
Bayside Planning Panel

26/09/2017

Item No	5.6
Application Type	Section 96(2) Application – Modification to Residential Flat Building
Application Number	DA-15/253/02
Lodgement Date	12 December 2016
Property	37A-39 Daphne Street, BotanyLot 202 DP 1001451 and Lot 6 Sect E DP 1787
Owner	TMR Investments Group P/L
Applicant	TMR Investments Group P/L
Proposal	Section 96(2) to modify Development Consent No. 15/253 to amend the basement car park, approved units and an addition of 3 (2 x 1 bed and 1 x 2 bed) units on a new upper level along with a modified communal open space area. The proposal now includes 21 units with 10 affordable units.
No. of Submissions	Seven (Round 1) Nil (Round 2) Nil (Round 3)
Cost of Development	N/A
Report by	Angela Lazaridis- Senior Development Assessment Officer

Officer Recommendation

- 1 That Section 96(2) Application to modify Development Consent No. 15/253 to amend the basement car park, approved units and an addition of 3 (2 x 1 bed and 1 x 2 bed) units on a new upper level along with a modified communal open space area and ten affordable units at 37A-39 Daphne Street, Botany be determined in the following manner:
 - a) Amend Condition No. 1 to refer to the amended plans;
 - b) Amend Condition Nos. 6(a) and (b), 59 and 75 which relate to the number of units allocated to affordable housing;
 - c) Amend Condition No. 18(c) relating to study nooks within two bedroom units;
 - d) Amend Condition No. 20 which amends the Section 94 Contributions;
 - e) Amend Condition No. 60 relating to the allocation of car parking spaces;
 - f) Amend Condition No. 78, to refer to the subject application.
 - g) Refuse modification of Condition Nos. 31 and 33 which relate to stormwater management and easement; and

- 2 That objectors be notified of the Bayside Planning Panel's decision.
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Attachments

- 1 Planning Assessment Report
 - 2 Site Analysis and Roof Plan
 - 3 Elevations- North and South
 - 4 Elevations- East and West
 - 5 Sections
 - 6 Diagrams GFA
 - 7 Amended Statement of Environmental Effects
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Location Plan

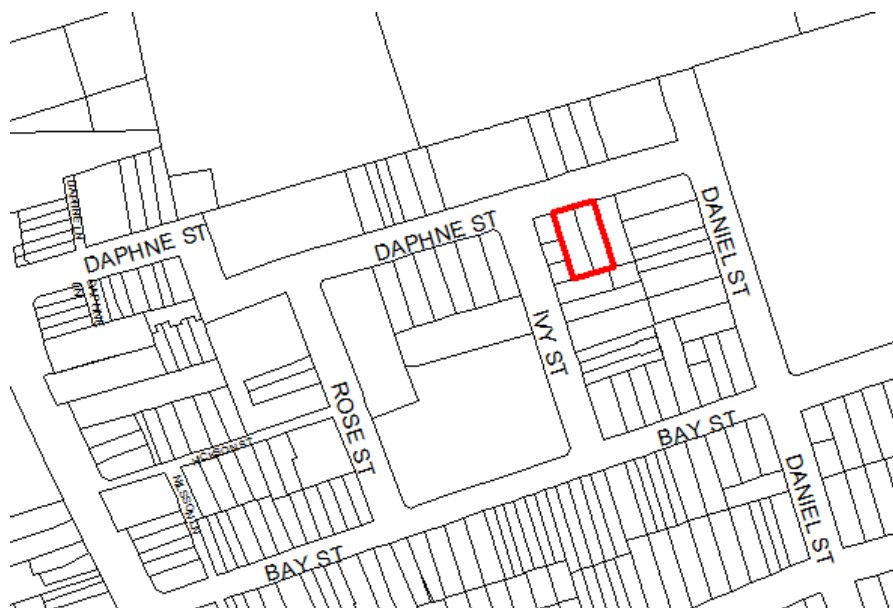


Figure 1: Locality Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA/15/253/02
Date of Receipt:	12 December 2016
Property:	37A-39 Daphne Street, Botany Lot 202 DP 1001451 and Lot 6 Sect E DP 1787
Owner:	TMR Investments Group P/L
Applicant:	TMR Investments Group P/L
Proposal:	Section 96(2) to modify Development Consent No. 15/253 to amend the basement car park, approved units and an addition of 3 (2 x 1 bed and 1 x 2 bed) units on a new upper level along with a modified communal open space area. The proposal now includes 21 units with 10 affordable units.
Recommendation:	Approval
Value:	N/A
No. of submissions:	Seven (Round 1) Nil (Round 2) Nil (Round 3)
Author:	Angela Lazaridis- Senior Development Assessment Officer
Date of Report:	6 September 2017

Key Issues

The key issues with this application relate to height, car parking, affordable housing and FSR.

The proposal has a height of 12.5 metres which is a reduction in the height approved of 13.29 metres to the top of the lift overrun. However, the difference is that there is an additional three units that are located at 12 metres which is above the 10 metre maximum building height control under the BBLEP 2013. Therefore a portion of the habitable area of the development is located above the height limit. The proposed height and location of the additional level is acceptable as the units will provide better transition from the neighbouring site to the east which has a maximum building height of 12 metres.

The proposal further increases the approved FSR of 1.19:1 by providing a FSR of 1.35:1. This is consistent with the State Environmental Planning Policy 2009 (ARHSEPP) which permits a bonus FSR provision of 0.5:1 if the overall GFA for affordable housing within the development achieves a minimum of 50%.

In regards to car parking, the proposal provides an additional two car parking spaces for the three additional units. Two of the three units are affordable housing therefore the car parking

rate is calculated based on the ARHSEPP which requires 1.5 car parking spaces. The one bedroom unit requires one car parking space. Based on the approved car parking spaces in the original application of 21 spaces, the proposal will require a total of 2.5 car parking spaces. The modification has a total of 23 car parking spaces therefore there is a shortfall of 0.5 car parking space.

The application allocates an additional four units as affordable housing. The original application was approved with 6 units and the proposed application will now have 10 affordable units. The increase in affordable housing is encouraged by Council and is supported.

The issues listed above will be discussed in greater detail in the report below.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to conditions of consent.

Recommendation

Approve the Section 96(2) Application to modify Development Consent No. 15/253 to amend the basement car park, approved units and an addition of 3 (2 x 1 bed and 1 x 2 bed) units on a new upper level along with a modified communal open space area and ten affordable units.

It is recommended that Council resolve to modify Development Consent No. 15/253 under Section 96(2) of the Environmental Planning and Assessment Act 1979 as follows:

1. Amend Condition No. 1 to refer to the amended plans;
2. Amend Condition Nos. 6(a) and (b), 59 and 75 which relate to the number of units allocated to affordable housing;
3. Amend Condition No. 18(c) relating to study nooks within two bedroom units;
4. Amend Condition No. 20 which amends the Section 94 Contributions;
5. Amend Condition No. 60 relating to the allocation of car parking spaces;
6. Amend Condition No. 78, to refer to the subject application.
7. Refuse modification of Condition Nos. 31 and 33 which relate stormwater management and easement; and
8. That any objectors be notified of the determination made by the Planning Panel.

Background

History

Item	Bayside Planning Panel 26/09/2017
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Development Application No. 15/81 was approved by Council on 18 November 2015 for the demolition and construction of a three storey residential flat building containing 10 units, including four affordable housing units, a basement level car park with 23 car spaces and lot consolidation. This consent has not been enacted upon.

Development Application No. 15/253 was approved by Council on 20 April 2016 for the demolition of the existing structures and construction of a three storey residential flat building containing 18 apartments including 6 affordable housing apartments and a basement level car park with 21 spaces and lot consolidation.

Section 96 Application History

On 21 February 2017, Council sent the applicant a letter with issues relating to height, FSR, bulk and scale, waste collection, affordable housing, unit mix, car parking, overshadowing and missing information. Council was not in support of the proposal and requested that the application be withdrawn.

On 9 March 2017, following a meeting with the applicants, amended plans were provided demonstrating removal of one of the units, and increased setback of the top floor. Further justification to the building height and FSR non-compliance was provided.

Over the assessment, the applicant met with Council on a number of occasions to discuss the FSR and car parking issues due to the assessment of the ARHSEPP 2009. Amended plans were received on 2 June 2017 which was re-notified to the public for 14 days. There were no objections to the amended plans. Further amended plans were provided on 10 August 2017 and on 14 August 2017 increasing the number of affordable units and reducing the bulk of the development. Additionally, the basement incorporated another two car parking spaces. These amended plans were re-notified to the objectors for a period of seven days. No objections were received.

Description of the Proposed S96 Modifications

The Section 96 Application seeks consent to amend the basement car park, approved units and an addition of 3 (2 x 1 bed and 1 x 2 bed) units on a new upper level along with a modified communal open space area. The proposal now includes 21 units with 10 affordable units. A breakdown of the amendments on each level is provided below:

Basement car parking level:

- Extension at the northern end of the basement below the approved driveway as a result of reconfiguration of the basement to allow for two additional car parking spaces.

Ground Floor:

- Waste holding room provided adjacent to the ramp to the basement;
- Reduction in the approved unit sizes in Units 2-4 so that one-bedroom is 50sqm and 2-bedroom is 70sqm;
- POS of Units 3 and 4 have been increased by 5sqm and 1.5sqm respectively;
- Location of pump room and services off foyer within Building 2.

First Floor:

- Reduction in size from 39sqm to 35sqm within Unit 8.

Second Floor:

- Reduction in size of Unit 15 (79sqm to 70sqm), Unit 17 (77sqm to 70sqm) and Unit 18 (95sqm to 90sqm).

Third Floor:

- Construction of an additional level including three new units (1 x 2 bedroom measuring 70sqm and 2 x 1 bedroom measuring 50sqm and 55sqm). Two of these units will be affordable housing
- Reduction of the communal rooftop open space on the southern building by 115sqm.

Affordable Housing

- Increase in the number of affordable units- Approved 6- Units 3, 4, 5, 9, 10 and 12; Proposed 10- Units 3, 4, 7, 9, 10, 12, 16, 18, 19 and 20.

Conditions

- Removal of Condition No. 33 relating to a rainwater tank and stormwater system.

The below figures demonstrate the modifications proposed as part of this application:

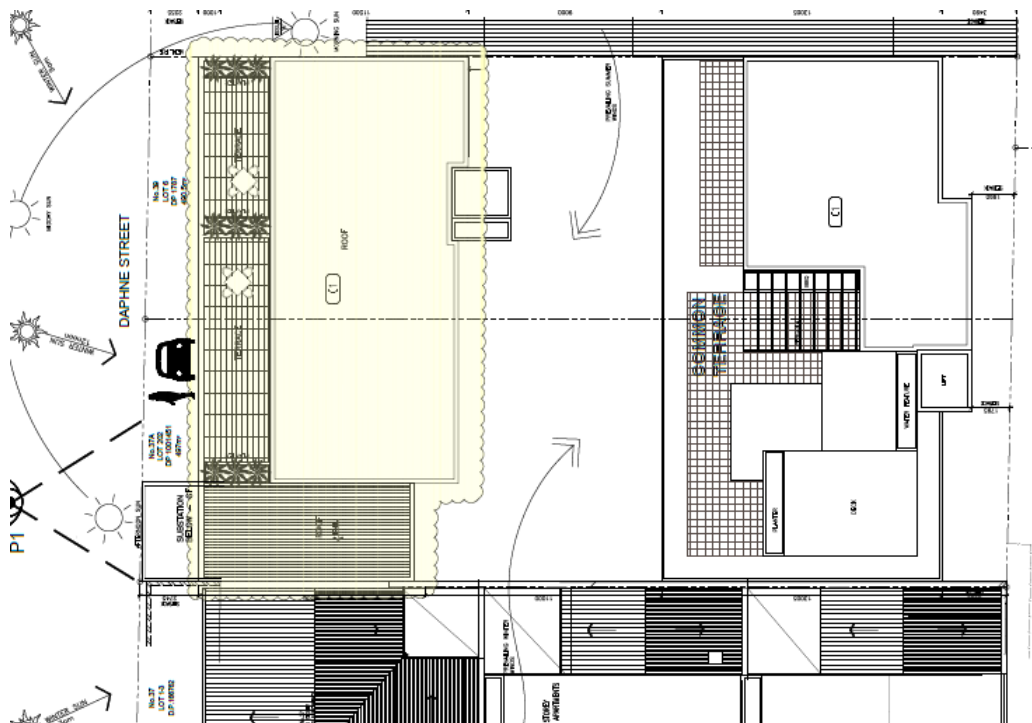


Figure 1. Amended Site Plan



Figure 2. Amended Northern Elevation

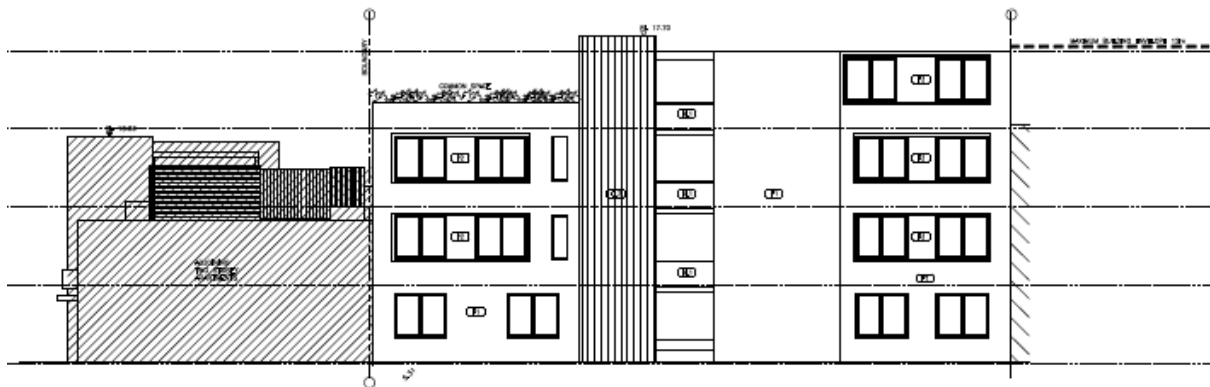


Figure 3. Amended Southern Elevation

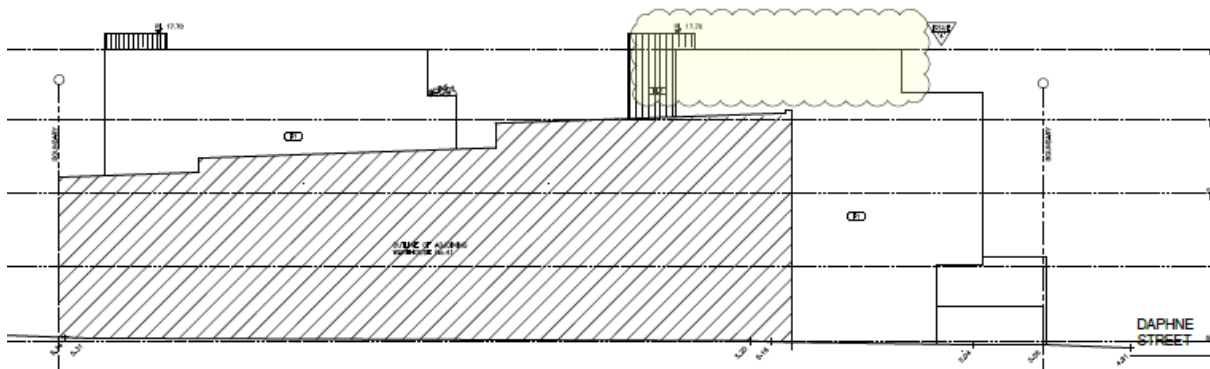


Figure 4. Amended Eastern Elevation

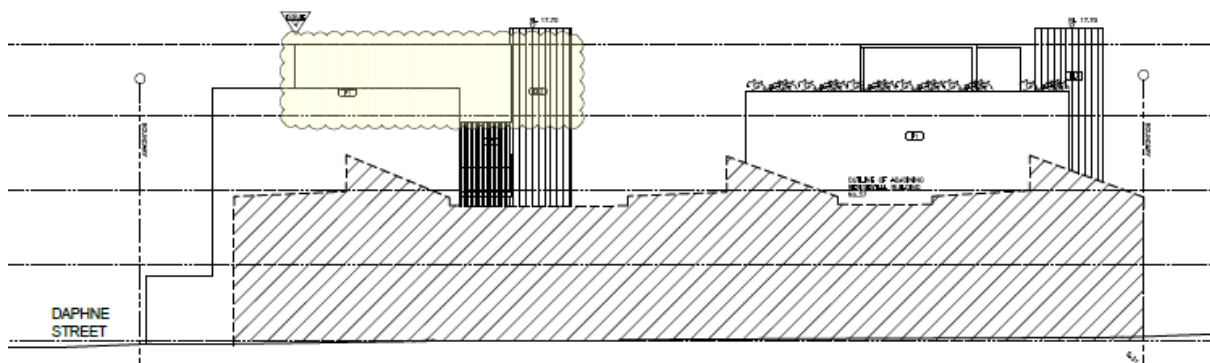


Figure 5. Amended Western Elevation

Site Description

The site is known as No. 37A and 39 Daphne Street, Botany and consists of two allotments legally described as Lot 202 in DP 1001451 and Lot 6 Section E in DP 1787. The site is located on the southern side of Daphne Street, between Ivy Street to the west and Daniel Street to the east.

The site is a rectangular in shape with an area of 987.5m². The site has a frontage to Daphne Street of 24.38 metres, a rear boundary of 24.63metres and a depth along the eastern and western side boundaries of 40.25 metres.

The site surface topography is slightly sloping towards the north-west (Daphne Street), with an approximate gradient of 1 to 2%.

The subject site currently comprises two attached industrial style buildings with open ground floor factory floors and mezzanine office levels at the front with flat metal roofs. The buildings are setback approximately 11m from the front, nil to the sides, and nil to the rear. A concrete parking and manoeuvring area exists within the front setback as well as an electricity substation within a brick structure. A motor winding company currently operates at No 37A while a furniture hiring company operates at No 39. Metal wire fencing encloses the site along the front elevation.

There are no natural site features or trees located on the site. There are easements for drainage in the north-western portion and along the western side boundary of the site. Other easements for overhang and support exist in the middle of the site which relate to existing structures only, which are to be demolished under the proposal. The site location is illustrated in **Figure 6**. An aerial photo of the site and the existing development on the site are illustrated in **Figures 7, 8, 9 and 10**.



Figure 7. Cadastre of Locality



Figure 8. Aerial photo of the site and surrounds



Figure 9. Development site as viewed from Daphne Street



Figure 10. Sydney Water Pumping Station adjoining the rear of the subject site which is the brick factory on the left.

Assessment of the Proposed S96 Modifications

Modification No. 1- Construction of a new storey comprising of three new units

The proposed modification involves the construction of an additional storey which will form part of the third level. The storey will comprise of three units which consist of 2 x 1-bedroom units and 1 x 2-bedroom unit. The one-bedroom units will have a unit size of 50sqm and

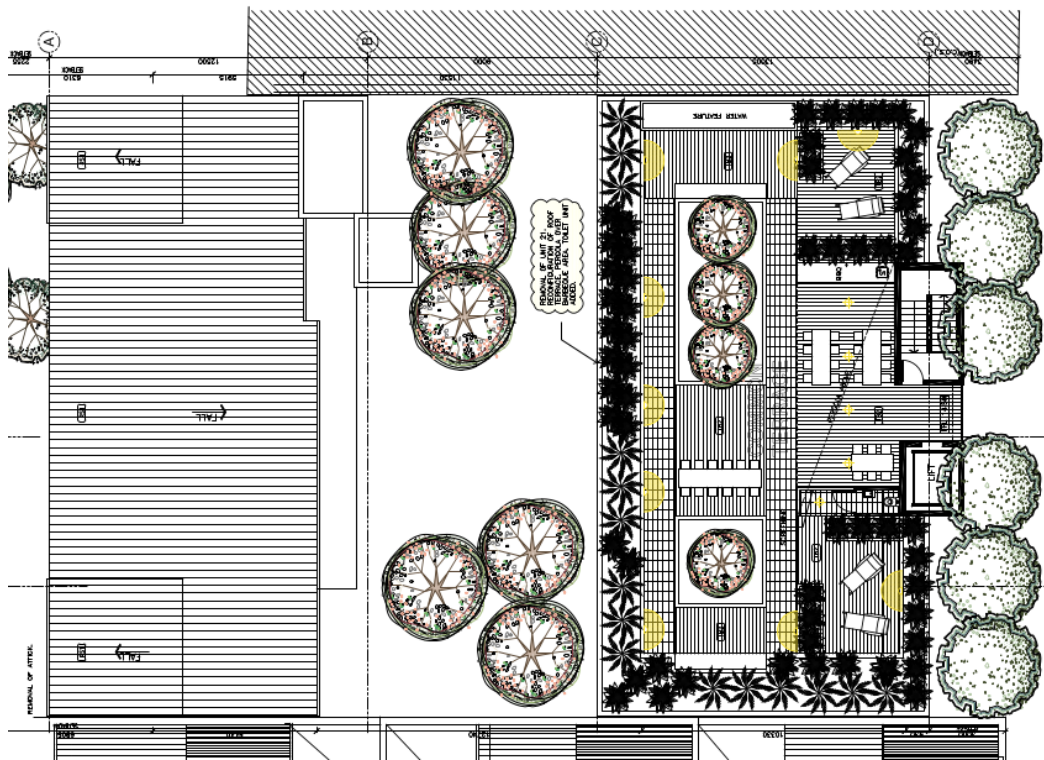


Figure 12. Approved third level with communal open space on southern building

Additionally, the applicant has orientated the POS of the units to the north to allow compliance with the 2 hour requirement as prescribed within the ADG and DCP. The POS of all three units is adequate in size with Unit 19 having 32sqm, Unit 20 having 20sqm and Unit 21 having 28sqm.

The height of the units surpasses the maximum building height of 10 metres by having a building height of 12 metres to match the maximum building height requirement of the adjoining property at 41 Daphne Street. The proposed modification does not increase the overall height of 13.29 metres that was approved in the original application for the lift overrun to the rooftop communal open space however reduces the height to have a maximum height of 12.5 metres. Greater detail regarding to the height of the development is provided within the report below.

In regards to overshadowing from the new addition, the applicant has provided shadow diagrams demonstrating that the impact from the new additional is not significant and that the majority of the overshadowing is contributed by the approved development. The adjoining site to the south is a Sydney Water Pumping Station that is unlikely to be redeveloped in the near future. The new units have been orientated with a northern aspect to allow solar access for at least 2 hours to its principal living areas. All three units are cross ventilated and provide ample storage.

The location of Unit 21 reduces the approved communal open space area that was originally approved (Figure 12 above). The approved communal space on the rooftop was 310sqm and the proposed communal open space is 194.37sqm. While there is a reduction in communal open space on the rooftop, the area is still compliant with the minimum communal open space requirement of 25% of the site area (246.88sqm) as the ground floor approved

communal open space is 181sqm. This means that there is a total of 375.37sqm or 38%. Therefore, the proposed modification is supported.

Modification No. 2: Reconfiguration of the basement level to provide two car parking spaces

The proposed modification relates to the reconfiguration of the basement to allow for an additional two car parking spaces to accommodate the additional level of units. The basement has been slightly extended at its northern end below the approved driveway and slightly within the approved deep soil area. The result of this is to relocate approved motorbike spaces and storage areas for two car spaces while still being contained within the basement.

The result of the slight increase in basement results in a reduction of deep soil area (24sqm) to 125sqm (13%). This continues to be compliant with the minimum deep soil requirement of 7% as required within the ADG.

The car parking spaces have been allocated to units as demonstrated within the plan. Condition No. 60 which relates to the allocation of car parking has been amended as below in the report.

Modification No. 3: Units allocated for affordable housing

The development application approved a total of 6 units for affordable housing which were Units 3, 4, 5, 9, 10 and 12. The modification application has increased the number of affordable units in order to comply with the bonus FSR of 0.5:1 and car parking rates under the ARHSEPP 2009. The proposal will now include a total of 10 affordable units which are located at Units 3, 4, 7, 9, 10, 12, 16, 18, 19 and 20. Conditions which had specified the number of units that were affordable have been modified as below.

Modification No. 4: Reduction in the size of units to comply with the FSR requirement

The modification seeks consent to reduce the unit sizes of Units 2, 3, 4, 8, 15, 17 and 18. The table below demonstrates the approved unit sizes with the proposed unit size.

Unit	Approved size	Proposed size
Unit 2	71sqm	70sqm
Unit 3	95sqm	90sqm
Unit 4	51.5sqm	50sqm
Unit 8	39sqm	35sqm
Unit 15	79sqm	70sqm
Unit 17	77sqm	70sqm
Unit 18	95sqm	90sqm

The reduction in the size of the units is a result of Council not supporting an FSR that is greater than the FSR applicable for the site under the BBLEP 2013 (0.85:1) plus the bonus of 0.5:1. The applicant had originally proposed an FSR of 1.47:1 which was not supported by Council. The unit sizes continue to be consistent with the requirements and controls of the ADG. As a result of reducing the unit sizes, the POS of these units have increased with the

difference lost. The POS sizes were approved with compliant sizes so an increase is encouraged.

Modification No. 5: Minor modifications to the ground floor

The proposed modification relates to the installation of a pump room and other services within the foyer area of the southern building. This replaces the approved location of a plant room. The location of the pump room is considered acceptable.

Additionally, the ground floor has been modified to include a waste holding room along the western side of the ramp to allow for easy access on waste collection day, The building manager will continue to wheel the bins to the kerb for collection and will wheel them back. This modification is supported.

Modification to Conditions

Condition No. 1

Condition No. 1 contains a table with all the approved plans and therefore currently states the following:

Plan	Author	Dated / Received by Council
Basement & Ground Floor Plan Dwg No.: DA02 Revision F	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016
First & Second Floor Plan Dwg No.: DA03 Revision F	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016
Roof Terrace Dwg No.: DA04 Revision F	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016
Elevations Dwg No.: DA05 Revision F	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016
Internal Elevations Dwg No.: DA06 Revision F	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016
Sections Dwg No.: DA07 Revision F	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016
Landscape Plan Dwg No.: LPDA 15-241/ 1 & 2 Issue H	Conzept Landscape Architects	Dated: 10.03.16 Received: 24.12.2015
Concept Stormwater Management Plans Dwg No. 1-6 Issue A	EZE Hydraulic Engineers	Dated: 12.12.15 Received: 24.12.2015

As the proposed development has been amended with plans, the Condition has been amended as follows:

Plan	Author	Dated / Received by Council
Site Analysis and Roof Plan Dwg No: 01 Rev 3	Derek Raithby Architecture	Dated May 2017; Received 2 June 2017
Basement & Ground Floor Plan Dwg No.: DA02 Revision F Basement Floor Plan Dwg No. 02 Rev 3	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016 Dated August 2017; Received 10 August 2017
First & Second Floor Plan Dwg No.: DA03 Revision F Ground Floor Plan Dwg No. 03 Rev 03	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016 Dated April 2017 Received 6 April 2017
First Floor Plan Dwg No. 04 Rev 3	Derek Raithby Architecture	Dated April 2017; Received 6 April 2017
Second Floor Plan Dwg No. 05 Rev 3	Derek Raithby Architecture	Dated April 2017; Received 6 April 2017
Third Floor Plan Dwg No. 06 Rev5	Derek Raithby Architecture	Dated August 2017; Received 10 August 2017
Roof Terrace Dwg No.: DA04 Revision F	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016
Elevations – North and South Dwg No.: DA05 Revision F Dwg No. 07 Rev 4	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016 Dated May 2017; Received 2 June 2017
Elevations – East and West Dwg No. 08 Rev 4	Derek Raithby Architecture	Dated May 2017; Received 2 June 2017
Internal Elevations – South Dwg No.: DA06 Revision F Dwg No. 09 Rev 4	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016 Dated May 2017; Received 2 June 2017
Sections Dwg No.: DA07 Revision F Dwg No. 11 Rev 3	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016 Dated May 2017; Received 2 June 2017
Diagrams GFA Dwg No. 16 Rev 5	Derek Raithby Architecture	Dated May 2017; Received 2 June 2017
Landscape Plan Dwg No.: LPDA 15-241/ 1	Concept Landscape Architects	Dated: 10.03.16 Received: 24.12.2015

&2 Issue H		
Concept Stormwater Management Plans Dwg No. 1-6 Issue A	EZE Hydraulic Engineers	Dated: 12.12.15 Received: 24.12.2015

The modification is supported.

Condition No. 6

Condition No. 6 (a) and (b) currently states the following:

- a) This development is approved under State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) and bonus FSR over and above that allowed under Botany Bay LEP 2013 has been applied on the basis that the units proposed to be used for the purposes of *affordable housing* comprising 33.8% of the gross floor area of the development
- b) Units 3, 4, 5, 9, 10 and 12, will be used for the purposes of *affordable housing* for a period of ten years from the date of the issue of the occupation certificate and must be managed by a registered community housing provider (as defined in the ARH SEPP).

As the proposed modification seeks to increase the number of affordable housing units from 6 to 10 within the development, the condition will be modified as follows:

- a) This development is approved under State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) and bonus FSR over and above that allowed under Botany Bay LEP 2013 has been applied on the basis that the units proposed to be used for the purposes of *affordable housing* comprising ~~33.8%~~ **50%** of the gross floor area of the development
- b) Units 3, 4, ~~5 7~~, 9, 10 and 12, **16, 18, 19 and 20** will be used for the purposes of *affordable housing* for a period of ten years from the date of the issue of the occupation certificate and must be managed by a registered community housing provider (as defined in the ARH SEPP).

Condition No. 18(c)

Condition No. 18(c) currently states the following:

18.

- (c) All apartments with 2 or more bedrooms (Unit 1, 2, 3, 5, 9, 12, 15, 16, 17, & 18) are to include a fixed study desk or study nook. The study is to be within view of the main living space.

As the new addition provides an additional two-bedroom unit, the condition has been updated to include Unit 19.

Therefore the condition will now read as follows:

18.

- (c) All apartments with 2 or more bedrooms (Unit 1, 2, 3, 5, 9, 12, 15, 16, 17, & 18 & 19) are to include a fixed study desk or study nook. The study is to be within view of the main living space.

Condition No. 20

Condition No. 20 currently states the following:

20. Prior to the issue of any Construction Certificate, the payment of a monetary contribution of \$327,945.60 in accordance with Council's Section 94 Contributions Plan 2005-2010 which is broken down as follows:

a. Community Facilities	\$32,794.56
b. Open Space	\$255,797.57
c. Administration	\$13,117.82
d. Transport Management	\$26,235.65

The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

The proposal includes three new units therefore the section 94 contribution is to be updated to reflect these three units.

Therefore the condition has been amended as follows:

20. Prior to the issue of any Construction Certificate, the payment of a monetary contribution of \$327,945.60 in accordance with Council's Section 94 Contributions Plan 2005-2010 which is broken down as follows:

a. Community Facilities	\$32,794.56
b. Open Space	\$255,797.57
c. Administration	\$13,117.82
d. Transport Management	\$26,235.65

Additionally, the proposal includes an additional three units which have contributed to an additional Section 94 Contribution of \$29,270.77 as required

under the Section 94 Contribution Plan 2016. A breakdown of this figure is provided below.

<i>a. Community Facilities- Citywide</i>	<i>\$5,022.78</i>
<i>b. Recreation Facilities- Citywide</i>	<i>\$21,817.94</i>
<i>c. Administration</i>	<i>\$374.33</i>
<i>d. Transport Management- Citywide</i>	<i>\$2,055.72</i>

The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

Condition No. 31

Condition No. 31 currently states the following:

31. Prior to the issue of any Construction certificate, the applicant shall carry out an invasive investigation of the existing drainage easement, reference no. H496045 to confirm the existing of any Council or Sydney Water infrastructure. Council's Engineer shall confirm, onsite, the result of the investigation and provide written permission for the excavation of the basement.

The applicant has requested that the conditioned be modified in the following manner:

31. Prior to commencement of excavation of the basement Council's Engineer shall confirm, onsite, the result of the investigation by EZE Hydraulic Engineers dated 16th April 2015 (ref No.12088) and provide written permission for the excavation of the basement.

The request to modify the condition has been assessed by Council's Development Engineer who does not support the modification of the condition. As stated, the intention of this condition was to confirm, at the time of excavation, that there was no drainage infrastructure contained within the existing easement which runs at the rear of the site and neighbouring site. Therefore based on this information, the modification to the condition is not supported.

Condition No. 33

Condition No. 33 currently states the following:

33. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan

'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.) The plans shall incorporate but not be limited to the following:

- a) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- b) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay's SMTG,
- c) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- d) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- e) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
- f) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG. The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- g) A WSUD Strategy and MUSIC model must be prepared and submitted to the PCA for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and

The submission of detailed calculations including computer modelling where required supporting the proposal

The applicant has requested that the condition be modified to as follows:

- 33. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 - Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.) The plans shall incorporate but not be limited to the following:
 - a. Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay's SMTG,

- b. No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- c. The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- d. Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG. The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- e. A WSUD Strategy and MUSIC model must be prepared and submitted to the PCA for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and

The submission of detailed calculations including computer modelling where required supporting the proposal.

Their reason to modify the conditions is that the development is 100% flood affected for the 100yr storm event (ref: Botany Catchment Drainage Study, 30.09.2013 – Issue 2) and thus OSD has negligible effects on the stormwater control. An OSD tank will be completely inundated during the 100yr storm making ineffective in controlling stormwater runoff for the major storm event. The site is also located within the downstream catchment (not upstream catchment).

This condition was assessed by Council's Development Engineer who is not supportive of the amendment to the condition as the development cannot satisfy Council's OSD requirements. Amendments have not been made to accommodate an OSD as per the DCP requirements. Therefore the condition cannot be supported.

Condition No. 59(a)

Condition No. 59(a) currently states the following:

59. Prior to the issue of the any Occupation Certificate, the following restriction is to be registered against the title of the property on which the development is to be carried out, in accordance with Section 88(E) of the *Conveyancing Act 1919*:
- a) Pursuant to Statement Environmental Planning Policy (Affordable Rental Housing) 2009. For a continuous period of ten (10) years from the date of issue of any occupation certificate (being an Interim or Final Occupation Certificate) the following Restrictions on the Use of the Land will apply:
 - i) the dwellings proposed to be used for the purposes of affordable housing comprising 33.8% of the gross floor area of the development, being Unit 3, 4, 5, 9, 10 and 12, will be used for the purposes of affordable housing, and
 - ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider,

Similar to Condition No. 6, the condition will be amended to reflect the updated number of affordable housing units as there is no objection to the modification. The condition has been amended as follows:

59. Prior to the issue of the any Occupation Certificate, the following restriction is to be registered against the title of the property on which the development is to be carried out, in accordance with Section 88(E) of the *Conveyancing Act 1919*:
- a) Pursuant to Statement Environmental Planning Policy (Affordable Rental Housing) 2009. For a continuous period of ten (10) years from the date of issue of any occupation certificate (being an Interim or Final Occupation Certificate) the following Restrictions on the Use of the Land will apply:
 - i) the dwellings proposed to be used for the purposes of affordable housing comprising ~~33.8%~~ **50%** of the gross floor area of the development, being Unit 3, 4, ~~5~~ **7**, 9, 10, 12, ~~16, 18, 19 and 20~~, will be used for the purposes of affordable housing, and
 - ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider,

Condition No. 60

Condition No. 60 relates to the car parking allocation within the basement and currently states the following:

60. Prior to the issue of any Occupation Certificate, the 21 car spaces within the basement are to be allocated in accordance with the Affordable Rental Housing SEPP requirements and line marked as follows:
- a. At least 0.5 space / 1 Bedroom apartment (ie. 7 Apartments = 4 spaces)
 - b. At least 1 space / 2 Bedroom apartment (ie. 8 Apartments = 8 spaces)
 - c. At least 1.5 spaces / 3 Bedroom apartment (ie. 2 Apartments = 3 spaces)
 - d. 1 visitors space / 5 apartments (ie. 18 apartments = 4 spaces)

As there are three new units proposed, with two of the units affordable units, and the allocation of the car parking was incorrect in the original consent, the condition has been amended as follows:

60. Prior to the issue of any Occupation Certificate, the ~~21~~ **23** car spaces within the basement are to be allocated in accordance with the Affordable Rental Housing SEPP **and the BBDCP 2013** requirements and line marked as follows:

Affordable Housing

- a. At least 0.5 space / 1 Bedroom apartment (~~ie. 7 Apartments = 4 spaces~~)

- b. At least 1 space / 2 Bedroom apartment (~~ie. 8 Apartments = 8 spaces~~)
- c. At least 1.5 spaces / 3 Bedroom apartment (~~ie. 2 Apartments = 3 spaces~~)
- d. 1 visitors space / 5 apartments (~~ie. 18 apartments = 4 spaces~~)

Residential Component

- a. At least 1 space/1 bedroom apartment***
- b. At least 2 spaces/2-3 bedroom apartments.***

Condition No. 75

Similar to Condition No. 6 and 59(a), Condition No. 75 relates to the allocation of affordable housing within the development and the ongoing use. The condition is currently worded as follows:

- 75. Units 3, 4, 5, 9, 10 and 12, will be used for the purposes of *affordable housing* for a period of ten years from the date of the issue of the occupation certificate and must be managed by a registered community housing provider (as defined in the ARH SEPP).

The condition has been amended to reflect the correct affordable units. The wording has been amended as follows:

- 75. Units 3, 4, **5 7**, 9, 10, 12, **16, 18, 19 and 20** will be used for the purposes of *affordable housing* for a period of ten years from the date of the issue of the occupation certificate and must be managed by a registered community housing provider (as defined in the ARH SEPP).

Condition No. 78

Condition No. 78 of the consent currently states the following:

- 78. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 15/253 dated as 24 December 2015 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

The condition has been amended to reflect the current application and is to be read as follows:

- 78. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 15/253 dated as 24 December 2015 **and further amended by DA-15/253/02 dated as 12 December 2016** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

Statutory Considerations

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

Section 96(2) Modification Considerations

Section 96(2) of the *Environmental Planning & Assessment Act 1979* states that “a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:”

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

The Section 96(2) modification application relates to amendments predominantly to an additional level on the building, minor reconfiguration of the approved units and basement level and communal open space and modification to conditions, and as such, the modifications will result in substantially the same development as approved under DA-15/253 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

- b) ***It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and***

The modification does not require consultation with the Minister. The application was re-referred to SACL as there is an additional level being proposed. SACL had no objection to the proposed modification.

- c) ***It has notified the application in accordance with (i) the regulations, if the regulations so require, and (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***

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the development application was notified and advertised for 14 days from 18 January to 2 February 2017. Amended plans were received therefore the application was further re-notified two more times for fourteen days between 13 June and 27 June and for seven days between 25 August and 1 September.

- 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.***

During round one of notification, the modified proposal received a total of seven objections. The issues that were raised in the objections related to bulk and scale, reduction in open space, increase in the number of units on the site, additional storey increases permissible height restriction, additional traffic congestion, construction noise. The proposal was further modified to address these concerns by reducing the bulk and scale of the development so that it is not visible from the street, increase in the number of affordable units from 6 to 10 and reducing the total number of new units from 4 to 3. These amended plans were re-notified on two separate occasions and no objections have been received in either round of notification.

Section 96(2)(3) Modification Considerations

Section 96(2)(3) of the *Environmental Planning and Assessment Act 1979* states that “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 79C (1) as are of relevance to the development the subject of the application.”

An assessment of the application has been carried out under the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered.

- a) ***Section 79(C)(1)(a) the provisions of any Environmental Planning Instrument and Development Control Plan and any other matters prescribed by the Regulations.***

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by an amended BASIX Certificate No. 692005M_03 prepared by Greenworld Architectural Drafting committing to environmental sustainable measures.

State Environmental Planning Policy No. 65 – Quality Design for Residential Apartment Buildings

The provision of SEPP 65 and the Apartment Design Guide (ADG) have been considered as part of this modification application and the modifications are considered satisfactory with building separation still being the only issue that is left outstanding as the modification proposes a top floor which consists of a nil setback along the eastern side of the site.

Note 1 - Building Separation

Side Separation

The building separation of the new third level has been considered within the assessment of the ADG. The ADG requires a 6-12 metre separation between habitable rooms up to 4 storeys. The additional storey has been proposed to be

located along the eastern boundary to align with the approved setback of the lower levels. The nil setback will be a blank wall to allow for any future development of the site at 41 Daphne Street to abut the subject site and have appropriate transition between the sites. This is a better planning outcome than if the subject site had its third level setback from the eastern side boundary. There are no windows or openings on the side elevations and therefore there is no privacy impact.

Rear Separation

The ADG requires a 12-metre separation between habitable rooms up to 4 storeys. The additional level on the southern building will have a 4.6 metre setback which is greater than the setback of 3 metres approved with the original development application on the lower levels along the rear. This continues to be acceptable as the adjoining site to the rear is currently used for infrastructure (Sydney Water Pumping Station) and therefore there will be no privacy or amenity impacts as a result. Additionally, the rear building only contains one of the new units which is a one bedroom therefore the scale of the addition is not considered to be too significant an impact onto surrounding sites. Shadow diagrams have been provided showing the impact of the additional level, and as shadow is cast to the Pumping Station and to a part of the rear yard of 6 Ivy Street in the afternoon which is consistent with the original application. It is unlikely that the pumping station will be redeveloped in the near future therefore the impact is not significant. Therefore, the setback proposed is acceptable.

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)

The proposed amendments to the ARHSEPP 2009 include an increase in the overall GFA across the development as well as the number of approved affordable units has increased from the six (Units 3, 4, 5, 9, 10 and 12) to ten units (Units 3, 4, 7, 9, 10, 12, 16, 18, 19 and 20) proposed as part of this application. Below is an assessment of the amended plans against the provisions in Part 2 Division 1 – Infill Affordable Housing in the SEPP:

Principal Provisions of ARH SEPP	Proposal	Complies?
Development to which Division applies (CI 10)	The subject site continues to be located within the R3 Medium Density Residential zone which permits 'Residential Flat Buildings', is located within the Sydney region and meets the definition of an 'accessible area' as required by Clause 10(2) as the site is located within 400m from a bus stop used by a regular service (Route 309, 310 etc Sydney Buses). Accordingly, the provisions for Infill Affordable Rental Housing apply to the proposal.	Yes
Floor space ratios (CI 13(1)) – This clause applies if at least 20% of the gross floor area (GFA) of the development is to be used for affordable housing.	10 apartments will be used for affordable housing which is greater than the six apartments that were originally approved. The units are Unit 3, 4, 7, 9, 10, 12, 16, 18, 19 and 20 which account for 50% (660sqm) of the total GFA of the development.	Yes

Principal Provisions of ARH SEPP		Proposal	Complies?			
Floor space ratio (CI 13 2(a)(ii))	A bonus FSR of 0.5:1 is available for the proposal on the basis that at least 50% (660sqm) of the GFA is to be provided as affordable housing. The maximum permissible FSR increases to 1.35:1 (1,333.12sqm). The proposed FSR is 1.35:1 (1,334sqm).		Yes Refer to Note 2			
Standards that cannot be used to refuse consent (CI 14)						
Council cannot refuse the development for the reasons below of this table, if the development complies with the standards						
Site Area (CI 14(1)(b)) If the site area on which it is proposed to carry out the development is at least 450sqm. The site area is 987.5sqm.			Yes			
Landscaped Area (CI 14(1)(c)) (ii) At least 30% of the site is to be landscaped. Landscape area under the SEPP is as defined in the Standard Instrument and means <i>part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.</i> The landscaped area has been reduced to 348.5sqm from 391.5sqm however this continues to comply with the 30% requirement.			Yes			
Deep Soil Zones (CI 14(1)(d)) In relation to that part of the site area that is not built on, paved or otherwise sealed: (i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not <15% of the site area (the <i>deep soil zone</i>), and (ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and (iii) if practicable, at least 2/3 of the deep soil zone is located at the rear of the site area. The proposal reduces the deep soil area by 24sqm however continues to comply by providing 13% (125sqm) of the site area is a deep soil zone which has an average dimension of 3 to 3.7 metres along the rear boundary.			Yes			
Solar Access (CI 14(1)(e)) Living rooms and private open spaces for min 70% of dwellings in development receive min 3 hours direct sunlight between 9am & 3pm in mid-winter. Approved 18 apartments x 70% = <ul style="list-style-type: none">14 apartments receive at least 3 hours to living rooms – 78%13 apartments receive at least 3 hours to POS – 72%11 apartments receive full solar access to both living and POS – 61% Proposed 3 apartments = <ul style="list-style-type: none">All three apartments receive minimum 2 hours of sunlight to POS and principal living areas.			Yes			
Unit	Living	Solar	POS	Solar	Living	POS

Principal Provisions of ARH SEPP			Proposal		Complies?
No.	Access	Access	Compliance	Compliance	
1	0	0	No	No	
2	6	6	Yes	Yes	
3	5	0	Yes	No	
4	1	0	No	No	
5	1	0	No	No	
6	6	6	Yes	Yes	
7	6	6	Yes	Yes	
8	6	6	Yes	Yes	
9	6	6	Yes	Yes	
10	5.5	5.5	Yes	Yes	
11	5.5	5.5	Yes	Yes	
12	2.5	2	No	No	
13	6	6	Yes	Yes	
14	6	6	Yes	Yes	
15	6	6	Yes	Yes	
16	6	6	Yes	Yes	
17	6	6	Yes	Yes	
18	6	6	Yes	Yes	
19	6	6	Yes	Yes	
20	6	6	Yes	Yes	
21	6	6	Yes	Yes	
<p>Notes:</p> <ul style="list-style-type: none"> Solar access is also assessed under the ADG. It is likely that ADG would prevail for solar access given the recent amendments that were made to SEPP 65. Regardless, the proposal complies with both the more onerous requirements of ARH SEPP (>3 hours solar) and the ADG requirements (>2 hours solar). 					
<p>Car Parking (CI 14(2)(a)) The approved development comprised of 21 car parking spaces. Therefore, as part of the modification to the application, car parking will be calculated on the basis of the three new units on the top floor. Two of the units are affordable units while one is a regular residential unit. The below calculation will only consider the amount of parking required to be generated for the affordable units. Car parking will be discussed in detail in Part 3A of the BBDCP below.</p> <p><u>Affordable units</u> At least 0.5 spaces / 1 Bedroom 1 apt = 0.5 spaces) At least 1 space / 2 Bedroom (1 apt = 1 space) 2 car parking spaces proposed</p> <p>These have not been allocated within the basement plan therefore a condition is to be provided on the car parking layout and distribution.</p>					Yes
<p>Dwelling Size (CI 14(2)(b)) (i) 35sqm studio (ii) 50sqm 1 bedroom (iii) 70sqm 2 bedrooms; (iv) 90sqm 3+ bedrooms.</p>					Yes

Principal Provisions of ARH SEPP	Proposal	Complies?
Proposed: Studio = 35sqm 1 Bedrooms = 50 – 55sqm 2 Bedrooms = 70sqm 3 Bedrooms = 90sqm		
Continued application of SEPP 65 (CI 16)	Noted. Refer to SEPP 65.	Refer to SEPP 65
Character of local area (CI 16A) A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	The proposal will continue to be compatible with the character of the local area. The height of the development with the extra three units will provide an appropriate transition from future development on the neighbouring eastern site which has a maximum building height of 12 metres.	Yes
Must be used for affordable housing for 10 years (CI 17) Conditions are required to be imposed by the consent authority to the effect that: (a) for 10 years from the date of the issue of the occupation certificate: (i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and (ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and (b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the <i>Conveyancing Act 1919</i> , that will ensure that the requirements of paragraph (a) are met.	These conditions have been included. The applicant will be required to appoint a registered community housing provider to manage the affordable units as required by the conditions recommended to be imposed.	Yes – Condition
Subdivision (CI 18)	N/A – No subdivision is proposed.	N/A

Principal Provisions of ARH SEPP	Proposal	Complies?
Subdivision is permissible with consent		

Note 2 – ARHSEPP FSR Bonus Calculation

Pursuant to Clause 4.4 of the BBLEP 2013, the maximum permissible FSR for the subject site is 0.85:1. The development was approved with a FSR bonus of 0.34:1 as calculated in the below formula:

$$Y:1$$

If the percentage of GFA that is used for affordable housing is less than 50%
AH is the percentage of GFA used for affordable housing
where $Y = AH / 100$

Therefore, the approved GFA for the site was 1,173sqm and FSR was 1.19:1. This was on the basis that 33.8% of the GFA for the development accounted to the affordable housing component.

The modification to the proposal involves an increase in the number of units and GFA that is attributed to affordable housing. The amended proposal will now contribute to ten of the units being affordable and the increase in GFA to 660sqm results in 50% of the overall GFA of 1,334sqm being affordable. Therefore, the bonus applicable for the development is 0.5:1 which results in a total FSR of 1.35:1. The amended proposal has a FSR of 1.35:1 which complies with the ARHSEPP bonus.

Botany Bay Local Environmental Plan 2013

The provisions of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) have been considered in the assessment of this Modification Application and the following information is provided:

Principal Provisions of BBLEP 2013	Proposed	Compliance
Landuse Zone	The site is zoned R3 Medium Density Residential.	Yes
Is the proposed use/works permitted with development consent?	The proposed development is for a 'Residential Flat Building' which is permitted with consent.	Yes
Does the proposed use/works meet the objectives of the zone?	The proposed development is consistent with the objectives of the R3 zone.	Yes
Does Schedule 1 – Additional Permitted Uses apply to the site?	Schedule 1 does not apply to the site.	N/A

Principal Provisions of BBLEP 2013	Proposed	Compliance
If so what additional uses are permitted on the site?		
<p>What is the height of the building?</p> <p>Does the height of the building comply with the maximum building height?</p>	<p>The maximum permissible height is 10 metres in accordance with the BBLEP 2013.</p> <p><u>Southern Building Lift Shaft</u> Maximum Height: 12.45 metres</p> <p><u>Southern Building Pergola and Stair Shaft</u> Highest Point: RL17.50 EGL below: RL 5.08 Maximum Height: 12 metres</p> <p><u>Northern Building Lift Shaft</u> Maximum Height: 12.5 metres</p>	No – Refer to Note 3
<p>What is the proposed FSR?</p> <p>Does the FSR of the building comply with the maximum FSR?</p>	<p>The maximum permissible FSR under the BBLEP 2013 for the proposed development is 0.85:1. The ARHSEPP also applies to the proposed development which contains provisions for FSR. Refer to ARHSEPP.</p>	Yes – ARHSEPP provisions prevail
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m2 min and maximum height of 22 metres and maximum FSR of 1.5:1?	The proposed development is in the R3 zone. The site area is less than 2000sqm, as such this clause does not apply.	N/A
<p>Is the site within land marked "Area 3" on the FSR Map?</p> <p>If so, does it comply with the sliding scale for FSR in Clause 4.4A?</p>	The subject site is not located within 'Area 3' of the FSR map therefore Clause 4.4A does not apply.	N/A
Is the land affected by road widening? (Clause 5.1 – Relevant Acquisition)	The land is not affected by road widening.	N/A
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	<p>The subject site is not heritage listed nor is it within a heritage conservation area.</p> <p>Nearby heritage items include 52-54 Daphne St (Item 199) comprising a row of terrace houses and Booralee Park (Item 161) comprising a landscape item including parks gardens and trees.</p>	Yes

Principal Provisions of BBLEP 2013	Proposed	Compliance
	In relation to Item I99, the proposal will continue to not create any adverse impact to the heritage value of the item as the top floor is setback from the front setback and will not be visible from the streetscape.	
<p>The following provisions in Part 6 of BBLEP apply–</p> <ul style="list-style-type: none"> • 6.1 – Acid Sulfate Soils • 6.2 – Earthworks • 6.8 – Airspace Operations • 6.9 – Aircraft Noise 	<p>Clause 6.1, 6.2, 6.8 and 6.9. Have been considered in the assessment of the modification. No changes are proposed as part of the application. In regard to Clause 6.8, the modifications was referred to SACL who had no objections to the proposal subject to conditions.</p>	Yes
<ul style="list-style-type: none"> • 6.3 – Stormwater Management 	<p>The proposed development application was approved with an underground stormwater detention tank. The applicant had requested to delete the OSD tank however Council's Development Engineer has objected to the removal of the condition therefore the condition is to remain. This is discussed in greater detail in the assessment of the amendments above in the report.</p>	Yes

Note 3 – Modified Building Height

The proposed modification seeks to increase the height of the building to accommodate for an additional level of units. The original application approved a building height of 13.29 metres to the top of the lift overrun. This building height has been reduced to 12.5 metres to the top of the lift overrun. The additional height is attributed to the units and will reach a maximum building height of 12 metres. As the application is a modification application, the applicant was not required to provide a Clause 4.6 variation to justify the height of the development, however the applicant has provided justification to argue the additional bulk of the development. The justification is provided below:

- *“The proposal has been amended to achieve compliance with the permissible FSR of 1.35:1 which includes the base LEP FSR of 0.85:1 and the additional 0.5:1 FSR available under Division 1, Infill Development with the SEPP (Affordable Rental Housing) 2009. Fulfilment of the FSR available for the purposes of affordable housing represents a desirable social and planning outcome.*
- *The further recessed nature of the upper level from the front and sides contributes to achievement of a suitable transition with any future development in accordance with the planning controls for the adjoining site to the east provide justification for the variation. Sight line diagrams provided by the architect demonstrate the subtle nature of the variation to the height control.*

- *The recessed nature of the upper level at the rear also diminishes the perception and impacts associated with the additional unit at the rear. This has been reduced from a 2-bedroom unit to a 1 bedroom unit.*
- *Compliance with the height for the street wall with the additional height being recessed avoids any adverse or unreasonable streetscape impacts*
- *The lack of external impacts in regard to visual bulk, overshadowing, privacy and view loss demonstrate that there are sufficient environmental grounds to support the proposed FSR and height. The high internal performance of the proposed units further confirms that there are sufficient environmental grounds to allow the variation.*
- *The provision of affordable housing for key workers is a positive social outcome which provides for the housing needs of the community whilst maintaining amenity to surrounding properties. The proposed variation therefore does not compromise the satisfaction of the zone objectives.*
- *Contextually, the proposed built form will not be out of character with the locality noting that there is a larger modified building to the northeast whilst it is reiterated that the skilful design of the modified proposal will achieve a desirable relationship with any redeveloped property to the east.*
- *There are also circumstances particular to this site which confirms that the proposed height is justifiable. This includes the presence of the Sydney Water site to the south which thereby avoids any adverse visual bulk or shadow impacts which are typically associated with medium density developments.*
- *The amended proposal also maintains compliance with the required parking, as assessed under the provisions of the State Policy”.*

Having assessed the above points of justification, Council's officer agrees with the reasons presented for the additional height to the development. The plans had been further modified to allow a greater setback along the northern and western sides of the top floor so that the additional two units were not visible from the streetscape. This also reduced the bulk and scale of the development and does not contribute to any adverse impact onto the surrounding properties. Additionally, while the site has a maximum building height of 10 metres, the neighbouring site to the east at 41 Daphne Street has a 12-metre building height provision as specified within the BBLEP 2013. The proposed three units have been orientated close to the eastern boundary so that any future development of the neighbouring site will allow for an appropriate transition down to the subject site, rather than having the proposed level centred and away from any side boundaries. As the proposed modification does not surpass the height approved in the original application with the lift overrun not changing and the design of the top floor has been improved to reduce the bulk and scale of the development, the proposed modifications is acceptable.

Botany Bay Development Control Plan 2013

The applicable sections of the BBDCP 2013 that relate to the proposed modification to the approved development are provided below:

Part 3A – Parking and Access

Control C2 of Part 3A.2 of the BBDCP 2013 requires that any development comply with the car parking rates. The approved development approved a total of 21 car parking spaces. The proposed modifications to the development include the construction of three new units, with two of the units being affordable.

As provided above in the ARHSEPP section of the report, the two affordable units generate a total of 1.5 car parking spaces to accommodate the one and two-bedroom units. The third new unit is a one-bedroom unit therefore the development requires an additional one car parking space. Therefore, the development is to provide an additional 2.5 car parking spaces. The proposed modification to the development has provided two additional car parking spaces in the basement. The requirement is short by 0.5 of a car space. Considering the nature of the development and its proximity to public transport as well as the proposed layout of the basement not allowing an additional car parking space without the removal of deep soil, the shortfall in the 0.5 space is supported. Conditions relating to car parking will be modified within the consent. The plans do not demonstrate the allocation of car parking for units 19 and 20 therefore this has been conditioned.

Part 3L – Landscaping and Tree Management

The original development application was approved with a landscaped area of 391.5sqm across the site. The proposed development will reduce the amount of landscaped area by 43sqm therefore the proposed development will now have a total landscaped area of 348.5sqm which results in 35% of the development. This continues to be consistent with the minimum landscaping requirement of 35% within the BBDCP 2013. There originally were trees proposed on the rooftop of the southern building within planters however due to the reconfiguration of the rooftop and the additional of a unit, these trees have been deleted. The planter beds have been retained. The removal of the proposed trees is acceptable.

Part 3N – Waste Minimisation and Management

The relevant requirements and objectives have been considered in the assessment of the modifications to the development. An amended waste management plan has been provided to Council.

As mentioned above in the assessment of the proposed changes, the applicant has amended the plans by locating part of the waste storage area within the basement to the ground floor to allow easy transport of waste and recycling bins to be wheeled out by the building manager as well as to accommodate waste disposal for the three new units. The bins will continue, as approved, to be wheeled to the kerb and the waste arrangements for the on-going management of waste are acceptable. Relevant conditions relating to waste have already been adopted within the consent.

Part 4C – Residential Flat Building

The modifications to the approved development have been assessed against Part 4C of the BBDCP. The relevant controls within this chapter have been elaborated upon in the table below:

Control	Requirement	Proposed	Complies?
4C Residential Flat Buildings			

4 C.2.2 Streetscape Presentation	Compatible with bulk & scale of adjoining residential developments; Max building length 24m; Walls >12m must be articulated; Street presentation.	<p>The building length has not been increased from the approved design which was at 24m.</p> <p>The top floor has been setback from the front boundary by 6.5 metres and has been setback from the western side boundary. This is to reduce the bulk of the new floor when viewed from the streetscape. Additionally, the three new units have been designed so that their POS is located to the front of the units providing compliant solar amenity. The location along the eastern boundary is to allow for an appropriate transition when the neighbouring property redevelops the site as the site allows for a 12 metre building height which is what is being proposed in this modification.</p>	Yes
4C.2.4 Landscaped Area and Deep Soil Planting	Min Landscaped Area: 35%	Landscaped area = 348.5sqm (35%)	Yes

4C.2.6 Setbacks	Front setback: Match setback of adjoining, but must be minimum of 3m or 4m to classified road	The original proposal approved a 4m ground floor setback and a 2.255m setback for balconies above. This was consistent with 37 Daphne Street, however forward of 41 Daphne Street. 41 Daphne St is a residential conversion of an old factory, whilst 37 Daphne is a new residential development. It is considered the new residential development at 37 Daphne to be the relevant front setback and as such the proposal complies. The new top floor has been amended to provide a 3.318 metre setback behind the approved building line of the below levels therefore providing a setback from the street of approximately 5.6 metres.	Yes
4C.4.1 Dwelling Mix & layout	<p>C1 Developments with 10 or more apartments to provide a range of sizes including studio, 1, 2, 3 bedrooms</p> <p>C2 Developments with more than 10 apartments, 25% max no. of combined studio and 1bed units</p>	<p>The amended development includes 21 apartments.</p> <p>A range of apartments provided including studios, 1, 2, and 3 bedrooms along with a variety of floor plans.</p> <p>Dwelling Mix – 10/21 of the units are studio/1-bedroom units. This results in a total of 48% studios and 1-bedroom apartments. The original development was approved with a unit mix of 44%.</p>	<p>Yes</p> <p>No – Refer to Note 4</p>

		C1 Dwellings with 3 or more bedrooms are to have two separate living spaces.	The original development included two, three-bedroom apartments. Neither of these apartments have two separate living spaces however it was considered that the units were acceptable.	Existing non-compliance
4C.4.2 Family Friendly Apartment Buildings		C1 Family apartments are apartments with 2 or more bedrooms. C2 Family apartments are to include a study. C3 Bedrooms are to be large enough for a single bed, desk, and space for playing. C4 Floor surface of entry, dining and kitchen are to be water-resistant. No carpet. C5 Two bathrooms required. Bathtub to be provided in one bathroom. C6 Private open space to be visible from kitchen. C7 Entry and corridors to permit room for toys etc. C8 ADG sets out storage rates. Storage room is to be located near the entry.	The approved development consent had conditioned that all two + bedroom units are to provide a study nook to comply with the controls. Additionally, the three new units comply with bedroom sizes, water resistant surfaces have been conditioned, adequate storage has been provided and all POS areas are visible from the kitchen area. The new two-bedroom unit contains one bathroom however this unit will be an affordable unit and the space has provided ample storage within the unit. The 3 units have been designed according to the controls.	Yes, conditioned
4C.4.3 Internal Circulation	Internal	Provide multiple cores. More than 4 storeys require elevators.	Multiple cores provided. Lifts have been provided for both buildings.	Yes

Note 4 – Unit Mix

The requirement under Control C2 of Part 4C.4.1 is that developments are to provide a maximum 25% of studio/1-bedroom units. The development was approved with a unit mix of 44% consisting of 8 out of the 18 units being either studio or one-bedroom units. The modification proposes a total of 10 out of 21 units being either studio/1-bedroom units which results in a total of 48%. This is contributed to an additional two x 1-bedroom units located on the top floor of the development. One of the units will be allocated for affordable housing as the development proposes to increase the overall number of affordable units from 6 units to 10 units. As the proposal provides greater incentive for affordable housing, the minor increase to the unit mix is acceptable.

Part 8 – Character Precinct

The local character of the Botany area has been considered in this modification application. The immediate surrounding locality is bound by Daphne Street, Ivy Street, Rose Street and Bay Street. The proposed modification will include an additional level of units (3 units) and will be over the height limit of 10 metres.

The additional storey is not considered out of character. The surrounding properties along Daphne Street are impacted by flooding therefore a number of the developments have been raised to meet the flood level and thereby have surpassed the maximum height requirement under the BBLEP 2013. Additionally, the original application was approved with a higher height to the lift overrun which has now been reduced. The applicant has designed the development so that the third storey is appropriately setback from the streetscape so that it is not visible. Additionally, the new units will be oriented closer to the eastern boundary so that there is an appropriate transition with 41 Daphne Street, which has a maximum building height of 12 metres, when the time comes to redevelop the site. It is a better outcome to transition the building in this manner than to have it centred within the development. The proposal is not considered to create any negative impacts onto the surrounding properties and is considered to address and comply with the desired future character of the Botany Area.

S.79C(1)(a)(iv) - Provisions of regulations

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

S.79C(1)(b) - Likely Impacts of Development

The proposed modification relates to three new units, minor modifications of the approved units and communal open space and number of affordable housing units proposed, and as such, it is considered that the proposed amendments will have no significant adverse environmental, social or economic impacts on the locality. The original application addressed any impact to the natural and built form and the social and economic impact to the Botany area.

S.79C(1)(c) - Suitability of the site

The proposed modifications do not alter previous conclusions regarding site suitability.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the development application was notified and advertised for 14 days from 18 January to 2 February 2017. Seven (7) objections were received. The issues that were raised are addressed above in the report. Amended plans were received therefore the application was further re-notified two more times for fourteen days between 13 June and 27 June and for seven days between 25 August and 1 September. During both periods, no submissions were received.

S.79C(1)(e) - Public interest

The proposed amendment will have no significant adverse impact upon the public interest.

Section 94 Contributions

The Section 94 Contributions, as calculated within the Section 94 Contributions Plan 2016, for the proposed three new units are calculated as follows:

PROPOSED	Proposed	Contribution per dwelling	Total payable
1 bed	2	\$8,029.65	\$16,059.30
2 bed	1	\$13,211.47	\$13,211.47
TOTAL	3		\$29,270.77

Therefore, an additional contribution payable for the 3 new units is **\$29,270.77**. A breakdown of the figure is provided in the condition of consent. The applicant is to pay an indexed rate of the contribution based on the timing of the payment.

Conclusion

Section 96(2) Application to modify Development Consent No. 15/253 to amend the basement car park, approved units and an addition of 3 (2 x 1 bed and 1 x 2 bed) units on a new upper level along with a modified communal open space area. The proposal now includes 21 units with 10 affordable units at 37A-39 Daphne Street, Botany, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions of consent. The additional storey has been designed with greater setbacks along the northern and western boundaries to reduce the bulk and scale of the development when viewed from the street. The car parking non-compliance of 0.5 spaces is acceptable as 50% of the GFA is contributed to affordable housing and is in close proximity to public transport and the increase in affordable housing units is encouraged and supported. The units will receive adequate solar and ventilation amenity and will not create any undue impacts onto the surrounding properties. The modification of Condition Nos. 31 and 33 is not supported and are to be retained as per the original consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 37A-39 Daphne Street, Botany

DA No: DA-15/253/02

SCHEDULE OF CONSENT CONDITIONS

Item Bayside Planning Panel 26/09/2017

GENERAL CONDITIONS

- The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Plan	Author	Dated / Received by Council
Site Analysis and Roof Plan Dwg No: 01 Rev 3	Derek Raithby Architecture	Dated May 2017; Received 2 June 2017
Basement & Ground Floor Plan Dwg No.: DA02 Revision F Basement Floor Plan Dwg No. 02 Rev 3	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016 Dated August 2017; Received 10 August 2017
First & Second Floor Plan Dwg No.: DA03 Revision F Ground Floor Plan Dwg No. 03 Rev 03	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016 Dated April 2017 Received 6 April 2017
First Floor Plan Dwg No. 04 Rev 3	Derek Raithby Architecture	Dated April 2017; Received 6 April 2017
Second Floor Plan Dwg No. 05 Rev 3	Derek Raithby Architecture	Dated April 2017; Received 6 April 2017
Third Floor Plan Dwg No. 06 Rev5	Derek Raithby Architecture	Dated August 2017; Received 10 August 2017
Roof Terrace Dwg No.: DA04 Revision F	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016
Elevations – North and South Dwg No.: DA05 Revision F Dwg No. 07 Rev 4	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016 Dated May 2017; Received 2 June 2017
Elevations – East and West Dwg No. 08 Rev 4	Derek Raithby Architecture	Dated May 2017; Received 2 June 2017
Internal Elevations - South Dwg No.: DA06 Revision F Dwg No. 09 Rev 4	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016 Dated May 2017; Received 2 June 2017
Sections Dwg No.: DA07 Revision F Dwg No. 11 Rev 3	Derek Raithby Architecture	Dated: March 2016 Received: 11.03.2016 Dated May 2017; Received 2 June 2017
Diagrams GFA Dwg No. 16 Rev 5	Derek Raithby Architecture	Dated May 2017; Received 2 June 2017

Landscape Plan Dwg No.: LPDA 15-241/ 1 & 2 Issue H	Concept Landscape Architects	Dated: 10.03.16 Received: 24.12.2015
Concept Stormwater Management Plans Dwg No. 1-6 Issue A	EZE Hydraulic Engineers	Dated: 12.12.15 Received: 24.12.2015

(DA-15/253/02)

Document	Author	Dated / Received by Council
Amended Statement of Environmental Effects	ABC Planning	Dated: March 2016 Received: 08.03.2016 Dated April 2017; Received 6 April 2017
Waste Management Plan	Derek Raithby Architecture	Dated: December 2015 Received: 24.12.2015
Plan showing selected detail & levels	J.P Bates & Inwood	Dated: 17.11.2014 Received: 09.03.2016
BASIX Certificate	Greenworld Architectural Drafting	Dated: 11.03.2016 Received: 11.03.2016
Stage 1 Environmental Site Assessment Report No. E22192 AA_Rev 1	Environmental Investigations Australia	Dated: 12.12.2014 Received: 24.12.2015
Stage 2 Detailed Site Investigation Report Report No. E22192 AB	Environmental Investigations Australia	Dated: 04.05.2015 Received: 24.12.2015
Aircraft Noise Report Ref: 2561/D04	Sebastian Giglio Acoustic Consultant	Dated: 17.12.2015 Received: 24.12.2015
Access Report	Accessibility Solutions (NSW) Pty Ltd	Dated: 18.12.2015 Received: 24.12.2015
Drainage Statement Ref No. 12088	EZE Hydraulic Engineers	Dated: 16.04.2015 Received: 24.12.2015
Geotechnical Desktop Study Report Report No. E22192 GA	Environmental Investigations Australia	Dated: 04.05.2015 Received: 24.12.2015
Acid Sulfate Soils Assessment and Management Plan Report No. E22192 AC	Environmental Investigations Australia	Dated: 04.05.2015 Received: 24.12.2015

(DA-15/253/02)

2. This Consent relates to land in Lot 202 DP 1001451 and Lot 6 Sect E DP 1787 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in

the relevant BASIX Certificate No. 692005M_02 dated 11 March 2016 for the development are fulfilled.

a) Relevant BASIX Certificate means:

- i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
- ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.

b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.

5. The consent given does not imply that works can commence until such time that: -

a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -

- i) The consent authority; or,
- ii) An accredited certifier; and,

b) The person having the benefit of the development consent: -

- i) Has appointed a principal certifying authority; and,
- ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
- iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

6.

a) This development is approved under State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) and bonus FSR over and above that allowed under Botany Bay LEP 2013 has been applied on the basis that the units proposed to be used for the purposes of *affordable housing* comprising ~~33.8%~~ **50%** of the gross floor area of the development (**DA-15/253/02**)

b) Units 3, 4, ~~5~~ **7**, 9, 10 and 12, **16, 18, 19 and 20** will be used for the purposes of *affordable housing* for a period of ten years from the date of the issue of the occupation certificate and must be managed by a registered community housing provider (as defined in the ARH SEPP). (**DA-15/253/02**)

c) *Affordable housing* as defined in the ARH SEPP means a very low income household, low income household or moderate income household where the

household, has a gross income that is less than 120 per cent of the median household income for the time being for the Sydney Statistical Division (according to the Australian Bureau of Statistics) and pays no more than 30 per cent of that gross income in rent, or is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under that scheme.

CONDITIONS IMPOSED BY EXTERNAL AUTHORITIES

7. The following conditions are imposed by the Department of Primary Industries – Water:

a) General:

- i) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- ii) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- iii) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
- iv) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
- v) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
- vi) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- vii) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- viii) DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and

justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

b) Prior to excavation

i) The following shall be included in the initial report

- 1 measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
- 2 a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
- 3 details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
- 4 a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]

ii) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report

iii) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified

persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

- iv) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
 - v) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
 - vi) A copy of a valid consent for the development shall be provided in the initial report.
 - vii) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
 - viii) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.
- c) During Excavation:
- i) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
 - ii) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
 - iii) Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing

daily or weekly levels in all monitoring bores provided in the completion report.

- iv) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- v) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- vi) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- vii) Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

d) Following excavation

- i) Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:
 - 1 detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - 2 a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - 3 a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
- ii) The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction

8. The following conditions are imposed by Sydney Water:

- a) Prior to the commencement of works, the approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Sydney Water's Tap in™

online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

- b) Prior to the issue of any Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92. If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 4357 or e-mail beau.reid@sydneywater.com.au

9. The following conditions are imposed by Ausgrid.

In general, conditions to be adhered to by the developer include, but are not limited to, the following:

- a) Ausgrid requires kiosk substation housings to be separated from building ventilation system air intake and exhaust duct openings, by not less than 6 metres. This applies irrespective of whether the building ducted ventilation system is mechanical or natural and irrespective of whether or not fire dampers are installed in the ducts. Any portion of a building other than a BCA class 10a structure constructed from non combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a non-ignitable blast resisting barrier.

For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.

- b) The location of underground cables by using Dial Before You Dig and comply with the requirements of Ausgrids Network Standard 156: Working Near or Around Underground Cables before any excavation works are undertaken
- c) Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143
- d) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site).
- e) The developer is to ensure that the proposed works do not contravene Ausgrids technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid's network

- i) A contestable project No. XCZ019034 has been identified in relation to the proposed development, please contact Contestability via email address contestability@ausgrid.com.au

10. The following conditions are imposed by the NSW Police:

- a) Digital technology must be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. All access areas to the building be covered by such equipment including mail delivery ports. This equipment needs to be checked and maintained on a regular basis;
- b) Main entrance of all parking to be covered with CCTV footage;
- c) CCTV be installed in the lifts and/or the main entrance way to capture the main foyer area and where possible access points for stairwells.
- d) CCTV cameras must cover the basement storage cages. Solid steel housing and quality key locks must be used to prevent access to the basement storage cages. All cages are to be at least 2.4m in height with adequate roofing, cages below this allow people access over the top;
- e) All letter boxes and mail delivery ports are to be built internal of the secure building. No letter box openings to be accessible to street public

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY BUILDING OR STRUCTURE

11. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-

- a) Written notice, indicating the date when demolition of the building is to commence.
- b) This persons full name and address.
- c) Details of Public Liability Insurance.

12. A Hazardous Building Material Assessment (HBMA) shall be carried out and a report provided to Principal Certifying Authority to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately addressed to protect site personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure.

Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.

13.

- a) Erosion and Sediment Control Plan (ESCP) (<2,500m²) – An Erosion and Sediment Soil and Water Management Plan (ESCP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004) and submitted to the Principal Certifying Authority prior to demolition.
- b) Soil Stockpile Area – ESCP (<2,500m²) – A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to demolition. This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- c) Soil Stockpile Area – ASS - ESCP (<2,500m²) – A sufficient area shall be provided onsite to enable separate stockpiling and treatment of excavated materials with a pH of less than 5.5. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to demolition.

14. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority. A copy of the Statement shall also be submitted to WorkCover NSW. The statement must be in compliance with AS2601:1991 – ‘Demolition of Structures’, the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;

- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
 - j) Working hours, in accordance with this Development Consent;
 - k) Confinement of demolished materials in transit;
 - l) Proposed truck routes, in accordance with this Development Consent;
 - m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
 - n) Sewer – common sewerage system ad08
15. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
16. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.
17. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
- a) AS2601-2001 - Demolition of structure.
 - b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

18. Prior to the issue of any Construction Certificate, construction plans are to include the following:
- a) An openable window is to be added to Unit 1 adjacent to the Kitchen on the eastern external wall to provide direct sunlight to the kitchen/living area.
 - b) All internal (north) facing balconies on the rear building and the all the ground level internal terraces are to include moveable privacy screens able to cover two-thirds of the balconies when extended and one-third when retracted.

- c) All apartments with 2 or more bedrooms (Unit 1, 2, 3, 5, 9, 12, 15, 16, 17, & 18 & 19) are to include a fixed study desk or study nook. The study is to be within view of the main living space. **(DA-15/253/02)**
 - d) The floor surface of the entry, dining area, kitchen, and internal storage areas are to be water-resistant and easy to be cleaned and maintained. There is to be no carpet in these areas.
19. Prior to the issue of any Construction Certificate, the following fees are to be paid:-
- a) Development Control \$2,890.00
 - b) Damage Deposit \$73,140.00 (See below)
 - c) Section 94 Contributions \$327,945.60 (See below)
 - d) Long Service Levy See below
20. Prior to the issue of any Construction Certificate, the payment of a monetary contribution of \$327,945.60 in accordance with Council's Section 94 Contributions Plan 2005-2010 which is broken down as follows:
- a) Community Facilities \$32,794.56
 - b) Open Space \$255,797.57
 - c) Administration \$13,117.82
 - d) Transport Management \$26,235.65

Additionally, the proposal includes an additional three units which have contributed to an additional Section 94 Contribution of \$29,270.77 as required under the Section 94 Contribution Plan 2016. A breakdown of this figure is provided below.

<i>a. Community Facilities- Citywide</i>	<i>\$5,022.78</i>
<i>b. Recreation Facilities- Citywide</i>	<i>\$21,817.94</i>
<i>c. Administration</i>	<i>\$374.33</i>
<i>d. Transport Management- Citywide</i>	<i>\$2,055.72</i>

The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time. **(DA-15/253/02)**

21. Prior to the issue of any Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

22. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$73,140.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
23. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
24. Prior to the issue of any Construction Certificate, a dilapidation report shall be prepared by a practicing structural engineer and submitted to the Principal Certifying Authority (PCA). The report must demonstrate that the structural integrity of the adjoining developments will not be impacted by the construction of the basement level.
25. Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to, and approved by the Principal Certifying Authority. The program shall detail:
 - a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
 - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,

- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
 - i) Proposed protection for Council and adjoining properties, and
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
26. Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the Principal Certifying Authority for approval. The plan shall:
- a) be prepared by a RMS accredited consultant,
 - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
 - c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.
- Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.
27. Prior to the issue of any Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - b) For large scale developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.

28. Prior to the issue of any Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) Disabled car parking spaces shall be provided and clearly marked as per the Traffic Report by TTM, dated 17 April 2015, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
29. Prior to the issue of any Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal Certifying Authority, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
30. Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant’s expense.
31. Prior to the issue of any Construction Certificate, the applicant shall carry out an invasive investigation of the existing drainage easement, reference no. H496045 to confirm the existence of any Council or Sydney Water infrastructure. Council’s Engineer shall confirm, on site, the result of the investigation and provide written permission for the excavation of the basement carpark.
32. Prior to the issue of any Construction Certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i) The additional load on the system, and
 - ii) The relocation and/or adjustment of the services affected by the construction.
 - c) On Daphne St, adjacent to the development, the Ausgrid power pole will need to be decommissioned,
 - d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and

- e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, any new pits and trenches for utilities shall be confirmed with Council.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

33. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.) The plans shall incorporate but not be limited to the following:
- a) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
 - b) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay's SMTG,
 - c) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
 - d) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
 - e) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
 - f) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG. The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
 - g) A WSUD Strategy and MUSIC model must be prepared and submitted to the PCA for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and

The submission of detailed calculations including computer modelling where required supporting the proposal

34. Prior to the issue of any Construction Certificate, the measures required in the acoustical assessment report prepared by Sebastian Giglio, Acoustic Consultant Report dated 17 December 2015, Reference # 2561/D04 shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors,
- b) Detailed roof and ceiling construction,
- c) Wall and ceiling corner details and,
- d) External door specification,
- e) Acoustically treated mechanical ventilation.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

35. Prior to the issue of any Construction Certificate, details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority. The report must:

- a) identify each item of plant and equipment;
- b) the following additional criteria adopted by City of Botany Bay Council:
 - i) The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} level (in the absence of the noise under consideration).
 - ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds L_{Aeq} 50dB(A) day time and L_{Aeq} 40 dB(A) night time.
 - iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds L_{Aeq} 65dB(A) day time/night time.
 - iv) For assessment purposes, the above L_{Aeq} sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

Note “sensitive” positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant

36. Prior to the issue of any Construction Certificate, the Applicant shall confirm the requirement for a fire booster assembly. If required, the fire booster assembly must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped setback. The utility must be screened by a built screen (as an Alternative Solution) so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding the utility is to be approved by Council's Landscape Architect prior installation.
37. Prior to the issue of any Construction Certificate, planter boxes constructed over a concrete slab shall be built in accordance with the following requirements :
- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

38. Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
39. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
40. Prior to the commencement of any works, if the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect to ensure the operation of the sewerage system is without disruption to other joint users.

41. Prior to commencement of any works, relevant application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - *(It is be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)*
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit to install temporary ground anchors in public land,
 - d) Permit to discharge ground water to Council's stormwater drainage system Permit for roads and footways occupancy (long term/ short term),
 - e) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - f) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - g) Permit to place skip/waste bin on footpath and/or nature strip, and
 - h) Permit to use any part of Council's road reserve or other Council lands.
42. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
43. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
44. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
- c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

DURING WORKS

45. The proposed development shall comply with the following:

- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after hours contact telephone number.
- b) Any such sign is to be removed when the work has been completed.
- c) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- d) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- e) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or

other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

- f) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- 46. During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
 - 47. During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
 - 48. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
 - 49. As it will be used for deep planting, the location of the Benzo (a) pyrene exceedance of the EIL criteria in fill at BH3 is to be delineated and removed from the site. Sampling and analysis shall be undertaken by a suitably qualified and experienced contaminated land consultant in accordance with NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997. Certification prior to the issue of an occupation certificate is required to confirm that any affected soil is removed and the remaining soil is suitable for deep planting
 - 50. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
 - 51. All remediation work must be carried out in accordance with:
 - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and

52. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
 - a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
53. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the 'Acid Sulfate Soils Assessment and Management Plan - 37A-39 Daphne Street, Botany NSW' Report E22192 AC by Environmental Investigation Australia dated 4 May 2015.
54. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
55. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
 - a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
56. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works
57. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997*.
 - a) Level Restrictions
 - i) Construction period of 4 weeks and under:

the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

b) Time Restrictions

- i) Construction/demolition work shall be limited to the following hours:
- ii) Monday to Friday : 07:00 am to 05:00 pm
- iii) Saturday: 08:00 am to 01:00 pm
- iv) No Construction to take place on Sundays or Public Holidays.

c) Silencing

- i) All possible steps should be taken to silence construction site equipment.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY OCCUPATION CERTIFICATE

58. Prior to the issue of any Occupation Certificate, evidence that a registered community housing provider as defined under State Environmental Planning Policy (Affordable Rental Housing) 2009 has been engaged to manage the *affordable housing* units for ten years from the date of the issue of the Occupation Certificate, must be provided to Council.
59. Prior to the issue of the any Occupation Certificate, the following restriction is to be registered against the title of the property on which the development is to be carried out, in accordance with Section 88(E) of the *Conveyancing Act 1919*:
- a) Pursuant to Statement Environmental Planning Policy (Affordable Rental Housing) 2009. For a continuous period of ten (10) years from the date of issue of any occupation certificate (being an Interim or Final Occupation Certificate) the following Restrictions on the Use of the Land will apply:
 - i) the dwellings proposed to be used for the purposes of affordable housing comprising ~~33.8%~~ **50%** of the gross floor area of the development, being Unit 3, 4, ~~5~~ **7**, 9, 10, 12, ~~16, 18, 19 and 20~~, will be used for the purposes of affordable housing, and **(DA-15/253/02)**
 - ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider,
 - b) The City of Botany Bay Council is to be nominated as the Authority to release, vary or modify the above restriction/s on the use of land. The Restrictions shall burden the site and each lot of the Strata Scheme (where relevant) and benefit City of Botany Bay Council. The Terms of the 88E Instruments are to be submitted to Council for approval prior to lodgement with NSW Land and Property Information. Proof of registration shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

60. Prior to the issue of any Occupation Certificate, the ~~21~~ **23** car spaces within the basement are to be allocated in accordance with the Affordable Rental Housing SEPP **and the BBDCP 2013** requirements and line marked as follows:

Affordable Housing

- a. At least 0.5 space / 1 Bedroom apartment (ie. 7 Apartments = 4 spaces)
- b. At least 1 space / 2 Bedroom apartment (ie. 8 Apartments = 8 spaces)
- c. At least 1.5 spaces / 3 Bedroom apartment (ie. 2 Apartments = 3 spaces)
- d. 1 visitors space / 5 apartments (~~ie. 18 apartments = 4 spaces~~)

Residential Component

- a. **At least 1 space/1 bedroom apartment**
- b. **At least 2 spaces/2-3 bedroom apartments.**
(DA-15/253/02)

61. Prior to the issue of any Occupation Certificate, any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
62. Prior to the issue of any Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
63. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- a) On Daphne St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications, and
 - b) On Daphne St, adjacent to development, construct new footpath as per Council's Infrastructure and Landscape Architect specifications.
64. Prior to the issue of any Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
65. Prior to the issue of any Occupation Certificate, the existing drainage easement, reference no. H496045, shall be extinguished with the prior written approval of Council and the presentation of the relevant Council inspection signoff.

66. Prior to the issue of the final Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
- b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

67. Prior to the issue of any Occupation Certificate, a Validation Report shall be prepared by a suitably qualified contaminated land consultant. This shall provide details of the:

- a) testing of soil in the deep planting areas; and
- b) removal and/or treatment of any soil above the EIL/ESL.

All sampling and analysis shall be undertaken in accordance with NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997.

The report shall be submitted to the Principal Certifying Authority. The report is to be submitted after completion of analysis and remediation works.

68. Prior to the issue of any Occupation Certificate, the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

69. Prior to the issue of any Occupation Certificate, landscaping shall be installed in accordance with the approved landscape plans only by Concept – Landscape Plans 1 and 2, Issue H, dated 10 March 2016. The following amendments are applicable :

- a) All Waterhousia trees shall be minimum 100L pot size, not 45L.

70. Prior to the issue of any Occupation Certificate, the landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and BBDCP2013 at all times. An experienced Landscape Contractor shall be engaged to undertake the landscaping work. The contractor shall be engaged weekly for a minimum period of 13 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

71. Prior to the issue of any Occupation Certificate, at the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the

Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Principal Certifying Authority.

72. Prior to the issue of any Occupation Certificate, to ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in the following areas :
- a) all site boundary landscape setbacks and frontages, and
 - b) the communal open space areas.

The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

73. Prior to the issue of any Occupation Certificate, new street trees at the pot size specified on the landscape plan shall be installed in the Daphne Street nature strip in accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows to AS 2303:2015 Tree Stock for Landscape Use. A Dial-Before-You-Dig enquiry is required prior all street tree planting. Council is not liable for any damage to subsurface infrastructure during public domain works.
- a) The trees shall be planted in an area measuring approx. 1 metre square ensuring adequate space for the root ball, backfilled with water holding additive and fertiliser and mulched to a depth of 75mm and at a diameter of 1 metre. Trees are to be staked as required.
 - b) Two hold point Council inspections are required :
 - i) prior planting trees to ensure plant stock is suitable and
 - ii) post planting.
 - c) Payment of a Street Tree Maintenance Bond of \$2000.00. The duration of the Bond shall be limited to a period of 9 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council

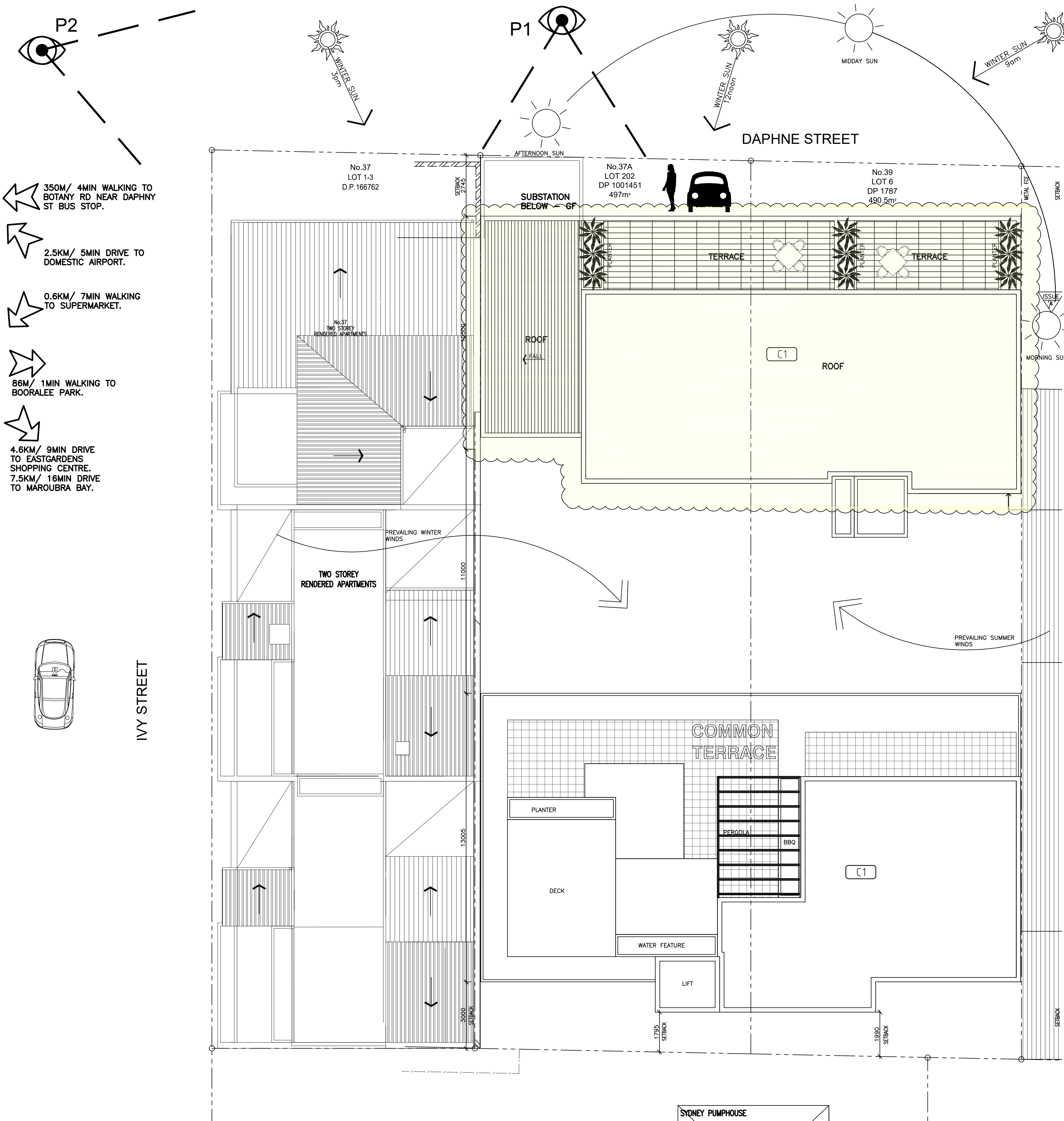
74. Prior to the issue of any Occupation Certificate, the Council nature strip shall be replaced in accordance with Council Specification at the completion of all construction work at the Applicant's expense.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

75. Units 3, 4, **5 7, 9, 10, 12, 16, 18, 19 and 20** will be used for the purposes of *affordable housing* for a period of ten years from the date of the issue of the occupation certificate

and must be managed by a registered community housing provider (as defined in the ARH SEPP). **(DA-15/253/02)**

76. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
77. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance does not include pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
78. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 15/253 dated as 24 December 2015 **and further amended by DA-15/253/02 dated as 12 December 2016** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.



350M/ 4MIN WALKING TO BOTANY RD NEAR DAPHNY ST BUS STOP.

2.5KM/ 5MIN DRIVE TO DOMESTIC AIRPORT.

0.6KM/ 7MIN WALKING TO SUPERMARKET.

86M/ 1MIN WALKING TO BOORALEE PARK.

4.6KM/ 9MIN DRIVE TO EASTGARDENS SHOPPING CENTRE.

7.5KM/ 16MIN DRIVE TO MAROUBRA BAY.

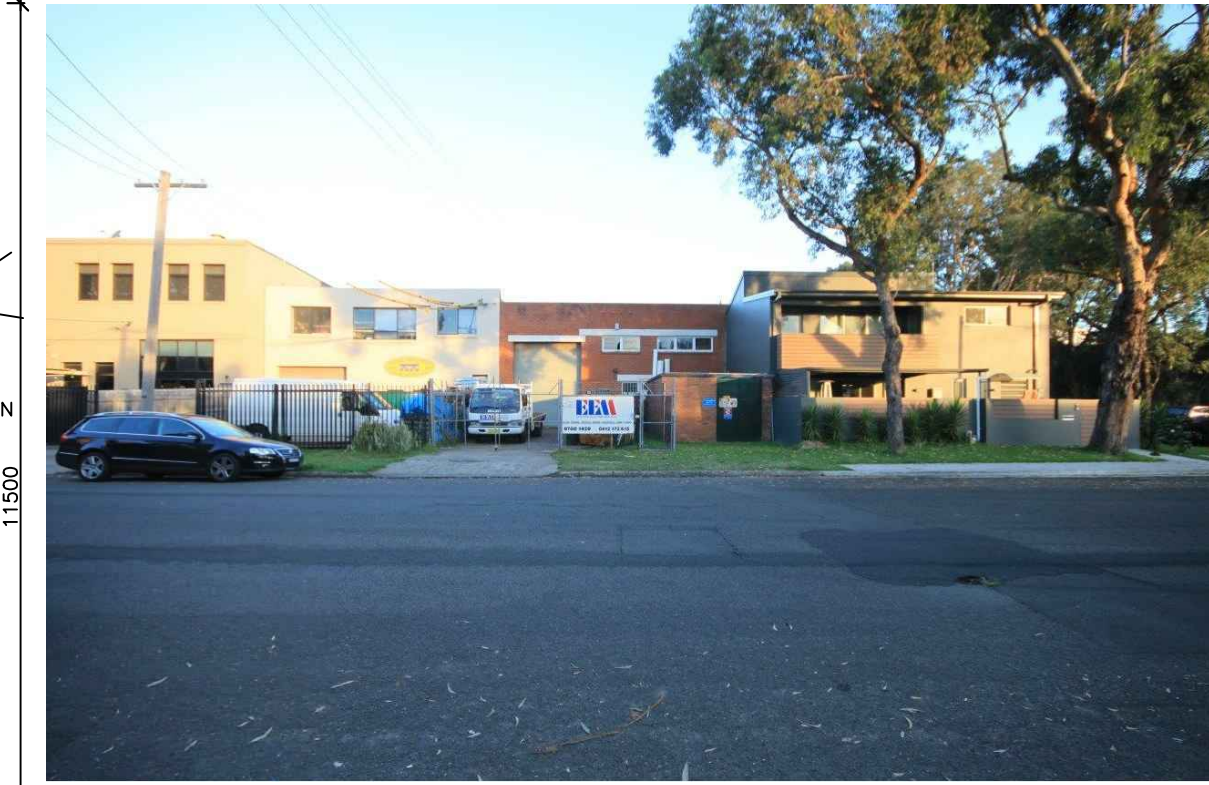
SITE ANALYSIS & ROOF PLAN

DEREK RATHBY ARCHITECTURE
LEVEL 2, 57 RENWICK STREET,
LEICHHARDT NSW 2040
T: (02) 9518 3563 ABN:61613174020
info@derekraithby.com.au Architect #7469

4	MAY 2017 LAYOUT AMENDED FOR INCREASED SETBACKS			DR	
3	MAY 2017 ROOF AMENDED			DR	
2	MAR 2017 ISSUE TO COUNCIL			RB	
1	DEC 2016 SECTION 96 SUBMISSION			RB	
amend	date	description	by	amend	date description by



AERIAL PHOTOGRAPH (maps.six.nsw.gov.au/)



P1 VIEW FROM DAPHNE STREET TOWARDS THE SITE.

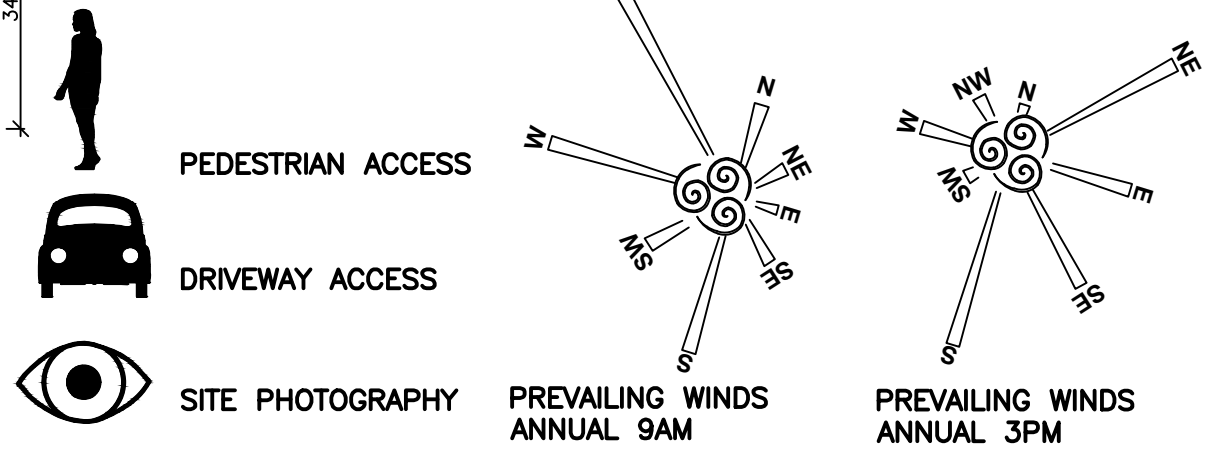


P2 VIEW FROM INTERSECTION OF DAPHNE STREET AND IVY STREET DOWN THE DAPHNE ST.



VIEW FROM DAPHNE STREET TOWARDS 2 DANIEL STREET.

LEGEND



Active Street Frontage

Acid Sulfate Soils

- Class 1
- Class 2
- Class 4
- Class 5

Foreshore Building Line

Foreshore Area

Terrestrial Biodiversity

Biodiversity

Wetlands

Wetland

Maximum Floor Space Ratio (n:1)

- 0.85
- 0.9
- 1
- 1.2
- 1.5
- 2
- 2.5
- 3
- 3.2
- 3.3
- 3.55
- Refer to Clause 4.4A
- Refer to Clause 4.4

Heritage

- Conservation Area - General
- Item - General
- Item - Landscape

Maximum Building Height (m)

- 7.5
- 8.5
- 9
- 10
- 11
- 12
- 14
- 17
- 19
- 22
- Refer to clause 4.3

Zone

- Business Development
- Business Park
- General Industrial
- Light Industrial
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Public Recreation
- Private Recreation
- Special Activities
- Infrastructure
- Working Waterways
- SEPP (Major Development) 2005
- Deferred Matter

DAPHNE ST

BAY ST

ROSE ST

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LEGEND

11 CONCRETE.

1. **EXTERNAL WALL** SHALL BE CONSTRUCTED SIMILARLY TO ONE OF THE FOLLOWING:

2. **ROOF-CEILING** FOR THE TOP FLOOR APARTMENTS, SHALL CONSIST OF:

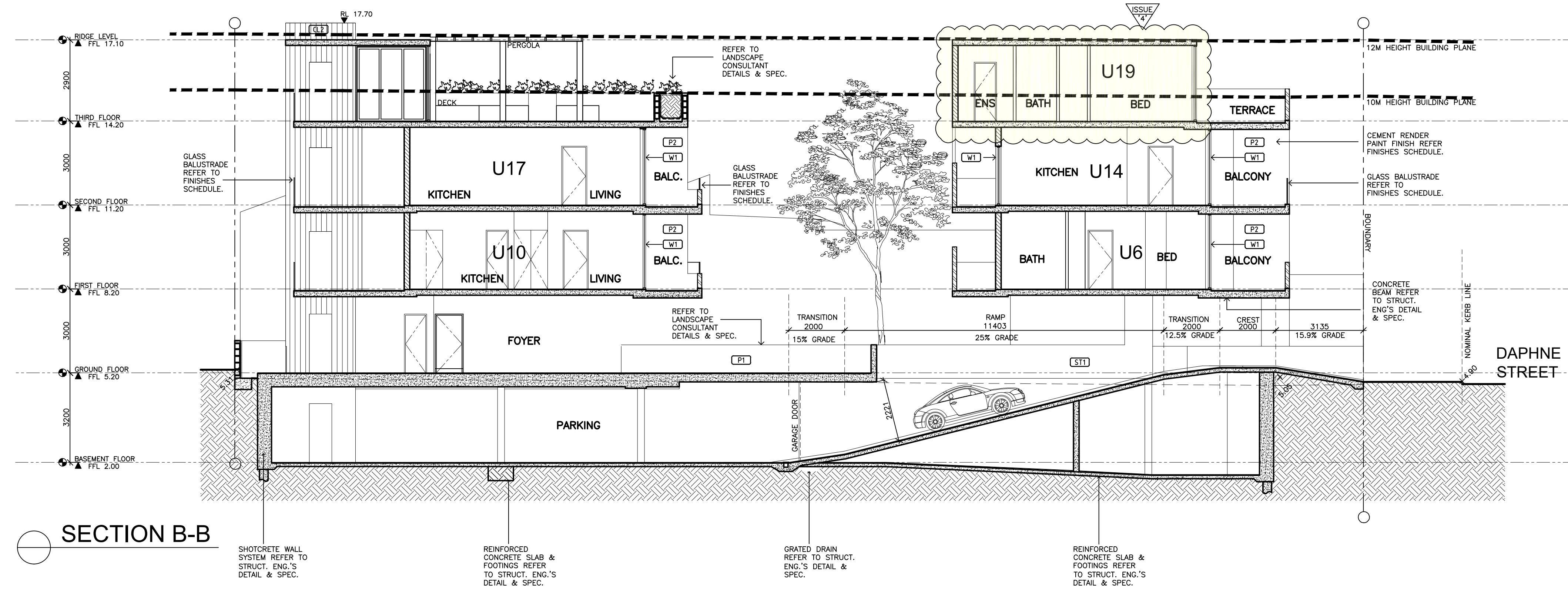
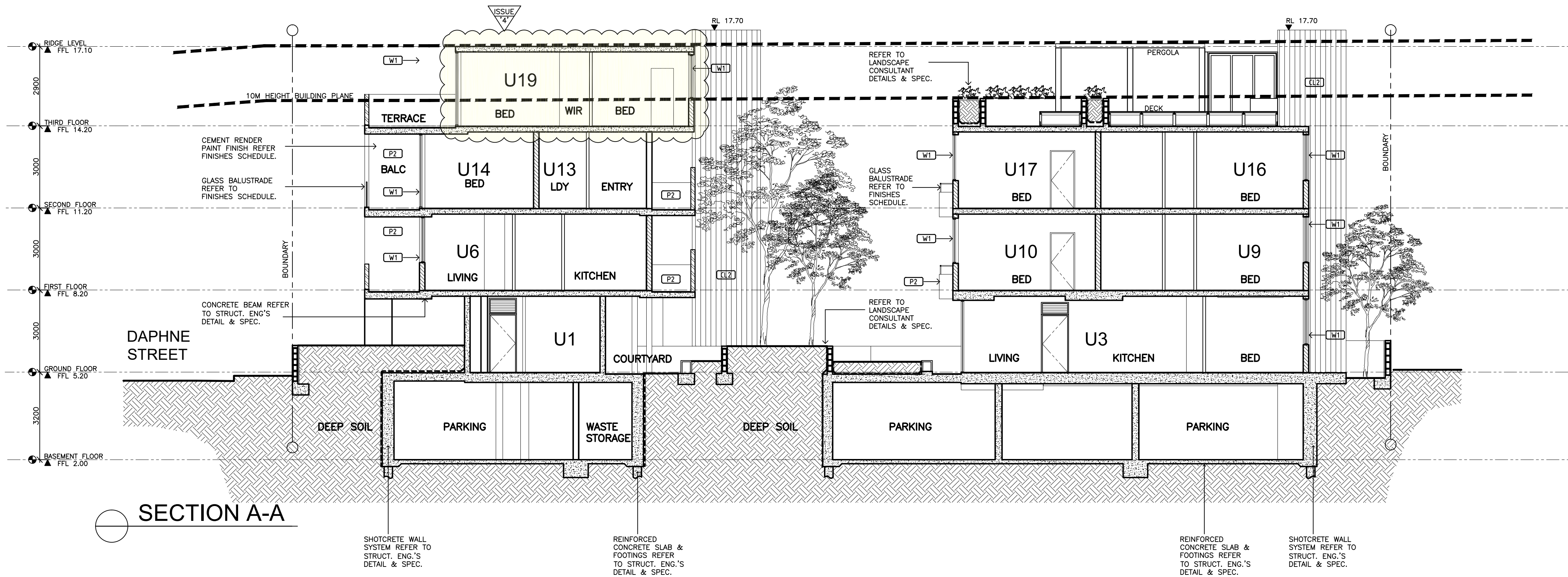
- NOTE THAT ANY PENETRATIONS IN THE CEILING, E.G.,

REFER TO CERTIFICATE FOR COMPLETE DETAILS & REQUIREMENTS.

DWELLINGS:
1. ALL DWELLINGS MUST BE 10M X 10M

4. THE **A/C SYSTEM** (HEATING AND COOLING) MUST BE

- COMMON AREA:



WORKS & SERVICES	STANDARD OF PERFORMANCE
Fire rated walls and other building elements required to satisfy prescribed fire-resistance levels	BCA Part C, tested prototype system for specific application and manufacturers' specifications
Vertical separation of openings in external walls	BCA Clause C2.6, tested prototype system for specific application and manufacturers' specifications
Balustrades / Handrails	BCA Clause D2.16 to D2.18, AS 1170
Bounding Constructions to sole occupancy units & public corridors	BCA Part C, tested prototype system for specific application and manufacturers' specifications
Glass Work	BCA Clause B1.4(h), AS 2047, AS 1288, AS 1170
Natural Light and ventilation to the residential units	BCA Clauses F4.2, F4.3, F4.4, F4.5, F4.6 and F4.7
Waterproofing of wet areas	BCA Clause F1.7, tested prototype system for specific application and manufacturers' specification
Waterproof of external elements (such as walls/roofs/balconies)	BCA Part F, AS4654 Parts 1 and 2, tested prototype system for specific application and manufacturers' specification
Termite Risk Management	BCA Clause B1.4(i) and AS3660
Fixed platforms, Walkways, Stairways and ladders in plant rooms and roof area.	AS 1657-1992
Slip resistance of all floor including stair finishes	AS/NZS 4586, HB 197-1999 AND BCA

LEGEND

	DINCEL WALL SYSTEM.		TIMBER STUD WALL LINED EITHER SIDE WITH PLASTERBOARD OR VILLABOARD TO WET AREAS.
	HEBEL WALL SYSTEM.		DISCONTINUOUS CONSTRUCTION - REFER TO ACOUSTIC DETAILS
	SHOTCRETE WALL SYSTEM.		FINISHES TAG, REFER FINISHES SCHEDULE
C.O.S.	- CONFIRM ON SITE.		SMOKE DETECTOR
D.P.	- EXISTING.		THERMAL DETECTOR
E.Q.	- EXISTING.		RAINWATER OUTLET
F.W.	- FLOOR WASTE		DOWN PIPE
H.C.	- HOSE COCK & GULLY		STACK
RH.	- DOOR WITH REMOVABLE HINGES.		PLANTER BOX DRAINAGE OUTLET
U.N.O.	- UNLESS NOTED OTHERWISE.		
X	- CRITICAL DIMENSION.		
SDO	- STORMWATER DRAIN OUTLET		
G	- GAS OUTLET		
FIP	- FIRE INDICATOR PANEL		
FFL	- FINISHED FLOOR LEVEL		
TOW	- TOP OF WALL		
CL1	CONCRETE.	CL1	TIMBER SCREEN.
P1	CEMENT RENDERED PAINT FINISH 1.	BL1	GLASS BALUSTRADE WITH STAINLESS STEEL.
P2	CEMENT RENDERED PAINT FINISH 2.	TB1	TIMBER FLOORING.
CL1	COLORBOND WALL CLADDING.	TB2	TIMBER DECK.
W1	WINDOWS FRAMING ANODISED ALUMINIUM.	CRP	CARPET.
ST1	FENCE ECO OUTDOOR.	T1	TILES LAID TO FALL ON SCREED.
ET	POWDERCOATED METAL FENCE.	T2	EXTERNAL TILES LAID TO FALL ON SCREED.
		CON	CONCRETE FLOOR.

ACOUSTIC NOTES

1. **EXTERNAL WALLS** SHALL BE CONSTRUCTED SIMILARLY TO ONE OF THE FOLLOWING:
 - INSULATED BRICK VENEER CONSTRUCTION (R2.5 WALL BATTES) OR
 - CONCRETE CONSTRUCTION OR
 - REVERSE BRICK VENEER WITH MINIMUM R2.5 INTERNAL WALL LINING TO BE 2X LAYERS 13MM THICK PLASTERBOARD.
 - NEW LIGHTWEIGHT WALLS TO BEDROOMS:
 - PERMEABLE CLAY EXTERNAL WALL FOR EXAMPLE JAMES HARDIE STONAX AXON 10MM THICK, TIMBER STUD FRAME INTERNALLY INSULATED WITH MINIMUM R2.5 WALL BATTES. INTERNAL WALL LINING TO BE 2X LAYERS 13MM THICK PLASTERBOARD.
 - OR
 - INSULATED GLAZING UNITS (IGU) OVER R1.5 ANTI-CONDENSATION BLANKET, WITH MINIMUM R2.5 ACoustic WALL BATTES. INTERNAL WALL LINING TWO LAYERS OF LOW THICK FIRE-RATED PLASTERBOARD.
2. **ROOF-CEILING** FOR THE TOP FLOOR APARTMENTS, SHALL CONSIST OF:
 - METAL ROOF SHEETING INSTALLED OVER R1.5 ANTI-CONDENSATION BLANKET (NOMINALLY 25MM THICK UNCOMPRESSED).
 - ONE LAYER OF MINIMUM R2.0 FIBROUS CEILING INSULATION BATTES LAID OVER THE CEILING (WEIGHING AT LEAST 1000MM/MS).
 - CEILING LINING TO BEDROOMS ONLY ON THE TOP FLOOR SHOULD BE COMPOSED OF 2X LAYERS OF LOW PLASTERBOARD.
 - CEILING LINING TO OTHER RESIDENTIAL ROOMS ON THE TOP FLOOR CAN BE TWO LAYERS OF STRENGTH PLASTERBOARD.
3. **EXTERNAL GLAZING**
 - THIS INCLUDES FIXED WINDOWS, OPENABLE WINDOWS, SLIDING WINDOWS, SLIDING DOORS, SKYLIGHTS, BUILT-IN GLASS DOORS, ETC.
 - THIS CAN BE ACHIEVED IF THE GLAZING UNIT IS FITTED WITH A FIRE-Acoustic GAP OR IF THE EXTERIOR FRAME HAS NO GAPS (I.E. NOT THE UNFRAMED TYPE) AND HAVE A GLASS FRONT AND/OR GLASS WINDOW.
 - THE RECOMMENDED GLAZING IS AS FOLLOWS:
 - NORTH-FACING WINDOWS (BEDROOMS AND OTHER HABITABLE ROOMS) MUST HAVE A SOUND INSULATION RATING OF AT LEAST RWC 32.
 - THE NOMINATED ACOUSTIC RATING SHOULD BE ABLE TO BE ACHIEVED WITH 10.5MM LAMINATED GLASS IN A STURDY FRAME AND FITTED WITH SCHLEGEL ACOUSTIC SEALS.
 - SOUTH-FACING WINDOWS FOR BEDROOMS MUST HAVE A SOUND INSULATION RATING OF AT LEAST RWC 25.
 - IN GENERAL, WINDOWS SHOULD BE PROVIDED VIA THE MANUFACTURER WITH A COPY OF A TEST REPORT FROM A RECOGNISED ACOUSTIC LABORATORY VERIFYING THAT THE GLAZING SYSTEM WILL MEET THE NOMINATED SOUND RATING. IN THE CASE OF WINDOW SYSTEMS WITHOUT TEST DOCUMENTATION THEN THE PROJECT ACOUSTIC CONSULTANT SHOULD REVIEW THE PROPOSED WINDOW FINISHES AND SEALS AND CONFIRM THAT THE NOMINATED ACOUSTIC RATINGS WILL BE ACHIEVED.

BASIX NOTES

REFER TO CERTIFICATE FOR COMPLETE DETAILS & REQUIREMENTS.

DETAILS:

1. ALL **WALLS** MUST BE WITH 3 STAR RATED. **ROOF** MUST BE WITH 3 STAR RATED AND ALL **WINDOWS** MUST BE WITH 3 STAR RATED.
2. PROVIDE WALL ADDITIONAL **INSULATION** FLOOR SLABS: CONCRETE R1.0 UNDERFLOOR INSULATION TO UNITS 1&5 R1.5 UNDERFLOOR INSULATION TO UNITS 3&4
3. **WALL SYSTEM** REACHING A TOTAL R-VALUE (R2.5) TO ROOF AND EXPOSE SLABS OVER (E.G. BALCONY OVERHEAD).
4. **THE AIR BARRIER** (WINDING AND COOLING) MUST BE A PHASE 2 STAR RATED, AND BE PROVIDED TO ALL PARTS WALLS TO OTHER UNITS OR EXTERIOR.
5. **THE AIR BARRIER** MUST BE PROVIDED TO ALL PARTS WALLS TO OTHER UNITS OR EXTERIOR.
6. **THE AIR BARRIER** MUST BE PROVIDED TO ALL PARTS WALLS TO OTHER UNITS OR EXTERIOR.
7. **THE AIR BARRIER** MUST BE PROVIDED TO ALL PARTS WALLS TO OTHER UNITS OR EXTERIOR.
8. **THE AIR BARRIER** MUST BE PROVIDED TO ALL PARTS WALLS TO OTHER UNITS OR EXTERIOR.
9. **THE AIR BARRIER** MUST BE PROVIDED TO ALL PARTS WALLS TO OTHER UNITS OR EXTERIOR.

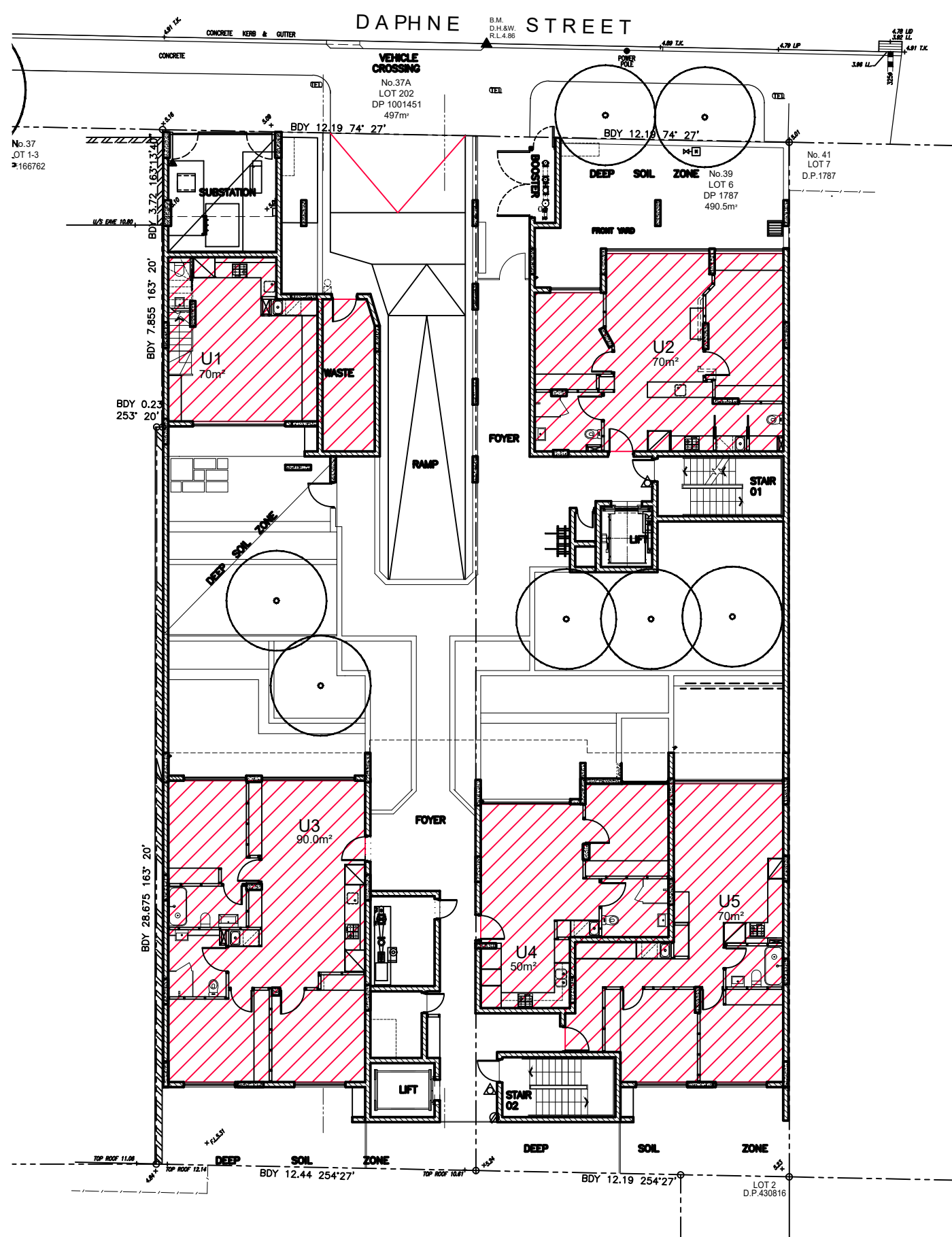
COMMON AREA:

1. **THE AIR BARRIER** (WINDING AND COOLING) MUST BE A PHASE 2 STAR RATED, AND BE PROVIDED TO ALL PARTS WALLS TO OTHER UNITS OR EXTERIOR.
2. **THE AIR BARRIER** MUST BE PROVIDED TO ALL PARTS WALLS TO OTHER UNITS OR EXTERIOR.
3. **THE AIR BARRIER** MUST BE PROVIDED TO ALL PARTS WALLS TO OTHER UNITS OR EXTERIOR.

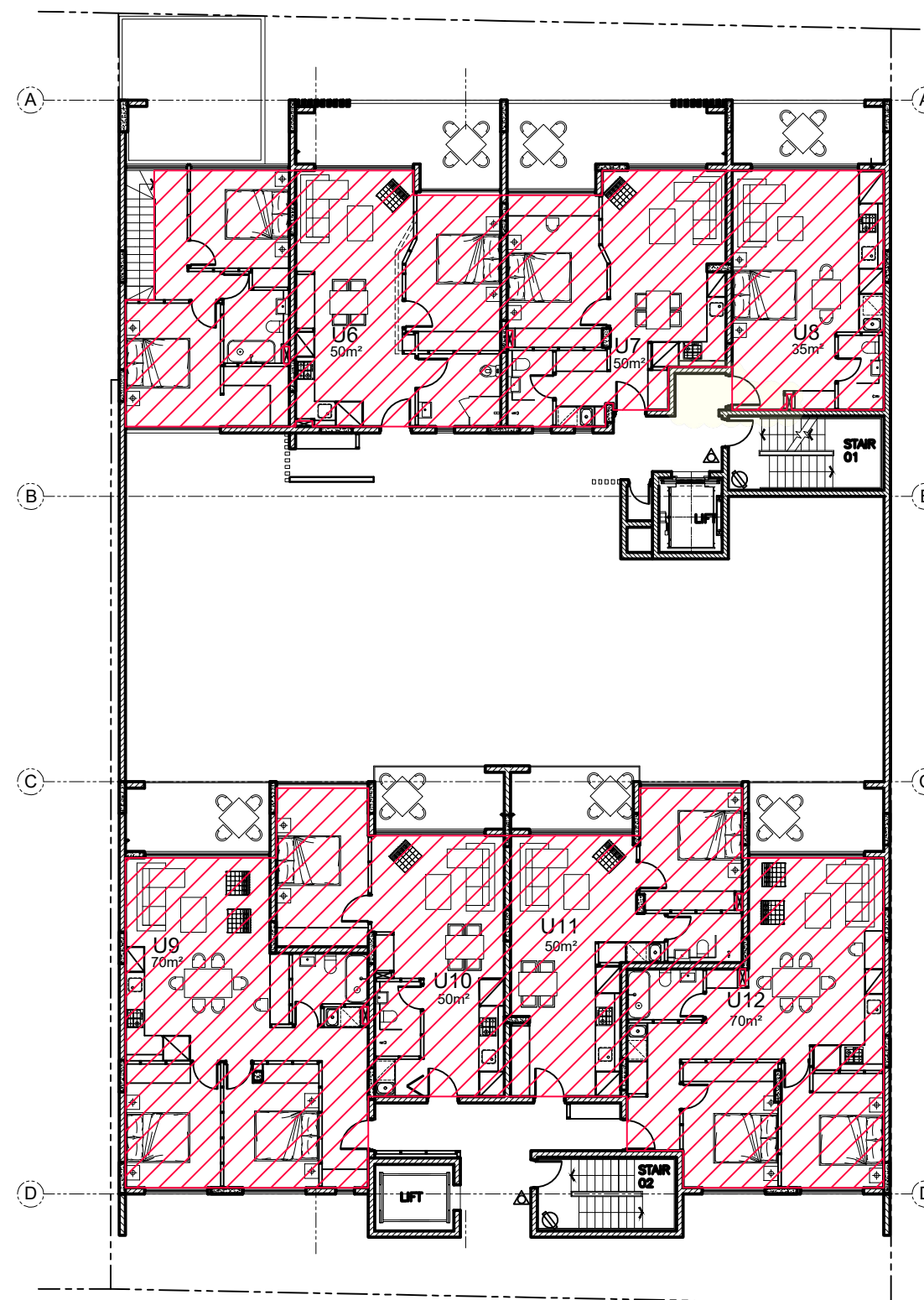
amend	date	description	by	amend	date	description	by
4	MAY 2017	LAYOUT AMENDED FOR INCREASED SETBACKS	DR				
3	MAY 2017	THIRD FLOOR AMENDED FOR INCREASED SETBACK OR					
2	MAR 2017	ISSUE TO COUNCIL	RB				
1	DEC 2016	SECTION 96 SUBMISSION	RB				

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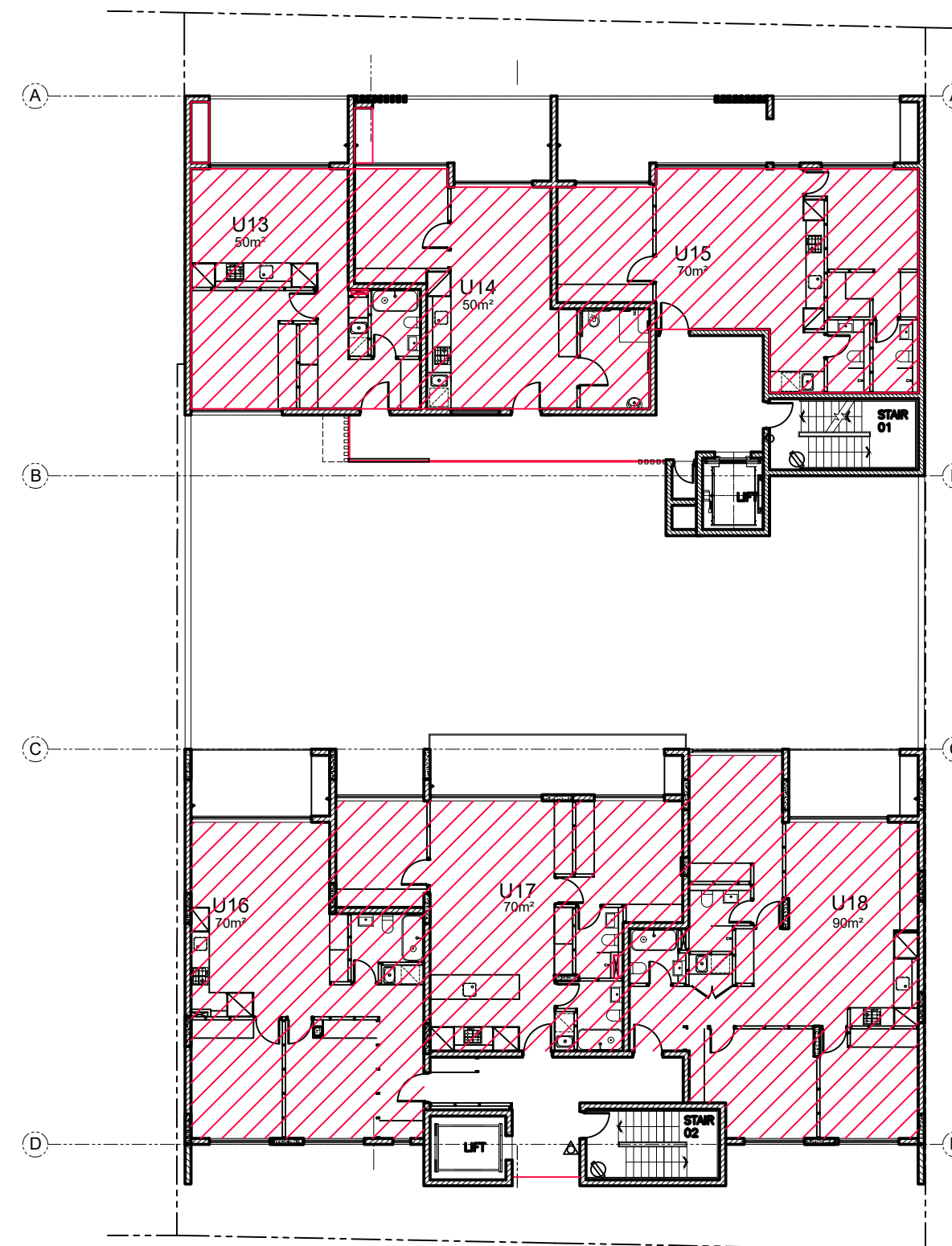
Project	AFFORDABLE HOUSING DEVELOPMENT Lot 202 D.P. 1001451, 37A-39 DAPHNE STREET BOTANY, NSW 2019
Scale	1:100@A1; 1:200@A3
Project No.	D1520
Drawn/Checked	MGK/DR
Revision	3
Title	SECTIONS



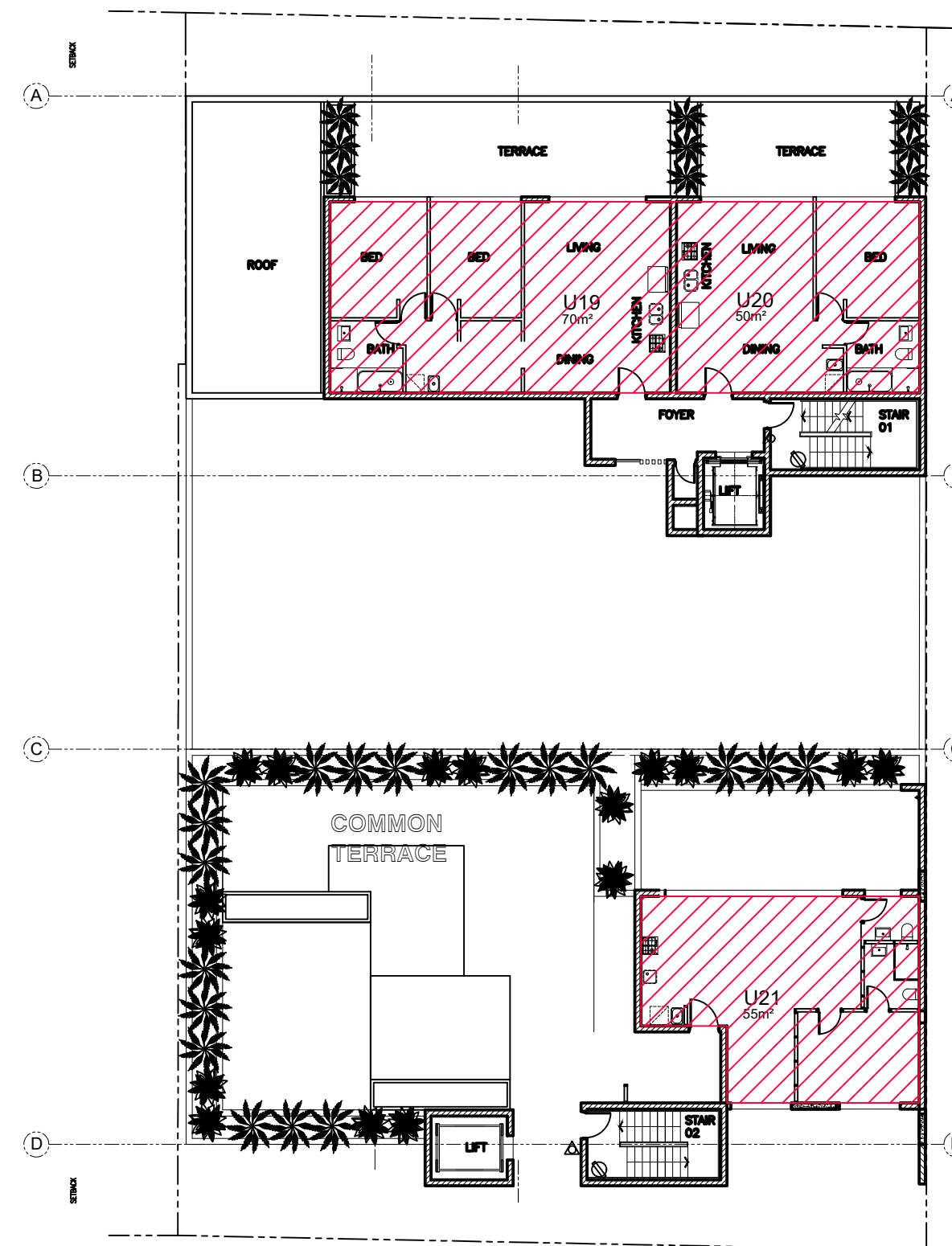
GROUND FLOOR
GROSS FLOOR AREA (GFA)
TOTAL=328m²



FIRST FLOOR
GROSS FLOOR AREA (GFA)
TOTAL=420m²



SECOND FLOOR
GROSS FLOOR AREA (GFA)
TOTAL=409m²



THIRD FLOOR
GROSS FLOOR AREA (GFA)
TOTAL=195m²

GROSS FLOOR AREA

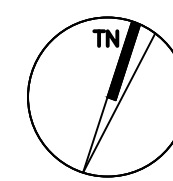
• GROUND FLOOR	= 328m ²
• FIRST FLOOR	= 420m ²
• SECOND FLOOR	= 409m ²
• THIRD FLOOR	= 177m ²
TOTAL	= 1334m ²
SITE	= 987.5m ²
FSR	= 1.35:1

PERMISSIBLE FSR = 0.85:1 + 0.5:1 = 1.35:1

NOTE:
0.5:1 - IF THE PERCENTAGE OF THE GROSS FLOOR
AREA OF THE DEVELOPMENT THAT IS USED FOR
AFFORDABLE HOUSING IS 50 PER CENT OR HIGHER.

APARTMENTS NOMINATED AS AFFORDABLE:

• U4	= 51m ²
• U3	= 90m ²
• U7	= 50m ²
• U9	= 72m ²
• U10	= 51m ²
• U12	= 70m ²
• U16	= 72m ²
• U18	= 93m ²
• U19	= 71m ²
• U20	= 51m ²
TOTAL	= 671m ² OR 50% OF GFA



SECTION 96 (2) SUPPLEMENTARY STATEMENT OF ENVIRONMENTAL EFFECTS

37a-39 Daphne Street, Botany



**AMENDED PLANS WHICH SEEK AN ADDITIONAL 3
APARTMENTS AND OTHER MODIFICATIONS TO
APPROVED FLAT BUILDING WITH AFFORDABLE
HOUSING UNDER DA253/2015**

Submitted to Botany Bay Council
On Behalf of Joe Toubia

April 2017

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This supplementary Statement of Environmental Effects accompanies the amended Section 96(2) Modification to amend the approved residential flat building that was approved under DA-253/2015.

The approved development included:

“demolition of the existing structures and construction of a 3-storey residential flat building containing 18 apartments including 6 affordable housing units and a basement level car park with 21 car spaces and lot consolidation”

The development was approved on 20th April 2016.

The amendments are clearly shown (coloured in yellow) in the accompanying plans prepared by Derek Raithby Architecture, **Revision 3, dated 3 April 2017**. Condition 1 will therefore need to be updated to reflect the latest plan issue.

Condition 6(b) is also proposed to be amended to reflect the units which are dedicated as affordable housing for the 10 year period as required by the State Policy. Units 4, 7, 9, 10, 12, 16 and 18 are now sought to be used for the purposes of affordable housing for 10 years.

The amended proposal has reduced the FSR from that submitted (1.47:1) with the Section 96 Modification to be compliant with the permitted FSR of 1.35:1 and also reduces the additional number of apartments originally sought from 4 down to 3 (amended proposal now contains 21 units whereas 18 units were approved).

The amended unit mix is now:

- 1 x studio
- 8 x 1 bedroom units
- 10 x 2 bedroom units
- 2 x 3 bedroom units

The above mix generates a parking demand of 16.5 spaces whilst 21 car spaces are proposed, thereby maintaining compliance with the parking requirements of the State Policy.

There are now only 2 units (previously 3) proposed above the approved building at the northern end which enables the floor space and height to be provided in a recessed manner. The additional units are set in from the front and sides which minimises their perception in the streetscape as shown in the updated montage. The amended montage confirms that the additional 2 units are provided in a discreet manner which provides for a desirable transition to both adjoining properties.

The additional unit at the rear has also been reduced from a 2-bedroom unit to a 1 bedroom unit. This has been achieved by reducing the extent of built form at the southern end so that it is now set behind the approved lift and stairwell which services the communal area on the same level. This reduces the visibility of the built form as viewed from Ivy Street and also diminishes the visual bulk when viewed from the southern neighbouring properties, noting that the immediately adjoining property to the south is a Sydney Water pumping station and is non-residential in nature.

The amended proposal also includes minor modifications to the approved units on the lower levels to reduce the numeric FSR whilst maintaining compliance with minimum unit sizes under the Apartment Design Guide.

It is also reiterated that the proposed height is associated with a development that is now compliant with the permitted FSR of 1.35:1 which represents a desirable outcome, given that the additional FSR above the LEP standard of 0.85:1 is associated with the provision of affordable housing for key workers. The proposal provides for much needed affordable housing and the applicant has already reached an agreement to provide for housing for the Police Workforce and will therefore be of considerable benefit to the community

The amended proposal is considered to be substantially the same development as that approved for the following reasons:

- The nature and essence of the development remains substantially the same as approved being for demolition and erection of a residential flat building with basement parking whilst also retaining the affordable housing component
- The impacts upon the surrounding neighbourhood are not substantially different from that approved in relation to visual bulk, shadowing, privacy and view sharing.
- The building footprint and separation between the approved built forms remains unchanged.
- The architectural presentation and design remains the same which ensures that the modified development retains the design integrity of the approved development.
- The landscaped front and rear setbacks are unchanged as are the internal courtyard areas

It is considered that the modified proposal retains a high degree of compliance with SEPP 65 and the accompanying Apartment Design Guide in relation to the following key components:

- Solar access as all new living areas have a northern orientation
- Cross ventilation as all units have northern and southern orientations
- Unit sizes as all 1 bedroom units comply with the 50sqm minimum area and the 2 bedroom units comply with the minimum 70sqm area (with 1 bathroom)
- Private open space as all units exceeds the 8sqm or 10sqm area requirement and minimum 2-metre dimension
- Storage
- Deep soil landscaping

It is considered that the accompanying amended plans achieve satisfaction of the relevant criteria that apply to the minor height variation. In brief, justification for the proposed height includes:

- The proposal has been amended to achieve compliance with the permissible FSR of 1.35:1 which includes the base LEP FSR of 0.85:1 and the additional 0.5:1 FSR available under Division 1, Infill Development with the SEPP (Affordable Rental Housing) 2009. Fulfilment of the FSR available for the purposes of affordable housing represents a desirable social and planning outcome.
- The further recessed nature of the upper level from the front and sides contributes to achievement of a suitable transition with any future development in accordance with

the planning controls for the adjoining site to the east provide justification for the variation. Sight line diagrams provided by the architect demonstrate the subtle nature of the variation to the height control.

- The recessed nature of the upper level at the rear also diminishes the perception and impacts associated with the additional unit at the rear. This has been reduced from a 2 bedroom unit to a 1 bedroom unit.
- Compliance with the height for the street wall with the additional height being recessed avoids any adverse or unreasonable streetscape impacts
- The lack of external impacts in regard to visual bulk, overshadowing, privacy and view loss demonstrate that there are sufficient environmental grounds to support the proposed FSR and height. The high internal performance of the proposed units further confirms that there are sufficient environmental grounds to allow the variation.
- The provision of affordable housing for key workers is a positive social outcome which provides for the housing needs of the community whilst maintaining amenity to surrounding properties. The proposed variation therefore does not compromise the satisfaction of the zone objectives.
- Contextually, the proposed built form will not be out of character with the locality noting that there is a larger modified building to the northeast whilst it is reiterated that the skilful design of the modified proposal will achieve a desirable relationship with any redeveloped property to the east.
- There are also circumstances particular to this site which confirms that the proposed height is justifiable. This includes the presence of the Sydney Water site to the south which thereby avoids any adverse visual bulk or shadow impacts which are typically associated with medium density developments.
- The amended proposal also maintains compliance with the required parking, as assessed under the provisions of the State Policy.

On the above grounds, it is considered that the proposed Section 96(2) Modification should be supported in this instance.