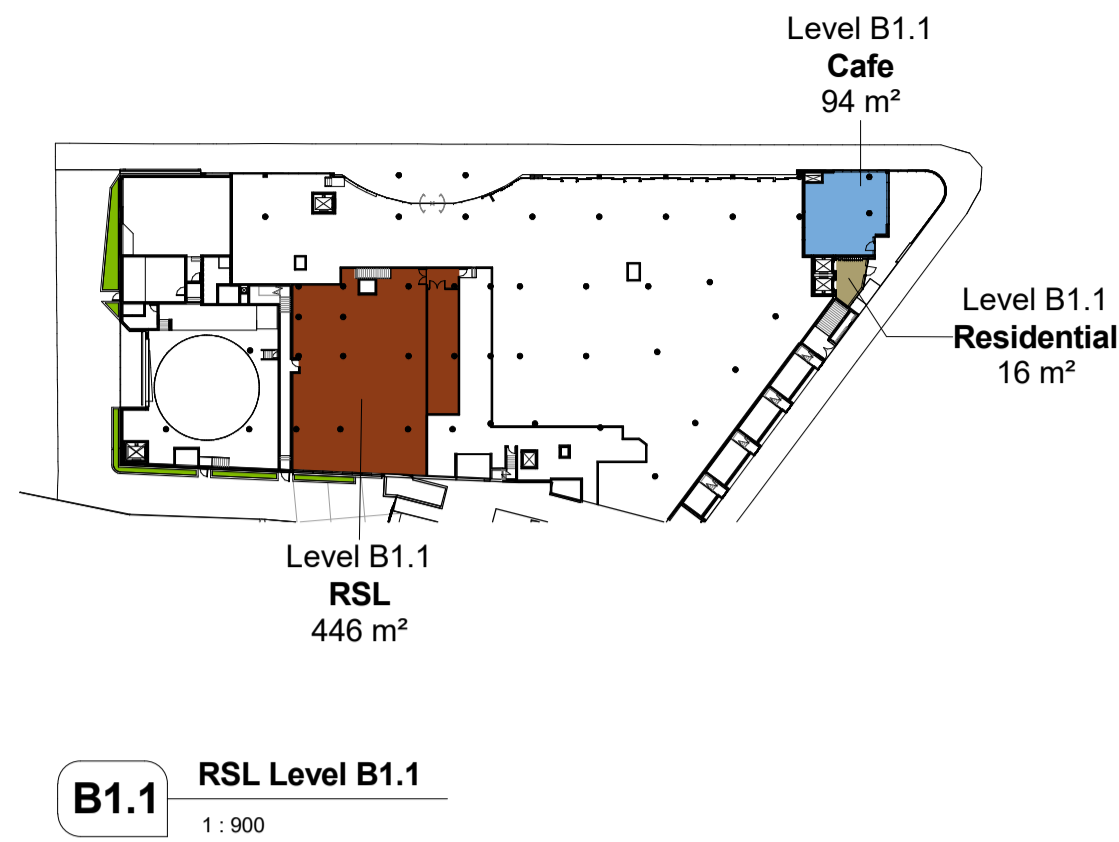
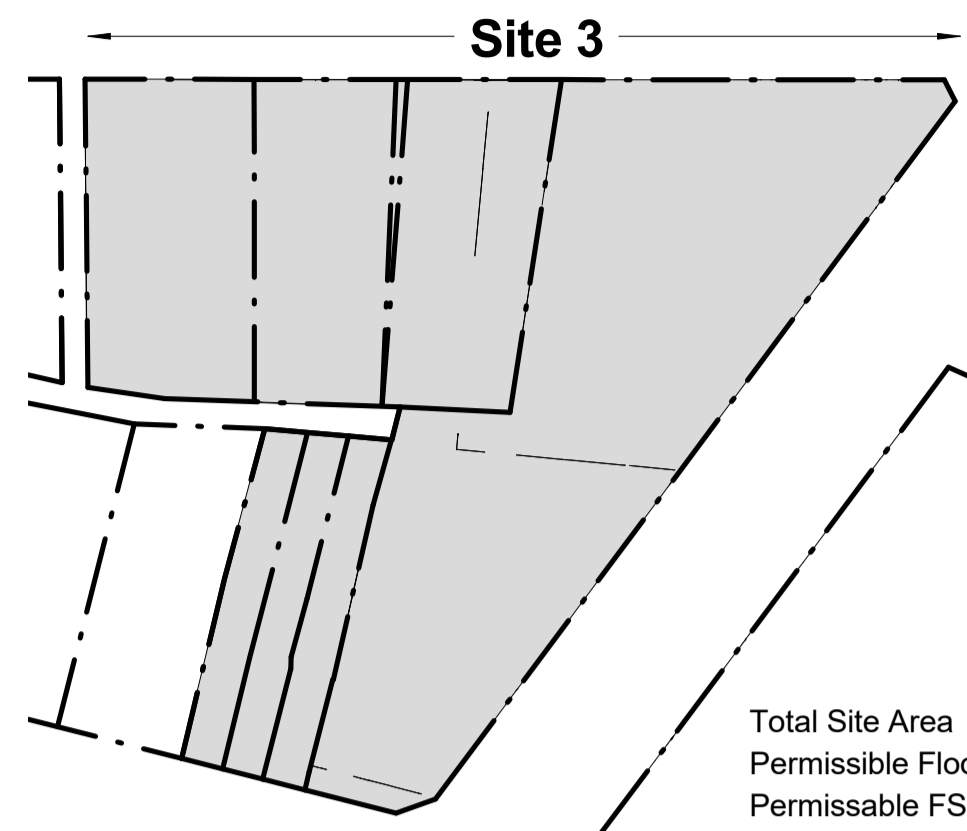
GROSS FLOOR AREAS – PROPOSED	
LEVEL	AREA
GROUND FLOOR	272 m ²
LEVEL 1	729 m ²
LEVEL 2	824 m ²
LEVEL 3	693 m ²
LEVEL 4	693 m ²
LEVEL 5	693 m ²
LEVEL 6	407 m ²
TOTAL GFA	4311 m²

PROPOSED FSR	
PROPOSED FSR	2.2 : 1

LANDSCAPE CALCULATION		
	AREA	% OF SITE AREA
DEEP PLANTING AREA (SOIL DEPTH GREATER THAN 1M)	447 m ²	23%
GENERAL LANDSCAPE (NOT DEEP PLANTING)	419 m ²	-
TOTAL LANDSCAPED AREA	866 m²	
LANDSCAPED AREA AT GROUND	662 m ²	34%
COMMUNAL OPEN SPACES		
	AREA	% OF SITE AREA
TOTAL	487 m²	25%

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 309 SUSSEX ST SYDNEY NSW 2000
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 E: architects@canalepas.com.au NSW ARCHITECTS REG NO. 5773

PROJECT: 13-17 REGENT STREET, PETERSHAM
 CLIENT: DEICORP PROJECTS PETERSHAM PTY LTD
 SCALE: 1:500@A1
 DATE: 29 MAR 2019
 CHECKED 1: LM, KC, YD
 CHECKED 2: JLO
 DRAWN BY: LM, KC, YD
 DRAWING No. **DA - 1850**
 AREA CALCULATIONS
 JOB No. **5766**
 ISSUE **C**



Site 3 Controls Analysis

Site Area	5424 m ²
Permissible FSR	3.4:1
Permissible GFA	18 441.6 m ²
LEP Height Plane	29m / 35m
Landscape Area*	
Deep Soil Area (Min 3m)	282 m ² (5.2%)
Landscaped Area*	1179 m ²
Total	1461 m ² (27%)
Communal Open Space	
Paving / decking	1119.4 m ²
Grass	240.4 m ²
Total	1359.8 m ² (25%)

*Refer To Landscape Architects Design Documentation

Gross Floor Area (GFA) Analysis

Extract from Marrickville Local Environmental Plan 2011
gross floor area means the sum of the floor area of each storey of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- a. the area of a mezzanine within the storey, and
 - b. habitable rooms in a basement, and
 - c. any shop, auditorium, cinema, and the like, in a basement or attic;
- but excludes:
- d. any area for common vertical circulation, such as lifts and stairs, and
 - e. any basement, storage, and vehicular access, loading areas, garbage and services, and
 - f. plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - g. car parking to meet any requirements of the consent authority (including access to that car parking), and
 - h. any space used for the loading or unloading of goods (including access to it), and
 - i. terraces and balconies with outer walls less than 1.4 metres high, and
 - j. voids above a floor at the level of a storey or storey above.

Colour Key

Residential	SOHO Units
RSL	Cafe
Area Requested By Council	

Residential GFA (excluding SOHO's)

Level	GFA
B1	45 m ²
B1.1	16 m ²
L1	1647 m ²
L2	1775 m ²
L3	1847 m ²
L4	1846 m ²
L5	1849 m ²
L6	1848 m ²
L7	1829 m ²
L8	1056 m ²
L9	692 m ²
	14452 m ²

Proposed GFA / FSR Summary

Use	GFA	FSR
Additional Parking	397 m ²	0.07
Cafe	94 m ²	0.02
Circulation	329 m ²	0.06
Residential	14452 m ²	2.66
RSL	3414 m ²	0.63
SOHO	203 m ²	0.04
	18889 m ²	3.48

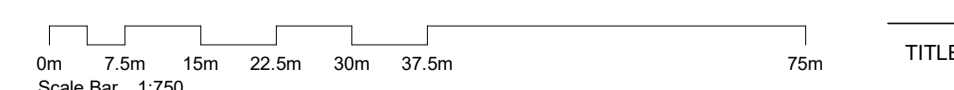
General Notes

Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And Specifications.
Site Survey Based On Drawing Received By Petersham RSL Carried Out By Usher & Company Consulting Surveyors - Refer To Drawing 4666-DET
All Levels Indicated Taken To Australian Height Datum (AHD) Levels Prefixed With *RL Are Interpreted From Existing Survey Information, Final Levels To Be Determined On Detail Review Of Existing Footpath Levels
Drawings Are Not To Be Scaled From. Use Only Figured Dimensions Where Indicated

Development Application

Rev	Description	Date
C	DA Issue Set	16.11.18
D	DA Issue	17.11.24
E	DA Submission	18.03.16
F	DA Request For Additional Information Issue	18.10.31
G	GFA Recalculated	19.02.26
H	Outline Area Reduction	19.04.03
J	GFA Recalculated	19.04.04
K	GFA Recalculated	19.04.08

Proposed Mixed Use Development - Site 3 - Trafalgar Street, PETERSHAM



TITLE

GFA and FSR Analysis

JOB No.	DEI00614
DATE	21.09.2015
SCALE	A1 @ As indicated
DWG No.	DA.030 K



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STEPHEN J. NORDON REGISTRATION No. NSW - 4704 GRAHAM P. JAGO REGISTRATION No. NSW - 4926