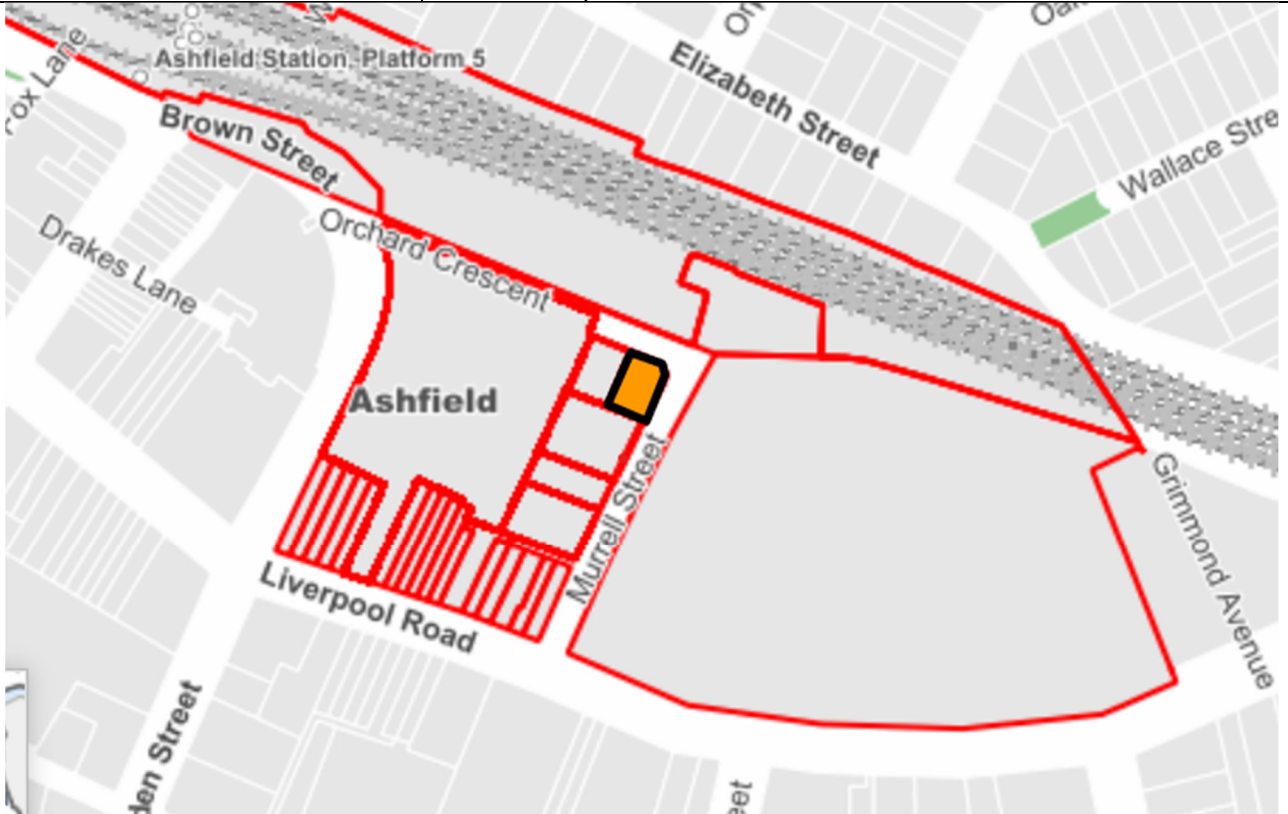



	
DEVELOPMENT ASSESSMENT REPORT	
Application No.	REV/2020/0034
Address	1A Orchard Crescent ASHFIELD NSW 2131
Proposal	Section 8.2 review of alterations and additions to residential flat building
Date of Lodgement	29 December 2020
Applicant	MP Australia Pty Ltd
Owner	MP Australia Pty Ltd
Number of Submissions	Initial: 0
Value of works	\$2,733,643.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10% Review application reaffirming previous recommendation SEPP 65
Main Issues	Urban Design
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Recommended Conditions of Consent
Attachment D	Officers Report - Determination No 10.2019.203.01
	
LOCALITY MAP	
Subject Site 	Objectors Nil  N
Notified Area 	Supporters Nil

1. Executive Summary

Development Application No. 10.2019.203.01 for alterations and additions to a residential flat building at 1a Orchard Crescent, Ashfield was refused by the Local Planning Panel on 8 September 2020 for the following reasons:

“The Panel supports the findings contained in the Assessment Report and endorses the reasons for the refusal contained in that Report.

The decision of the panel was unanimous.”

The reasons for refusal are outlined below:

1. *The proposal has not satisfactorily demonstrated compliance with Schedule 1 – Design Quality Principles as required by clause 30 (2) (a) & (b) of SEPP 65 – Design Quality of Residential Flat Buildings.*
2. *The proposal is inconsistent with the aims set out in clause 1.2(2) of the Ashfield Local Environmental Plan 2013 as the proposal does not enhance the amenity and quality of life for local communities, nor does it achieve a high quality form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of the subject locality.*
3. *The proposal is contrary to Performance Criteria PC6 of Chapter A, Part 2 of the Comprehensive Inner West Development Control Plan 2016 the proposal does not provide high quality amenity through physical, spatial and environmental design.*
4. *The proposal is contrary to Performance Criteria PC2 of Chapter F, Part 5 of the Comprehensive Inner West Development Control Plan 2016 the proposal does not respond to and contribute to its context or reinforce desirable elements of the established street and neighbourhood.*
5. *In accordance with Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development would have adverse environmental impacts on both the natural and built environments, and social and economic impacts in the locality.*
6. *Pursuant to the provisions of Section 4.15(1)(d)(e) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal would not be in the public interest.*

A copy of the report on the application is included as Attachment D to this report.

The applicant has requested that Council review the determination under Section 8.2 of the Environmental Planning and Assessment Act, 1979.

The application was notified to surrounding properties and no submissions were received in response to the notification.

The applicant has provided amended plans with this Review.

The main issues that have arisen from the review include: •

- The proposal remains unsatisfactory having regard to compliance with Schedule 1 – Design Quality Principles of SEPP 65 – Design Quality of Residential Flat Buildings.

- A written request as required by Clause 4.6 of *Ashfield Local Environmental Plan 2013* to vary the FSR development standard has not been submitted.
- The proposal is inconsistent with the provisions of Clause 1.2 and Clause 6.19 of Draft Inner West Local Environmental Plan 2020
- The proposal is inconsistent with the provisions of Chapter A - Part 2 and Chapter F - Part 5 of Comprehensive Inner West Development Control Plan 2016.

The proposed development fails to demonstrate consistency with Council's controls and is not considered to be in the public interest. Given the circumstances, the application is recommended for refusal.

2. Proposal

The subject application seeks consent to carry out alteration and additions to an existing residential flat building, increasing the building to 8 storeys in height, resulting in a total of 12 units.

In particular the following works are proposed:

Basement:

- Introduction of 2 x 2 space car stackers to increase parking to 11 spaces, including an accessible parking space;
- Creation of a new lift lobby and stairwell to enable disabled access from the basement.

Ground Floor:

- Remove existing car parking from Murrell Street frontage
- Create a new entrance lobby
- Relocate waste and recycling store to Murrell Street frontage
- Relocate bicycle parking
- Introduction of hydrant booster
- Re-alignment of lift lobby and stairwell
- Re-configure existing units, relocating kitchens and expanding balconies facing Orchard Crescent.

First, Second and Third Floor:

- Re-alignment of lift lobby and stairwell
- Relocation of third bedroom in unit 4,6 and 8
- Creation of south facing balcony for bedrooms
- Re-configure existing units, relocating kitchens and expanding balconies facing Orchard Crescent.

Transfer support beam level:

- Creation of a new transfer and support beam level
- Creation of new maintenance access
- Provision of planter facing Murrell Street

Upper Levels

- Creation of a new fourth to seventh floor with each floor accommodating a single 3 bedroom dwelling.
- Creation of new lift lobby and stair well
- Introduction of new rooftop communal space with large planter areas, sunshade structures and seating areas.

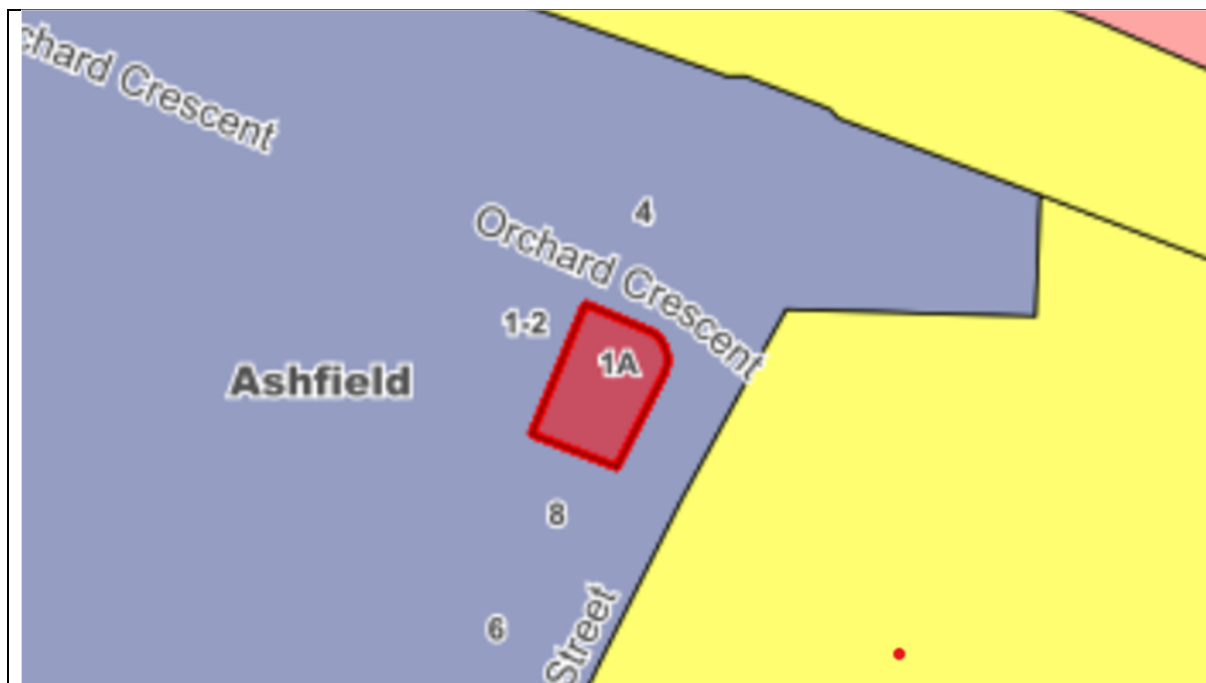
The proposal as amended makes no change to the floor space ratio, height, car parking, and general apartment layouts as previously proposed in the original application.

3. Site Description

The subject site is located on the southern side of Orchard Crescent, on the corner of Murrell Street and Orchard Crescent. The site consists of 1 allotment and is generally rectangular in shape with a total area of 408.2 sqm and is legally described as 1A Orchard Crescent, Ashfield.

The site has a frontage to Orchard Crescent of 12m and a secondary frontage to Murrell Street of approximately 18.2 metres. The site supports an existing three part four storey residential flat building, with basement carparking.

The adjoining properties support residential flat buildings which directly to the south of the site are seven storeys in height, whilst to the west, 4 storeys in height and an educational premises known as Ashfield Public School is located to the east.



Zoning Map

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application No.	Proposal	Decision
10.2012.12	Demolition of existing structures and construction of a three storey residential flat building	Approved
Determination No 0102019000203.1	Alterations and additions to residential flat building	Refused by IWLPP – 8 September 2020

NB: It is noted that the applicant has lodged a further development application DA/2021/0374 on 12 May 2021 to demolish existing improvements and construct a new residential flat building on the site which is currently under assessment by Council.

Surrounding properties

8-12 Murrell Street (directly adjacent to south)

Application	Proposal	Decision & Date
10.2016.127	Demolition of existing structures construction of a residential flat building	Approved – 24 February 2017

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
19 December 2020	Application lodged
19 January 2021 to 9 February 2021	Public Notification
1 March 2021	Architectural Excellence Panel advice received

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 1.15 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*
- *Ashfield Local Environmental Plan 2013 (ALEP 2013)*

The following provides further discussion of the relevant issues as they relate to the reasons for refusal:

5(a)(i) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development

REASON FOR REFUSAL

1. *The proposal has not satisfactorily demonstrated compliance with Schedule 1 – Design Quality Principles as required by clause 30 (2) (a) & (b) of SEPP 65 – Design Quality of Residential Flat Buildings.*

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). Schedule 1 of SEPP 65 prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments.

A statement from a qualified Architect was submitted with the application verifying that they designed the development. The statement also provides an explanation that seeks to verify how the design quality principles are achieved within the development and seeks to demonstrate, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

The proposal includes numerous amendments to the overall design of the development including amendments to the architectural expression of the building. The application was referred to Council's Architectural Excellence Panel who provided the following advice, in part:

"...the Panel restates its earlier opinion [and confirms] that the amended proposal remains inadequate as it appears more as a itemised, incremental response to the AEP recommendations rather than a considered and holistic design response. The resulting aesthetic and architectural quality evident in the proposal requires a greater resolution to make the proposal adequately visually coherent, with a more singular architectural expression. The Panel notes that greater intervention into the architectural expression of the retained building is necessary in order to achieve a more singular and cohesive whole"

Considering the above advice, it is considered that the proposal as amended has not satisfactorily demonstrated compliance with Schedule 1 – Design Quality Principles as required by clause 30 (2) (a) & (b) of SEPP 65 – Design Quality of Residential Flat Buildings as the amended architectural design fails to demonstrate that adequate regard has been given to the design quality principles and objectives specified in the Apartment Design Guide.

The development is not acceptable having regard to the requirements of SEPP 65 – Design Quality of Residential Flat Buildings.

5(a)(ii) Ashfield Local Environmental Plan 2013 (ALEP 2013)

REASON FOR REFUSAL

2. *The proposal is inconsistent with the aims set out in clause 1.2(2) of the Ashfield Local Environmental Plan 2013 as the proposal does not enhance the amenity and quality of life for local communities, nor does it achieve a high quality form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of the subject locality.*

i. Clause 1.2 - Aims of the Plan

Clause 1.2(2) of ALEP 2013 prescribes the aims of the plan. Whilst the development is not considered to be inconsistent with any particular aims of the plan prescribed by Clause 1.2(2) of ALEP 2013, the development is inconsistent with the corresponding Clause 1.2(2) in Draft Inner West Local Environmental Plan 2020 and does not exhibit design excellence as required by Clause 6.19 of the Draft IWLEP 2020. Notwithstanding, the matter of Draft Inner West Local Environmental Plan 2020 is discussed further below under Section 5(b)(1).

ii. Clause 4.3 – Maximum Height of Buildings

Clause 4.3 of the ALEP 2013 prescribes that the maximum building height on any land should not exceed the maximum height shown for the land on the height of building map. The maximum permissible building height for the subject site is 23m. However, Clause 4.3A allows an additional 7m height in Ashfield Town Centre provided the development will contain at least 1 dwelling used for the purpose of affordable rental housing, and at least 25% of the additional floor space area resulting from the part of the building that exceeds the maximum height will be used for the purpose of affordable rental housing.

The proposed development nominates a single unit (unit 2) for affordable rental housing. This unit is 71.9sqm which is 47% of the additional floor space (150.7sqm) above the height limit and consequently satisfies Clause 4.3A(3).

Furthermore, Clause 4.3 (2A) states *“If a building is located on land in Zone B4 Mixed Use, any part of the building that is within 3 metres of the height limit set by subclause (2) must not include any area that forms part of the gross floor area of the building and must not be reasonably capable of modification to include such an area”*. The proposed development has a maximum of 26m height to the top of the habitable floor. Consequently, the development satisfies Clause 4.3 (2A).

iii. Clause 4.4 – Floor Space Ratio

Clause 4.4 of the ALEP 2013 prescribes that the maximum floor space ratio on any land should not exceed the maximum floor space ratio shown for the land on the floor space ratio map. The maximum permissible floor space ratio for the subject site is 3:1.

The proposed development has a floor space ratio of 3.9:1 (1,608.3sqm) which does not comply with this provision. Accordingly, the application seeks a variation to the development standard of 31.2% (383 sqm). It is noted that the original proposal also sought a variation to the FSR development standard prescribed by Clause 4.4 of ALEP 2013 of a similar degree. Whilst not forming a reason for refusal, it was recommended in the original assessment report that the variation not be supported by Council.

A written request to vary a development standard under Clause 4.6 of ALEP 2013 has not been submitted with the subject review application and therefore Council cannot support the proposal.

Notwithstanding, an assessment of the proposal under the provisions of Clause 4.6 has been carried out and the proposal is not considered to have merit for the following reasons:

- The development is not consistent with the objectives of the FSR development standard as prescribed by Clause 4.4(1) including the following:
 - (b) *To provide consistency in the bulk and scale of new development with existing development.*

- (e) *to maintain an appropriate visual relationship between new development and the existing character of areas that are not undergoing, and are not likely to undergo, a substantial transformation.*
- The development includes an additional 383sqm of GFA on the site beyond what is prescribed by Clause 4.4 of ALEP 2013. It is acknowledged that 71.9sqm of the additional GFA is attributed to the affordable unit. However, 150.7sqm is located within the bonus height area and an additional 182.3sqm is located within the remainder of the building. Given the variations to Council's controls and the failure to provide a cohesive design which demonstrates design excellence, there are insufficient environmental planning grounds to justify the extent of the variation.

As such, it is recommended that the proposal be refused as the overall development is not within the public interest, due to outstanding streetscape and urban design concerns. In order to support the variation sought significant benefits to re-enforce the character, streetscape and urban design of the locality should also be demonstrated. The development does not improve and align with the emerging streetscape and does not re-enforce urban character.

Furthermore, a written request as per Clause 4.6 of ALEP 2013 to vary the FSR development standard has not been submitted and it is therefore recommended that the application be refused.

5(b) Draft Environmental Planning Instruments

5(b)(i) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*. The Draft IWLEP 2020 contains provisions for an amended Clause 1.2 and the introduction of Clause 6.19.

The Draft IWLEP 2020 includes an amended Clause 1.2 which specifies the aims of the plan. The proposed development is considered to be inconsistent with the following aim prescribed by Clause 1.2(2):

- iv. *to achieve a high-quality urban form and open space in the public and private domain by ensuring new development exhibits architectural and urban design excellence,*

The development is not consisted to provide a high-quality urban form and does not exhibit architectural and urban design excellence. The development has not achieved an architectural expression that is consistent with the standard required by Council, as evident in the advice provided by Council's Architectural Excellence Panel.

The Draft IWLEP 2020 also contains provisions for the inclusion of a new Clause 6.19 which requires the consent authority to be satisfied that the proposed development exhibits design excellence. As the development involves external alterations to an existing building and the development will be at least 14 metres in height, this provision must be considered. In considering whether the proposal exhibits design excellence, Council must consider the following:

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) *whether the form and external appearance of the development will improve the quality and amenity of the public domain,*

- (c) *whether the development detrimentally impacts on view corridors and landmarks,*
- (d) *the requirements of the applicable Development Control Plan,*
- (e) *how the development addresses the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *roof design,*
 - (vii) *street frontage heights,*
 - (viii) *environmental impacts such as sustainable design, overshadowing, visual and acoustic privacy, wind and reflectivity,*
 - (ix) *the achievement of the principles of ecologically sustainable development,*
 - (x) *pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,*
 - (xi) *impact on, and any proposed improvements to, the public domain,*
 - (xii) *appropriate ground level public domain interfaces,*
 - (xiii) *excellence and integration of landscape design.*

The development is not considered to be consistent with the provisions of Clause 6.19 of the Draft IWLEP 2020 and is therefore does not achieve design excellence for the following reasons:

- The form and external appearance of the development will not improve the quality and amenity of the public domain;
- The development does not achieve compliance with the requirements of Inner West Comprehensive Development Control Plan 2016, specifically with regard to good design and streetscape.
- The development does not satisfactorily address the following matters:
 - the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - bulk, massing and modulation of the building,
 - environmental impacts such as sustainable design, overshadowing, visual and acoustic privacy, wind and reflectivity,
 - impact on, and any proposed improvements to, the public domain,
 - the proposal to replicate the form and materials of an existing building which does not display a degree of high architectural merit is at odds with providing design excellence;
 - the transfer level between the existing building and proposed new floor levels highlights the disjuncture between the 2 structures and results in a poor streetscape outcome

The application was referred to Council's Architectural Excellence Panel who does not support the proposal in its current form. The development is considered unacceptable having regard to the provisions of Clause 1.2 and Clause 6.19 of the Draft IWLEP 2020.

5(d) Development Control Plans

The following provides a summary of the relevant provisions of Inner West Comprehensive Development Control Plan (DCP) 2016.

REASON FOR REFUSAL

3. *The proposal is contrary to Performance Criteria PC6 of Chapter A, Part 2 of the Comprehensive Inner West Development Control Plan 2016 the proposal does not provide high quality amenity through physical, spatial and environmental design.*
4. *The proposal is contrary to Performance Criteria PC2 of Chapter F, Part 5 of the Comprehensive Inner West Development Control Plan 2016 the proposal does not respond to and contribute to its context or reinforce desirable elements of the established street and neighbourhood.*

(I) Chapter A – Good Design

The development application has been assessed against the provision of Chapter A section 2 – Good Design. These controls have been established to ensure that development:

- Responds and contributes to its context
- Contributes to the quality and identity of the area
- In areas of relatively stability, reinforces desirable element of established street and neighbourhood character
- In areas undergoing substantial change, contributes to the creation of the identified desired future character.

As mentioned previously the amended proposal was referred to Council's Architectural Excellence Panel who reviewed the application against the principles of SEPP 65 and the Good Design Controls contained within the DCP. The AEP has reaffirmed its original position that the scheme has low architectural merit and should be refused.

Concerns are raised with the retention of existing built form interface to Murrell Street. The retention of the nil boundary setback provides a distinct and lasting anomaly to the emerging streetscape created by new buildings at 1 – 2 Murrell Street and 8 – 12 Murrell Street and results in a harsh urban environment which may be readily fixed or improved under a revised scheme. It is Council's opinion that the subject site should instead be redeveloped in a manner which utilises the south boundary and south western corner to provide/continue an emerging streetscape pattern of setback along Murrell Street. Utilisation of such a scheme would allow for a greater emphasis on softening public domain interface, through the introduction of landscaping and would provide opportunities for additional terraces and openings to proposed units. Whilst it is acknowledged that some planting has been provided at the entrance to the lobby on ground level, this is a piecemeal approach. Furthermore a focus of re-development along the southern and south western corner of the site would directly align with the existing blank wall at 8 – 12 Murrell Street and provide further development opportunities for the neighbouring development at 1 – 2 Orchard Crescent in the future.

The overall strategy of retention of the existing residential flat building is considered to be problematic and as noted by the AEP the development results in:

- a) A lack of correlation/integration between the existing building and proposed additions;
- b) An inconsistency with the general character of the new works with the area; and
- c) The transfer level creates a strong separation and not a transition or integration between the old and new, which makes the additions appear readily apparent and unusual in the streetscape.

The proposal is inconsistent with the requirements of the DCP which requires development to contribute to the quality and identity of the area and contribute to the creation of the desired future character. The current scheme is not reflective of the desired future character for the locality and is therefore recommended for refusal.

(II) Chapter F – Residential Flat Buildings

Residential Flat Buildings The proposal has been assessed against the provisions of Chapter F – Part 5 Residential Flat Buildings.

The development is inconsistent with the requirements of performance criteria PC1 – Character, PC2 – Streetscape, PC6 – Siting, and PC7 & PC8 – Setbacks. The development option to retain the existing residential flat building on the site and add additional storeys above is problematic in that the existing building on the site does not achieve a high quality urban form in response to the abovementioned performance criteria. While the existing residential flat building on the site pre-dates the DCP controls, substantial redevelopment of the site presents opportunities to achieve the desired future character of the area as envisioned by the controls including increased street activation at ground floor level, increased setback to match those on adjoining sites especially directly to the south at 8-12 Murrell Street, an improved architectural expression, and provision of deep soil planting within the Murrell Street setback. The subject proposal does not satisfactorily address the performance criteria.

The current development is inconsistent with the above requirements as it does not employ good streetscape principles, provision of deep soil landscaping when viewed from the street and results in an overbearing scale to the street (due to the proposals harsh interface with Murrell Street).

The current proposal represents a substantial re-development of the site and provides a rare opportunity to substantially improve/ re-enforce an emerging streetscape. This opportunity is one which will not be repeated within the immediate future and as such a high degree of emphasis to public domain, streetscape and urban design should be enforced. It is considered that the DCP controls outlined above should be strictly enforced and that the proposal be refused due to its non-compliance with controls and subsequent poor streetscape/urban design outcomes. A revised scheme which demonstrates compliance with the above controls should instead be explored, as this will ensure a substantial improvement and alignment with the emerging streetscape.

5(e) The Likely Impacts

The assessment of the application demonstrates that the proposal will have an adverse impact on the locality in the following way:

REASON FOR REFUSAL

5. *In accordance with Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development would have adverse environmental impacts on both the natural and built environments, and social and economic impacts in the locality.*

Streetscape

The proposal will result a distinct and lasting anomaly to the emerging streetscape (created by new buildings at 1 – 2 Murrell Street and 8 – 12 Murrell Street) and results in a harsh urban environment which may be readily fixed or improved under a revised scheme.

Urban Design

As noted by the AEP the overall strategy of adding 5 new levels above 4 existing levels is problematic and is expected to result in a lack of correlation/integration between the existing building and proposed additions and an inconsistency with the general character of the new works with the area.

5(f) The suitability of the site for the development

It is considered that the proposal will have an adverse impact on the streetscape and therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(g) Any submissions

The application was notified in accordance with Council's policy for a period of 21 days to surrounding properties and no submissions were received.

5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

REASON FOR REFUSAL

6. *Pursuant to the provisions of Section 4.15(1)(d)(e) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal would not be in the public interest.*

Given the variations to SEPP 65, Ashfield Local Environmental Plan 2013, Draft Inner West Local Environmental Plan 2020 and Inner West Comprehensive Development Control Plan 2016, the proposal is considered to be contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

Architectural Excellence Panel (AEP) – Council's Architectural Excellence Panel reviewed the application against the principles of SEPP 65 and the Good Design Controls contained within the DCP. Following this review the AEP has outlined that the scheme has low architectural merit and should be refused. A full assessment and explanation of this referral can be found within the assessment section of this report.

Environmental Health – The proposal was referred to Council's Environmental Health Team who outlined no objection to the proposal subject to the inclusion of suitable conditions of consent. These conditions include adoption of the recommendations made within the provided acoustic report and conditions regarding contaminated land.

Resource Recovery - The proposal was referred to Council's Resource Recovery Team who outlined no objection to the proposal subject to the inclusion of suitable conditions of consent.

Development Assessment Engineers - The proposal was referred to Council's Development Assessment Engineers who outlined no objection to the proposal subject to the inclusion of suitable conditions of consent.

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

Transport for NSW – The proposal has been referred to Sydney Trains under clause 85 – 87 of the Infrastructure SEPP. Transport for NSW has outlined no objection to the proposal subject to the imposition of suitable conditions of consent.

Ausgrid – The proposal has been referred to Ausgrid under clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. Ausgrid have outlined no objection to the development application subject to the imposition of suitable conditions of consent.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted.

8. Conclusion

The proposal generally does not comply with the aims, objectives and design parameters contained in State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, Ashfield Local Environmental Plan 2013, Draft Inner West Local Environmental Plan 2020 and Inner West Comprehensive Development Control Plan

The development would result in significant impacts on the streetscape and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s8.2 of the *Environmental Planning and Assessment Act 1979*, to refuse REV/2020/0034 for alterations and additions to the existing residential flat building at 1A Orchard Crescent Ashfield for the following reasons.

Attachment A – Reasons for Refusal

1. The proposal has not satisfactorily demonstrated compliance with Schedule 1 – Design Quality Principles as required by clause 30 (2) (a) & (b) of *SEPP 65 – Design Quality of Residential Flat Buildings*.
2. A written request as required by Clause 4.6 of *Ashfield Local Environmental Plan 2013* to vary the FSR development standard has not been submitted.
3. The proposal is inconsistent with the aims set out in clause 1.2(2) of Draft Inner West Local Environmental Plan 2020 as the proposal is not considered to provide a high-quality urban form thereby failing to exhibit architectural and urban design excellence.
4. The proposal is inconsistent with the provisions of Clause 6.19 of Draft Inner West Local Environmental Plan 2020 as the proposal does not achieve design excellence.
5. The proposal is contrary to Performance Criteria PC6 of Chapter A, Part 2 of the Comprehensive Inner West Development Control Plan 2016 as the proposal fails to provide high quality amenity through physical, spatial and environmental design.
6. The proposal is contrary to Performance Criteria PC2 of Chapter F, Part 5 of the Comprehensive Inner West Development Control Plan 2016 as the proposal fails to respond to and contribute to its context or reinforce desirable elements of the established street and neighbourhood.
7. In accordance with Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development would have adverse environmental impacts on both the natural and built environments, and social and economic impacts in the locality.
8. Pursuant to the provisions of Section 4.15(1)(d)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposal would not be in the public interest.

Attachment B – Plans of proposed development

1A ORCHARD CRESCENT ASHFIELD





Date: December 7, 2020



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WALL LEGEND

	CONCRETE PANEL FINISHING TO REGULATION ON D.O. DETAILS
	CONCRETE PANEL FINISHING TO REG. DETAILS
	CONCRETE WALLS
	SEPO WALLS

U.O.M
ALL DEMERS
WHICH ARE

ALL DIMENSIONS 3/8" OR 1/2" MILLIMETERS OTHER THAN SHOWN WHICH ARE 3/8" OR 1/2" METERS.

GENERAL LEGENDS

- | | |
|----------------|------------------------|
| NGL | NATURAL GROUND LEVEL |
| FFL | FIRST FLOOR LEVEL |
| R ₁ | ROOF LEVEL |
| SFL | STRUCTURAL FLOOR LEVEL |
| FM | FIRST FLOOR FINISH |
| LOF | TOP OF WALL |
| DF | DOWN |
| UA | UNDER FLOOR |

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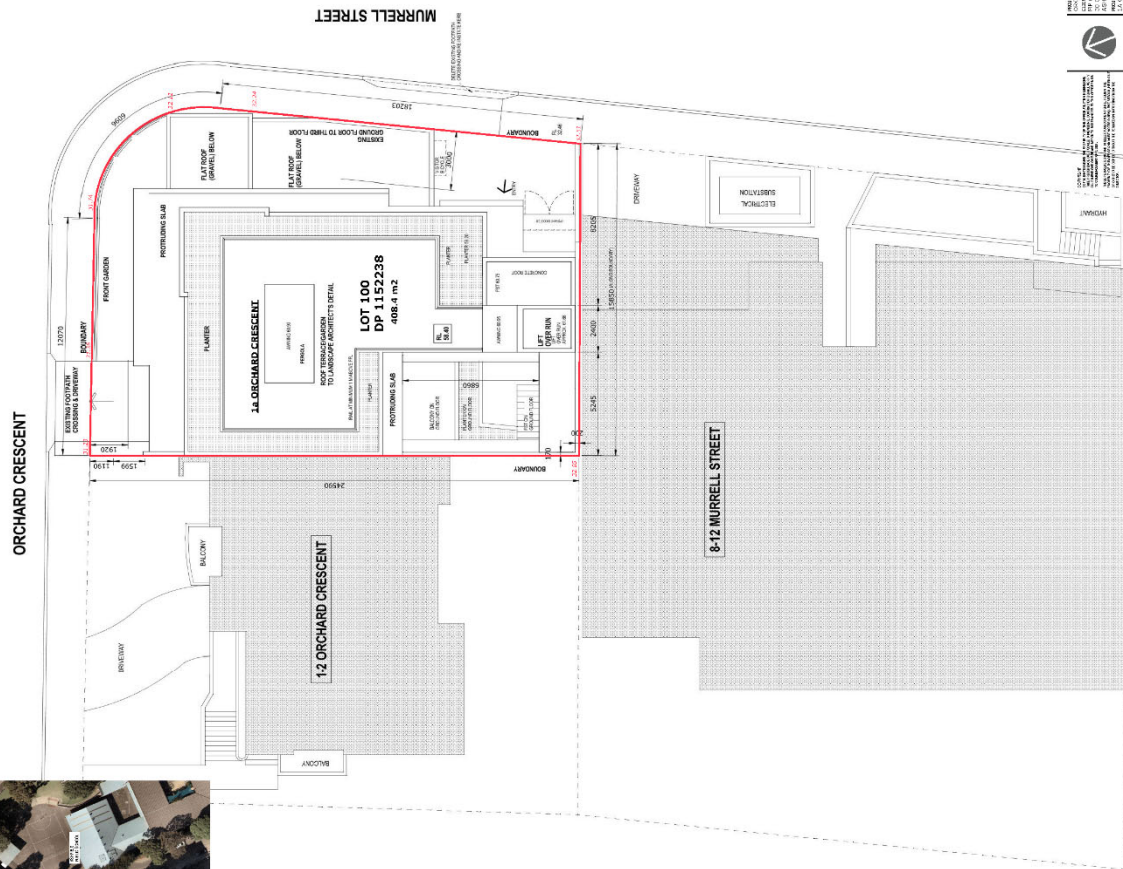
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 DATE: 11/1/11
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A001



AERIAL IMAGE OF BUILT CONTEXT



AXEL RICHTER ARCHITECT

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Project No. 1152238
Version 1.0 - 25/01/2020



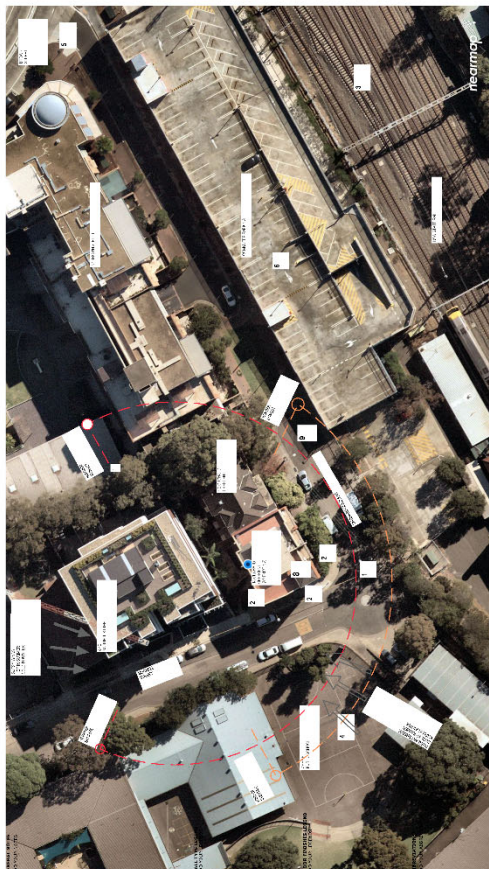
Site Plan
25/01/20

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PREPARED BY:
ARCHITECT
DATE: 25/01/2020

PROJECT NO: 1152238
PROJECT NAME: 1152238
PROJECT ADDRESS: 1152238
PROJECT TYPE: RESIDENTIAL

SCALE: 1:100
DATE: 25/01/2020



DEVELOPMENT

1. 1000 SQUARE METRE
2. TWO IMPACTS FOR ALL, UNTIL FACILITATING DEVELOPMENT
3. PROXIMITY TO PUBLIC TRANSPORT: AIRFIELD STATION AND BUS STOP, CONVENIENT BUT NOISE IMPACTS
4. PROXIMITY TO PUBLIC SCHOOLS AND CHURCHES, CONVENIENT BUT SOME NOISE IMPACT
5. PROXIMITY TO AIRFIELD CENTRE, CONVENIENT, EMPLOYMENT OPPORTUNITIES, SHOPPING, ENTERTAINMENT SERVICES
6. PROXIMITY OF PUBLIC CAR PARKING
7. WELL-BUILT FROM EXISTING EXISTING WINTER WARE
8. CONSIDER LOCATION, EXISTING IMPACTS ON CORNER
9. CUL-DE-SAC WITH DISPERSED CONNECTION TO BROWN STREET

DEVELOPMENT DESCRIPTION / COMMENT

- AIRFIELD PUBLIC SCHOOL AND HIGH SCHOOL - 1. STREETS + ROOF
- 2. PUBLIC TRANSPORT AND BUS STOP
- 3. PUBLIC TRANSPORT AND BUS STOP
- 4. PUBLIC TRANSPORT AND BUS STOP
- 5. PUBLIC TRANSPORT AND BUS STOP

AXEL RICHTER ARCHITECT

1. 1000 SQUARE METRE
2. TWO IMPACTS FOR ALL, UNTIL FACILITATING DEVELOPMENT

Version 1.0, 10/10/2018, 10/10/2018



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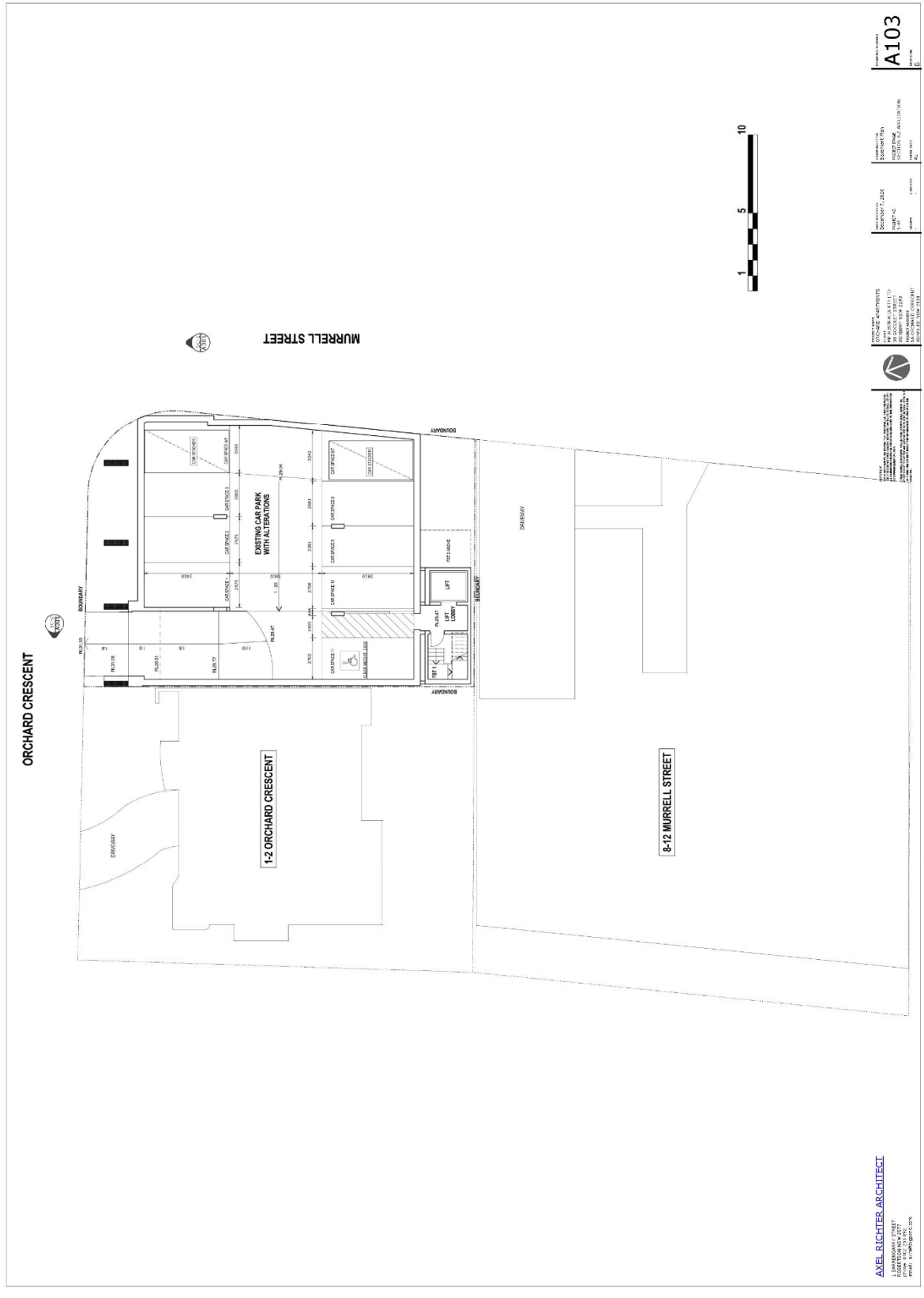
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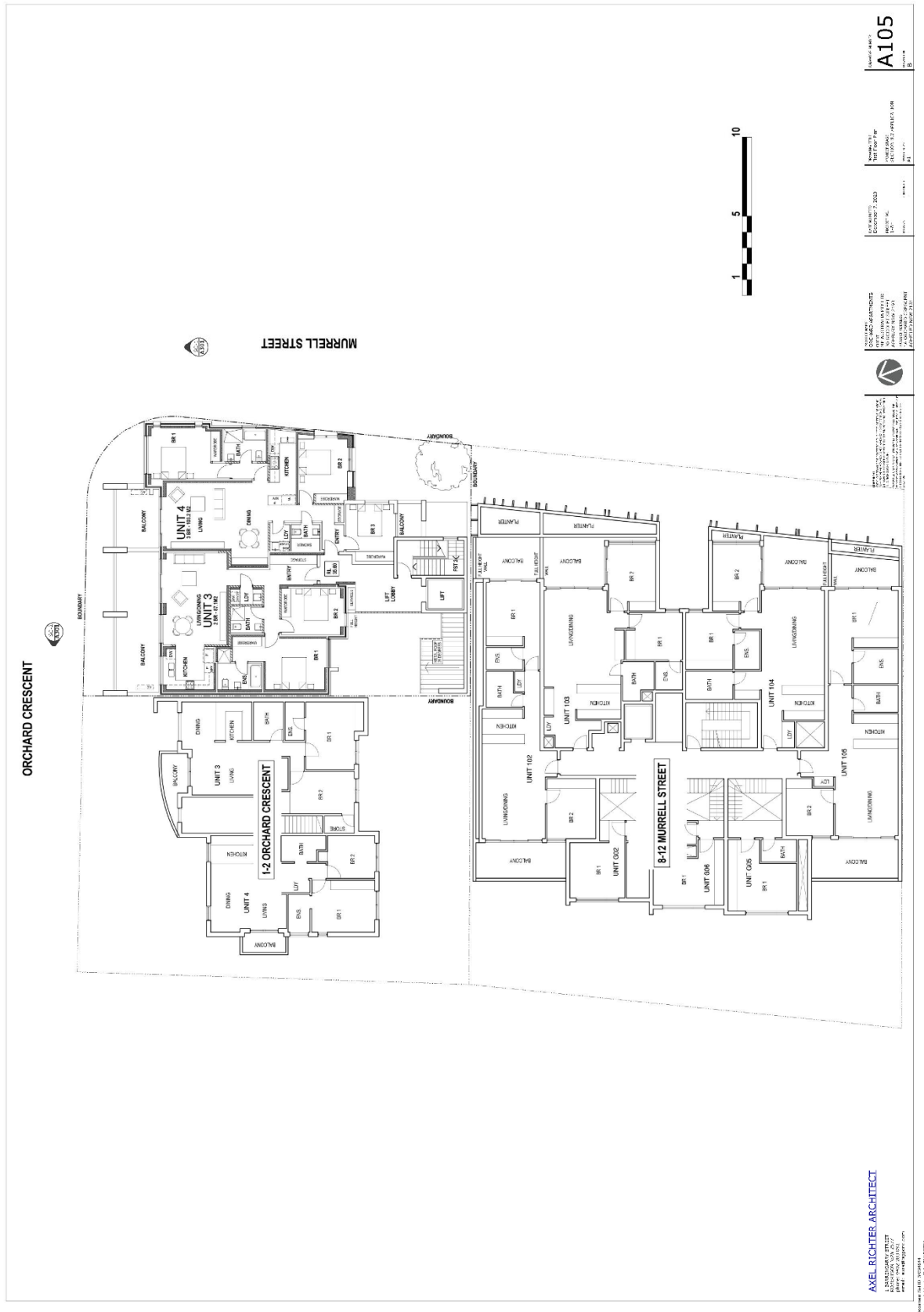
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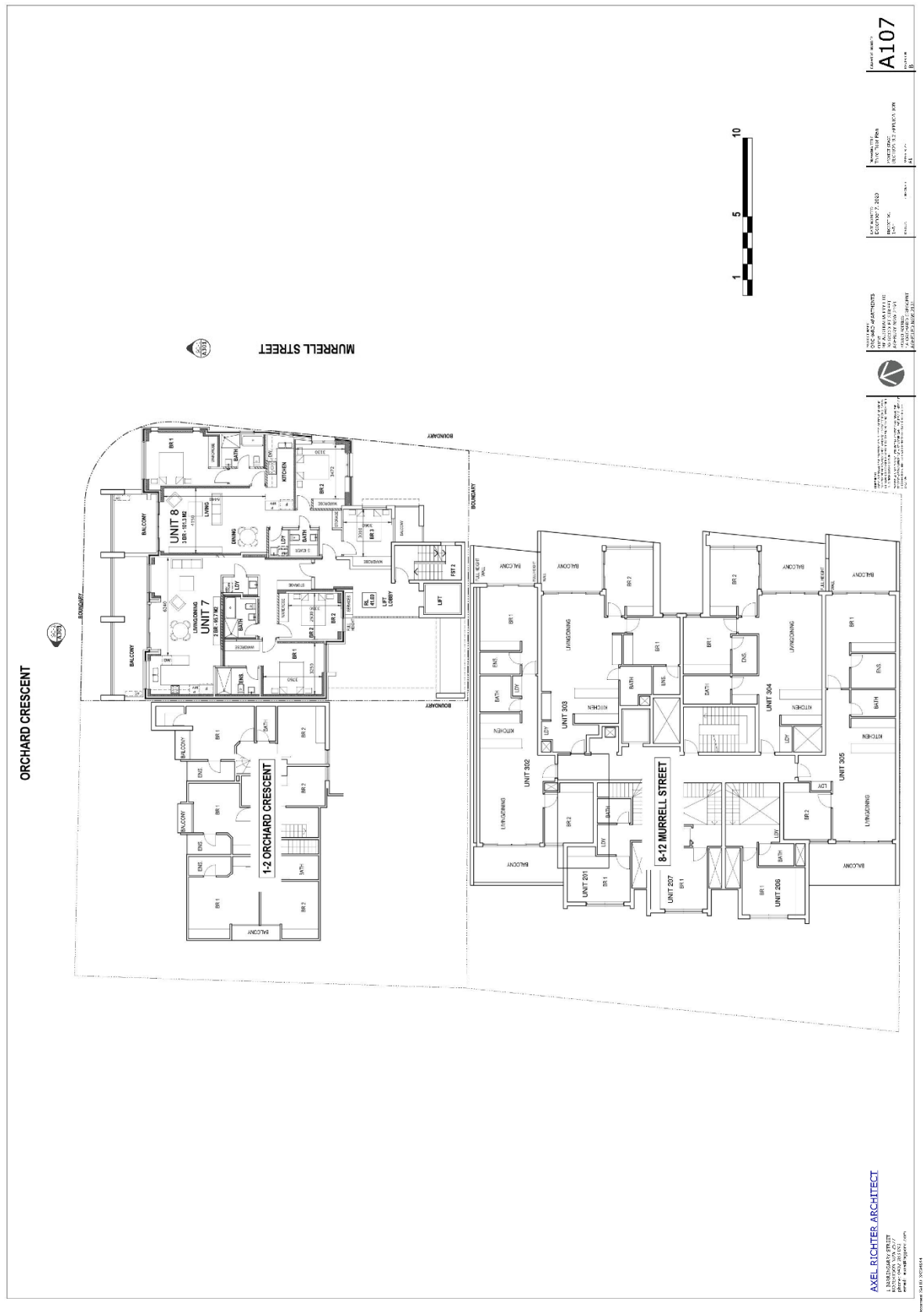
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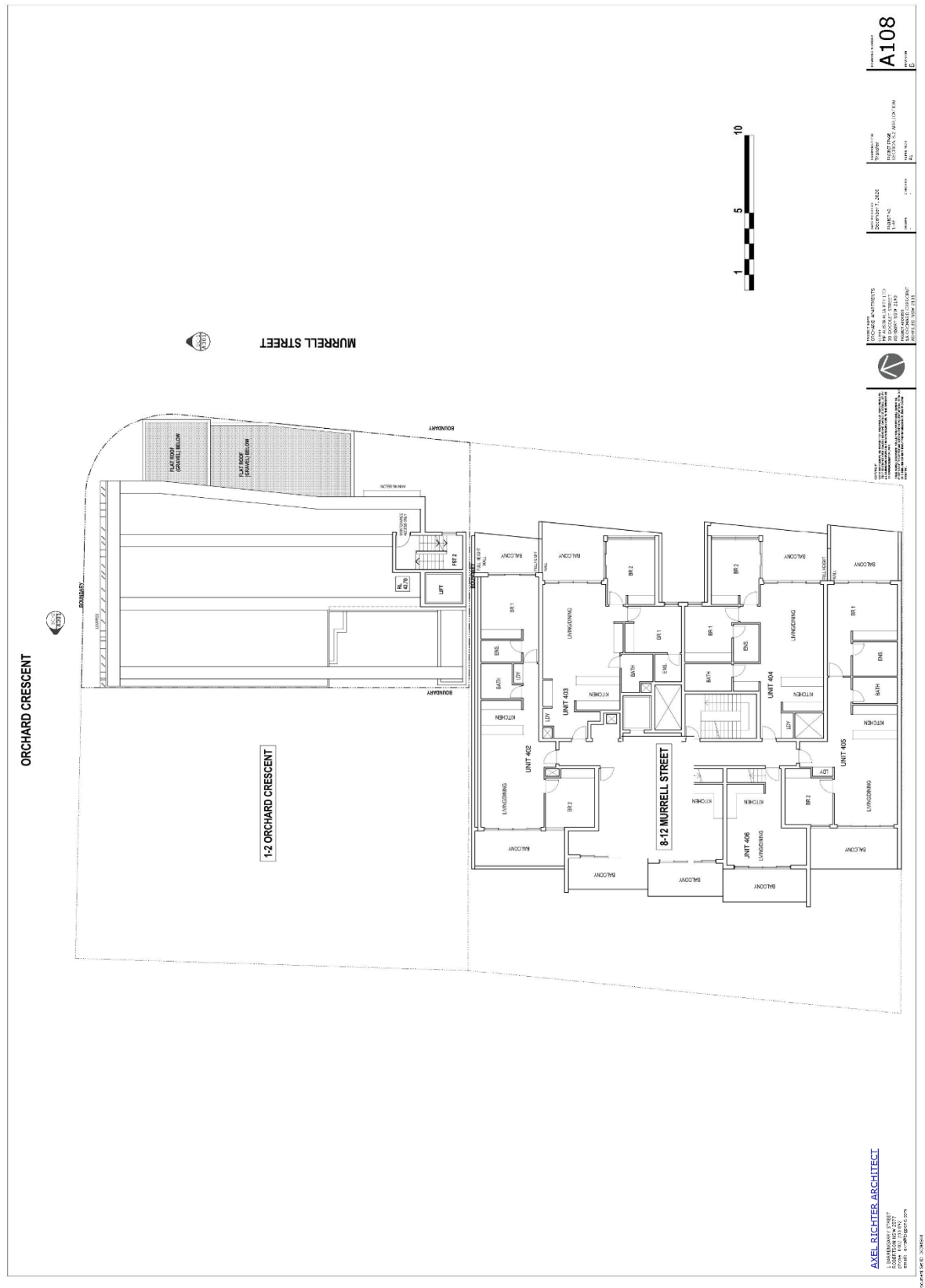




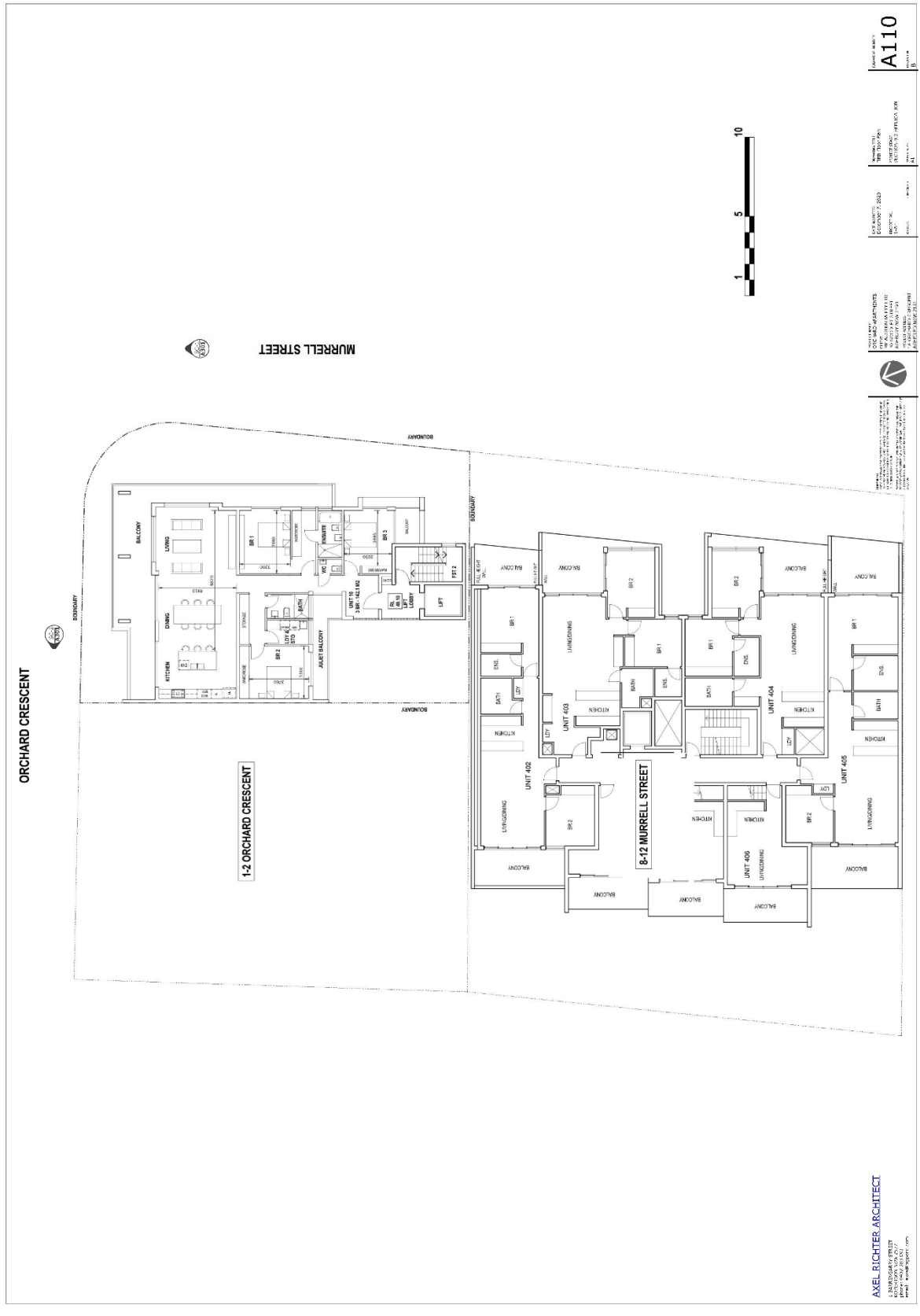


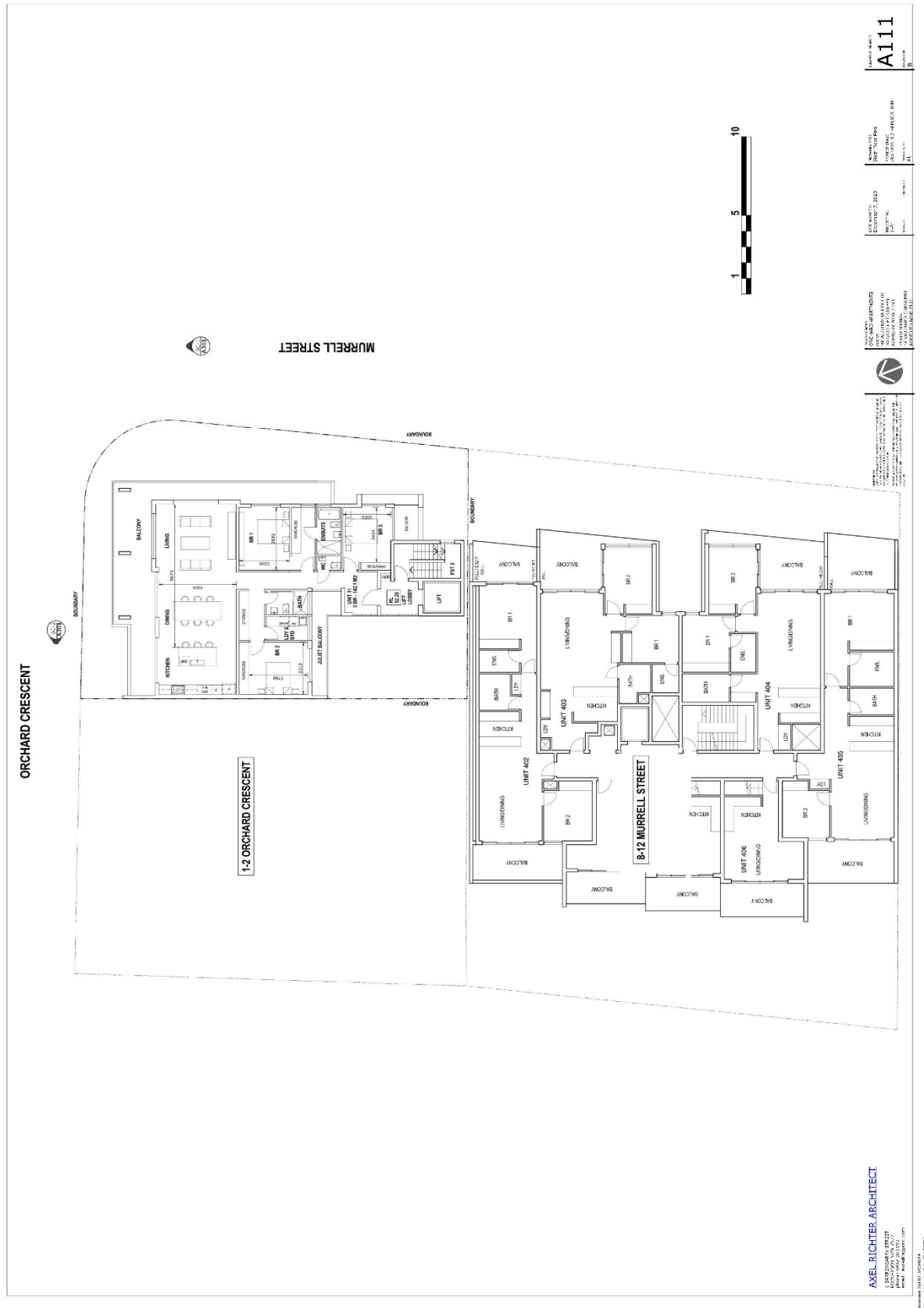


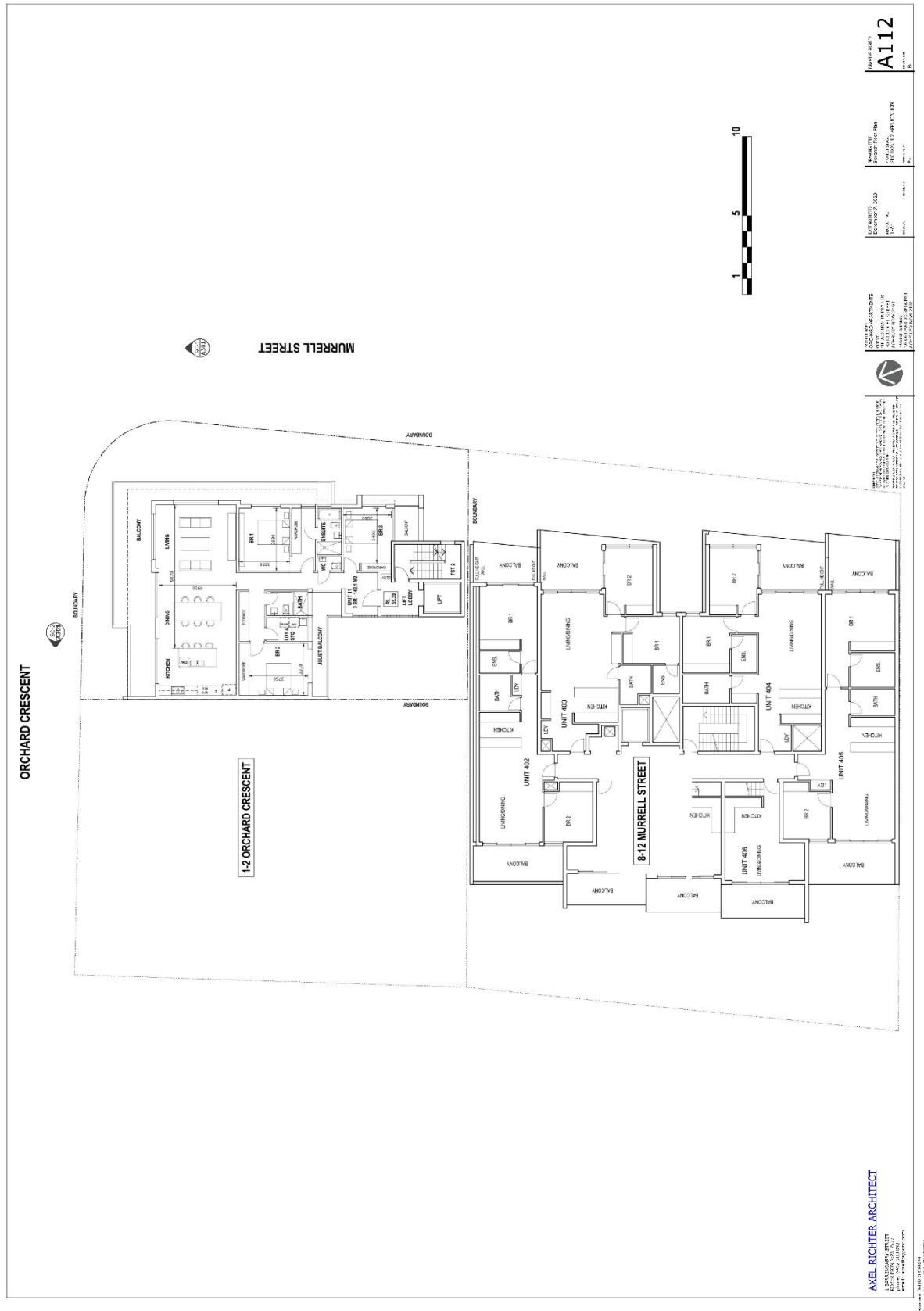


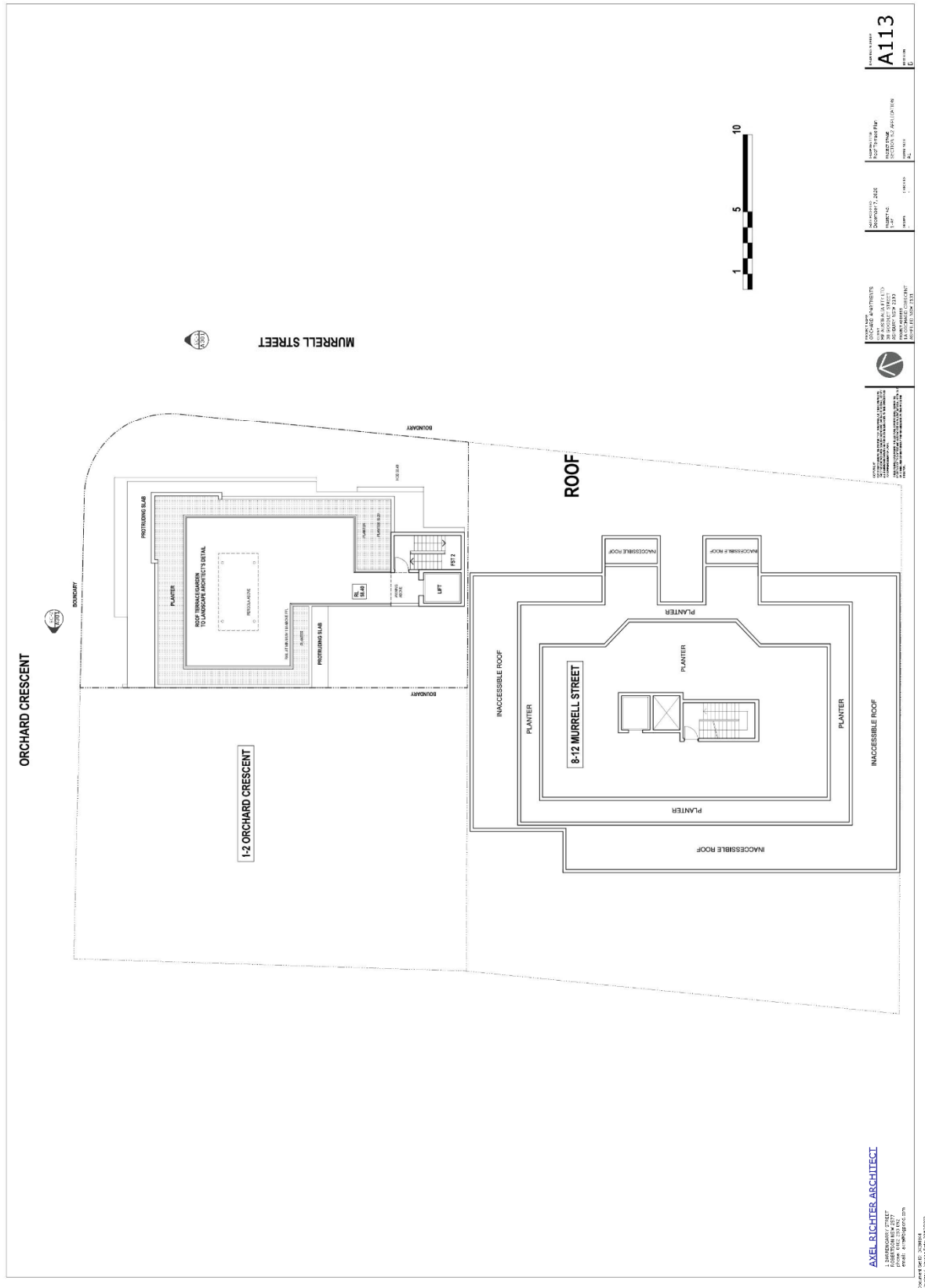





















MATERIALS & FINISHES	
	1 POLY SMOOTH RED (AS EXISTING)
	2 OFF-WHITE PAINT FINISH
	3 GLASS BLOCK SATIN
	4 EUROBOND PAINT 'TUSCAN', 'SLATE', 'ARIZZO'
	5 STONE COLUMNS ALUMINIUM WINDOW FRAMES METAL BALUSTRADES AND LOUVER
	6 EXISTING LIGHT COLOURED BRICK
	7 GLASS BALUSTRADE

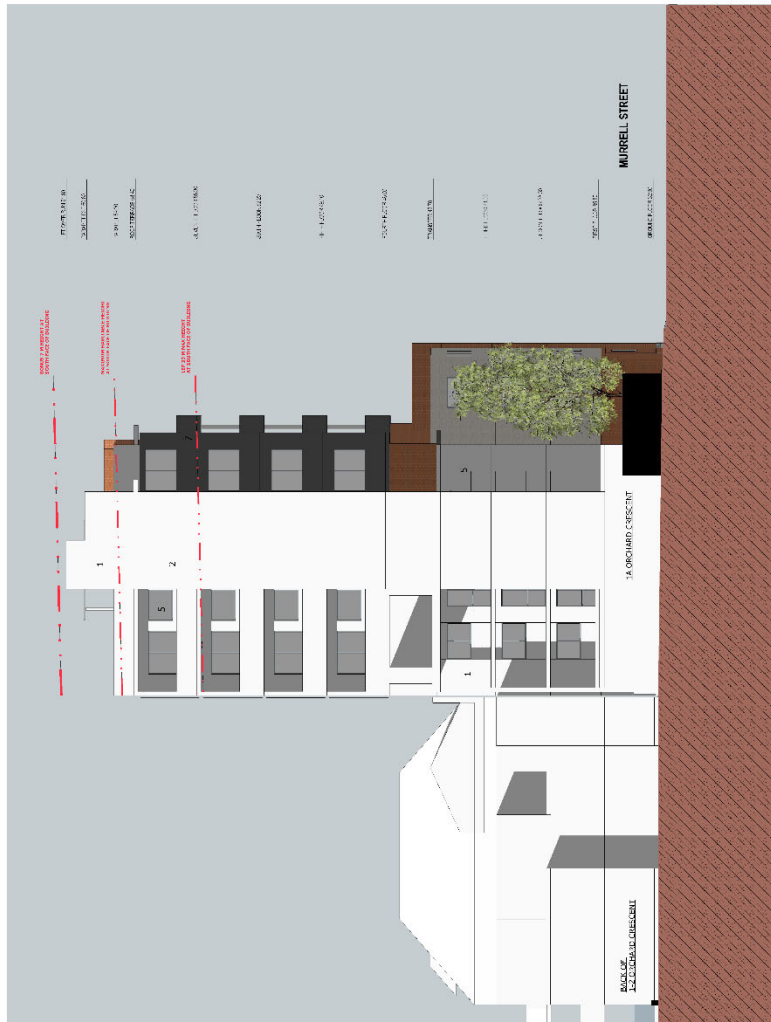
ORCHARD CRESCENT

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SCALE: 1:100
SHEET: 1 OF 1

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SCALE: 1:100
SHEET: 1 OF 1

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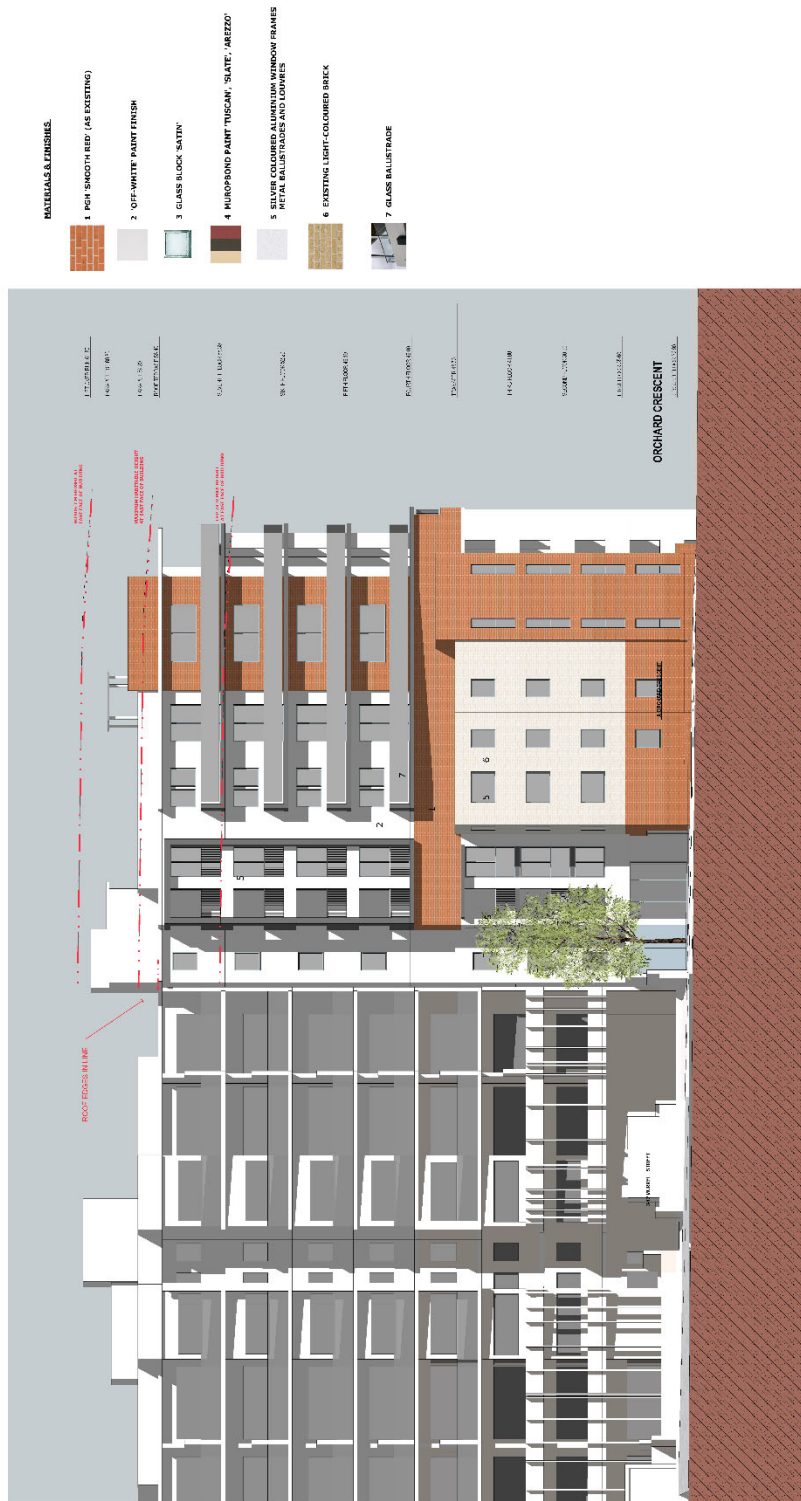
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A202
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A203
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A301

BY
JAMES A. HARRIS
FOR
T. L. GIBBS
CITY CLERK

[illegible]

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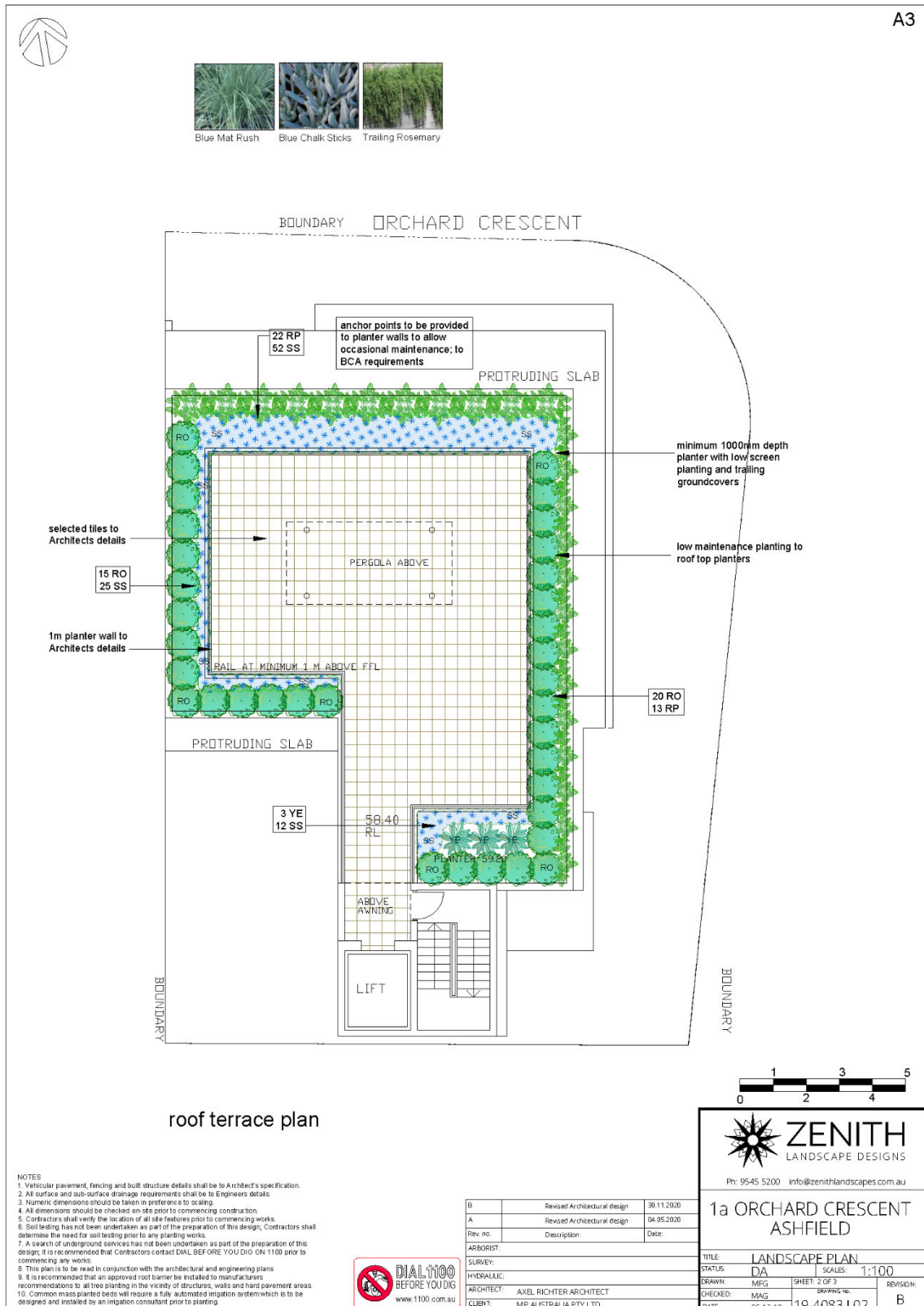
Received 15 November 2000; accepted 15 November 2000
Published online 15 November 2000 in Wiley InterScience (www.interscience.wiley.com). DOI: 10.1002/anie.200016200


Section No. 11










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















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
Quandong




Gymea Lily




Spinless Yucca




Slender Palm Lily




Dwarf Callistemon




Jade Plant




Indian Hawthorn





Blue Mat Rush



Zanzibar Gem



SYMBOL	SPECIES	No.	Pot Size	Mat. Hgt.	Stake	COMMON NAME
EE	Elaeocarpus eumundi	3	25ltr	6m	no	Quandong
EL	Doryanthes excelsa	4	200mm	2m	no	Gymea Lily
RE	Rhaphis excelsa	3	25ltr	2m	no	Slender Palm Lily
CA	Callistemon 'Great Balls of Fire'	6	200mm	1.5m	no	Dwarf Callistemon
YU	Yucca Elephantipes	3	200mm	1.5m	no	Spinless Yucca
CO	Crassula ovata	10	200mm	1.0m	no	Jade Plant
HO	Raphiolepis indica 'Oriental Pearl'	35	150mm	1.0m	no	Indian Hawthorn
LN	Lomandra longifolia 'Nyalta'	22	150mm	0.8m	no	Blue Mat Rush
ZG	Zamioculcas zamiifolia	5	200mm	0.6m	no	Zanzibar Gem
RO	Rosmarinus prostrata	35	150mm	g/cover	no	Trailing Rosemary
ES	Senecio serpens	89	150mm	g/cover	no	Blue Chalk Sticks

LANDSCAPE GUIDELINES

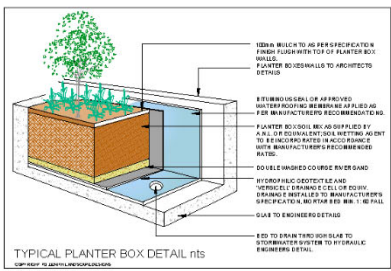
- GENERAL**
 - The Contractor shall familiarise themselves with the site prior to tender.
 - The Contractor will be held responsible for any damage to utility networks, pipes, building structures, paving surfaces, fencing, footways, kerbs, roads and existing plant material.
 - The site is to be left in a clean and tidy condition at the completion of works to the satisfaction of the Superintendent.
 - No work involving an excavation shall be undertaken unless approval is first obtained from the Superintendent.
 - No substitute of material shall be made without approval given by the Superintendent.
 - The Contractor shall continuously maintain all areas of the Contract during progress of the works specified.
- SITE PREPARATION**
 - Prepare sub-grade to be free of stones larger than 100mm diameter, cement, rubbish and any other foreign matter that could hinder plant growth.
- MASS PLANTING AREAS**
 - Once close of weed growth, grass and debris, sub-grade should be cultivated to a minimum depth of 150mm incorporating Dynamic Lifer or equivalent at the manufacturers recommended rates.
 - Weeds shall be controlled by a combination of chemical and hand removal techniques.
- PLANTING**
 - All plant material is to be hardened off, disease and insect free and true to species, type and variety. Plants are to be well grown but not root bound and shall comply with Notes: "Guide to Planting Landscape Trees".
 - All plants are to be removed from their containers prior to planting with as little disturbance to the root system as possible.
 - Planting shall not be carried out in dry soil or extreme weather conditions.
 - Plants should be planted at the same depth as the plants were in the containers and allow for a shallow saucer of soil to be formed around the plant to aid the penetration of water.
 - All plant material should be watered thoroughly immediately after planting.
 - The Contractor shall be responsible for the future of plants during construction, except for acts of vandalism.
 - Labels shall be removed entirely from the plants.
- STAKING**
 - Ties should be firmly attached to the stakes, in a way to avoid damage to the stem while allowing a small degree of movement.
- TURF AREAS**
 - Turf areas should be cultivated before turbing by ripping or harrowing.
 - At the completion of turbing the whole area shall be thoroughly soaked and kept moist till the completion of landscape works.
- MULCH**
 - Mulch for all mass planted beds shall be "Droughtmaster" mulch as supplied by A.N.L. or similar.
- SOIL MIXES**
 - Soil mix for mass planted areas shall be 3 parts site soil to 1 part "Organic Garden Mix" as supplied by A.N.L. or equivalent.
 - Soil mix for planter boxes and planting over slate shall be "Planter Box Mix" as supplied by A.N.L. or equivalent.

MAINTENANCE

- These works shall be in addition to the construction contract.
- The Contractor shall commence and fully implement the short term maintenance after Practical Completion has been confirmed by the Superintendent.
- The Contractor shall carry out maintenance works for a minimum period of 26 weeks.
- Maintenance works shall include the following works:
 - Mow lawns and trim edges each 10 days in summer and each 14 days in winter.
 - Water all planting and lawn areas in order to ensure adequate soil moisture at all times.
 - Remove any weed growth from all planting areas.
 - Stake and control pests and diseases as required.
 - Replace plants which fail with plants of similar size and quality as originally planted.
 - Adjust ties to trees as necessary.
 - Make good any erosion or soil subsidence which may occur.
 - Maintain all mulched areas in a clean and tidy condition to the depth as originally specified.
 - Make good any defects or faults arising from defective workmanship.

Note: The Contractor is not to be held responsible for the theft or vandalism of any plants during the maintenance period.

- Advanced trees shall be individually inspected at least once a month in order to determine their health and vigour. Should the trees exhibit any signs of disease, pest infestation or poor growth then a qualified arborist shall be consulted within 14 days in order to determine the most appropriate course of action. Recommended treatment shall then be commenced within 7 days and shall continue until the problem is eliminated.
- When the maintenance period is completed the Contractor shall notify the Superintendent. The site shall then be inspected and if to the satisfaction of the Superintendent the responsibility will be handed over to the Client for on-going maintenance.



TYPICAL PLANTER BOX DETAIL

1. 100mm MINIMUM TO AS PER SPECIFICATION FROM FINISH TOP OF PLANTER BOX WALL.

2. 100mm MINIMUM TO ARCHITECT'S DETAIL.

3. HYDRAULIC DETAIL TO BE APPLIED AS PER ARCHITECT'S RECOMMENDATION.

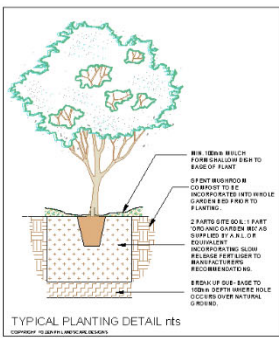
4. PLANTER BOX SOIL MIX AS SUPPLIED BY A.N.L. OR EQUIVALENT. SOIL MIXING ADJUTANT TO BE INCORPORATED IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATION.

5. DOUBLE LAYERED COARSE RIVER SAND.

6. HYDRAULIC DETAIL TO BE APPLIED AS PER ARCHITECT'S RECOMMENDATION.

7. 100mm MINIMUM TO ARCHITECT'S DETAIL.

8. 100mm MINIMUM TO ARCHITECT'S DETAIL.



TYPICAL PLANTING DETAIL

1. 100mm MINIMUM TO ARCHITECT'S DETAIL.

2. 100mm MINIMUM TO ARCHITECT'S DETAIL.

3. 100mm MINIMUM TO ARCHITECT'S DETAIL.

4. 100mm MINIMUM TO ARCHITECT'S DETAIL.

5. 100mm MINIMUM TO ARCHITECT'S DETAIL.


6. 100mm MINIMUM TO ARCHITECT'S DETAIL.

7. 100mm MINIMUM TO ARCHITECT'S DETAIL.

8. 100mm MINIMUM TO ARCHITECT'S DETAIL.

NOTES

- Vehicular pavement, fencing and built structure details shall be to Architect's specification.
- All surface and sub-surface drainage requirements shall be to Engineers details.
- Numeric dimensions should be taken in preference to scaling.
- All dimensions should be checked on site prior to commencing construction.
- Contractors shall verify the location of all site features prior to commencing works.
- Soil testing has not been undertaken as part of the preparation of this design. Contractors shall determine the need for soil testing prior to any planting works.
- A search of underground services has not been undertaken as part of the preparation of this design. It is recommended that Contractors contact DIAL BEFORE YOU DIG ON 1100 prior to commencing any works.
- This plan is to be read in conjunction with the architectural and engineering plans.
- It is recommended that an approved root barrier be installed to manufacturers recommendations to all tree planting in the vicinity of structures, walls and hard pavement areas.
- Common mass planted beds will require a fully automated irrigation system which is to be designed and installed by an irrigation consultant prior to planting.



DIAL 1100 BEFORE YOU DIG

www.1100.com.au

REVISIONS

Rev. no.	Description	Date
B	Revised Architectural design	30.11.2020
A	Revised Architectural design	04.05.2020

ARCHITECT: AXEL RICHTER ARCHITECT

CUSTOMER: MP AUSTRALIA PTY LTD

SCALE

1:100

DATE

05.12.19

1a ORCHARD CRESCENT ASHFIELD

LANDSCAPE PLAN

STATUS DA **SCALE** AS SPEC.

DRAWN MFG **SHEET** 3 OF 3

CHECKED MAG **DATE** 05.12.19

REVISION B

19-40831.03

Attachment C- Recommended Conditions of Consent

CONDITIONS OF CONSENT

FEES

1. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$20,000.00
Inspection Fee:	\$230.65

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

2. Section 7.11 Contribution

Prior to the issue of a Construction Certificate written evidence must be provided to the Certifying Authority that a monetary contribution of \$80,000.00 indexed in accordance with Ashfield Development Contributions Plan/ Developer Contributions Plan No.1 – Open Space and Recreation; 'Developer Contributions Plan No.2 – Community Facilities and Services (2005) has been paid to the Council.

The above contribution is the contribution applicable as at 8 July 2021.

***NB** Contribution rates under Ashfield Development Contributions Plan are indexed quarterly (for the method of indexation refer to Section 2.6 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Community Infrastructure Type:	Contribution \$
Local Roads	\$1,845.13
Local Public Transport Facilities	\$4,169.86
Local Public Car Parking	-
Local Open Space and Recreation	\$67,119.12
Local Community Facilities	\$3,534.14
Plan Preparation and Administration	\$3,331.75
TOTAL	\$80,000.00

Note: This contribution has been calculated based off the introduction of four (4) new residential accommodation units each over 84sqm

A copy of the CP can be inspected at any of the Inner West Council Services Centres or viewed online at:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card*. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

*NB A 0.75% credit card transaction fee applies to all credit card transactions.

3. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

GENERAL CONDITIONS

4. Noise – Consultant's Recommendations

The recommendations contained in the acoustic report prepared by Koikas Acoustics, reference 3993R20191112sn1AOrchardCrescentAshfield_DAv2.docx dated 11 May 2020 must be implemented.

5. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
A101 – Rev B	Site Plan	7 December 2020	Axel Richer Architect
A103 – Rev B	Basement Plan	7 December 2020	Axel Richer Architect
A104 – Rev B	Ground Floor Plan	7 December 2020	Axel Richer Architect
A105 – Rev B	First Floor Plan	7 December 2020	Axel Richer Architect
A106 – Rev B	Second Floor Plan	7 December 2020	Axel Richer Architect
A107 – Rev B	Third Floor Plan	7 December 2020	Axel Richer Architect
A108 – Rev B	Transfer	7 December 2020	Axel Richer Architect

A109 – Rev B	Fourth Floor Plan	7 December 2020	Axel Richer Architect
A110 – Rev B	Fifth Floor Plan	7 December 2020	Axel Richer Architect
A111 – Rev B	Sixth Floor Plan	7 December 2020	Axel Richer Architect
A112 – Rev B	Seventh Floor Plan	7 December 2020	Axel Richer Architect
A113 – Rev B	Roof Terrace Plan	7 December 2020	Axel Richer Architect
A201 – Rev B	Elevation North	7 December 2020	Axel Richer Architect
A202 – Rev B	Elevation South	7 December 2020	Axel Richer Architect
A203 – Rev B	Elevation East	7 December 2020	Axel Richer Architect
A204 – Rev B	Elevation West	7 December 2020	Axel Richer Architect
A301 – Rev B	Section 1	7 December 2020	Axel Richer Architect
Sheet 1 of 4 DWG. 19-04083 L01 Rev B	Landscape Plan	29 December 2020	Zenith Landscape Designs
Sheet 2 of 4 DWG. 19-04083 L02 Rev B	Landscape Plan	29 December 2020	Zenith Landscape Designs
Sheet 3 of 4 DWG. 19-04083 L03 Rev B	Landscape Plan	29 December 2020	Zenith Landscape Designs

As amended by the conditions of consent.

6. Residential Flat Buildings – Hot Water Systems

Where units or dwellings are provided with separate individual hot water systems, these must be located so they are not visible from the street.

7. Residential Flat Buildings – Air Conditioning Systems

Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street.

8. Residential Flat Buildings – Adaptable Dwellings

Prior to the issue of a Construction Certificate, the Certifying Authority, must be provided with plans that demonstrate 1 unit is an Adaptable unit.

No works are to occur to the premises that would prevent the Adaptable units from being adapted for persons with a disability.

9. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

10. Erosion and Sediment Control

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

11. Standard Street Tree Protection

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

12. Verification of Levels and Location

Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

13. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

14. Development Near Rail Corridors and Busy Roads- Interim Guidelines

The proposed development is to comply with the deemed-to-satisfy provisions in the Department of Planning's document titled *"Development Near Rail Corridors and Busy Roads- Interim Guidelines"*.

15. Geotechnical Engineering

The Applicant shall provide a Geotechnical Engineering report to Sydney Trains for review by Sydney Trains Geotechnical section prior to the commencement of works. The report shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by Sydney Trains. The report shall include the potential impact of demolition and excavation, and demolition- and excavation-induced vibration in rail facilities, and loadings imposed on Sydney Trains Facilities by the development.

16. Work within the rail corridor

No work is permitted within the rail corridor, or any easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, unless the prior approval of, or an Agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

17. Scaffolding

No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the Applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

18. Corridor access gate

The Applicant/Developer shall not at any stage block the corridor access gate on Orchard Crescent, and should make provision for easy and ongoing 24/7 access by rail vehicles, plant and equipment to support maintenance and emergency activities.

19. Authorised persons inspection

Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the

requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.

20. Representative

The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:

- oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
- acts as the authorised representative of the Applicant; and
- is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.

21. Consult with Sydney Trains

Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.

PRIOR TO ANY DEMOLITION

22. Hoardings

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

23. Construction Traffic Management Plan – Detailed

Prior to Any Demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with Transport for NSW accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads to the maximum extent with the use of Local Roads as final approach to the development site via the most suitable direct route.

The following matters should be addressed in the CTMP (where applicable):

- a. Description of the demolition, excavation and construction works;
- b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- g. Proposed hours of construction related activities and vehicular movements to and from the site;
- h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- i. Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j. Measures to maintain public safety and convenience;
- k. Any proposed road and/or footpath closures;
- l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;
- n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);
- o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;

- p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- q. On-site parking area for employees, tradespersons and construction vehicles as far as possible;
- r. Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and
- s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

24. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

25. Advising Neighbors Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

26. Construction Fencing

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

27. Resource Recovery and Waste Management Plan - Demolition and Construction

Prior to any demolition works, the Certifying Authority must be provided with a Resource Recovery and Waste Management Plan - Demolition and Construction that includes details of materials that will be excavated and their proposed destination or reuse.

PRIOR TO CONSTRUCTION CERTIFICATE

28. Stormwater Drainage System – Minor Developments (OSD is required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention, certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The design must be generally in accordance with the stormwater concept plan on Drawing Nos.SW1/4 to 4/4 prepared by Fadi Bassil Civil and Structural Engineer and dated 19 December 2020, as amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank, by gravity to the kerb and gutter of a public road via the OSD tank;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- e. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- f. No nuisance or concentration of flows to other properties;
- g. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- h. Plans must specify that any components of the existing system including the detention tank and basement pump well to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- i. A silt arrestor pit must be installed inside the property, adjacent to the boundary;
- j. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- k. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- l. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;and
- m. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

29. Structural and Geotechnical Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed building extensions, certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

- a. Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years;
- b. All components of the building, including footings, must be located entirely within the property boundary;
- c. No adverse impact on surrounding properties including Council's footpath and road;
- d. Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property; and
- e. Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation.

30. Parking Facilities – Major (including basement)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2018 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a. The driveway must rise within the property to be 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004;
- b. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- c. Minimum headroom of 2500mm must be provided above any disabled parking spaces;

- d. The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps;
- e. The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
 - i. Car spaces adjacent to walls or fences are increased in width by an additional 300mm; End spaces are provided with an additional 1m aisle extension;
 - ii. End spaces are provided with an additional 1m aisle extension; and
 - iii. The location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004.
- f. At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;
- g. The relative surface levels of the internal access from the road being controlled so that:
 - i. The surface levels at the property boundary match "alignment levels"
 - ii. The change in grade for any 2m length of access way does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
 - iii. The maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
 - iv. The maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary.
- h. The vehicle egress is designed such that there are no obstructions to lines of sight, along with the footpath and the roadway for drivers of egressing vehicles;
- i. All loading docks and parking bays are designed such that all vehicular movements to and from the proposed development are in a forward direction;
- j. Loading / unloading facilities must be provided on-site in accordance with the requirements of AS2890.2 – 2002; and
- k. A bicycle storage area must be provided to accommodate the numerical requirements of DCP and be designed in accordance with relevant provisions of AS 2890.3-2015.

31. Dilapidation Report – Pre-Development – Minor

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

32. Each Residential Level is to have Access to a Disposal Point for All Waste Streams

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the disposal point is to be within 30m of the dwelling access (distance covered by lifts excluded). Any bins stored on residential floors are to have the capacity to store, at minimum, all waste generated by that floor over a 24 hour period.

33. Noise General – Acoustic Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises will satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997* and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

34. Acoustic Report – Aircraft and Rail Noise

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction and *State Environmental Planning Policy (Infrastructure) 2007*.

35. Light Spill

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that any lighting of the premises complies with Australian Standard AS4282:1992: Control of Obtrusive Effects of Outdoor Lighting.

36. Enclosure of Fire Hydrant

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with plans indicating that all fire hydrant and sprinkler booster valves and the like are enclosed in accordance with the requirements of AS 2419.1 2005.

37. Party Walls

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with Architectural Plans accompanied by a Structural Certificate which verifies that the architectural plans do not rely on the Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to all owners of the party wall/s.

38. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or

altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

39. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

40. Fibre-ready Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that arrangements have been made for:

- a. The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
- b. The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises the development demonstrated through an agreement with a carrier.

41. Electrolysis Risk Report

Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.

42. Craneage Plan

Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the

Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.

43. Demolition and construction methodology plan

Prior to the issuing of a Construction Certificate, the following rail specific items are to be submitted to Sydney Trains for review and endorsement:

- Demolition and construction methodology and staging

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

44. Bin Storage Area - Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report detailing the ongoing waste generation requirements of the development and demonstrate that the bin storage area is to be provided within the site that will fully accommodate the number of bins required for all waste generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage, and a fortnightly collection of recycling.

The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.

The bin storage area is to meet the design requirements detailed in the Inner West Comprehensive Development Control Plan (DCP) 2016 and must include doorways/entrance points of 1200mm.

45. Bulky Waste Storage Area – Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that the bulky waste storage area must meet the floor area requirements as per the Inner West Comprehensive Development Control Plan (DCP) 2016 and have minimum doorways of 1200mm wide to accommodate large items.

46. Waste Transfer Route

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point is has a minimum 1200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:12.

DURING DEMOLITION AND CONSTRUCTION**47. Contamination – New Evidence**

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

48. Construction Hours – Class 2-9

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

- a. 7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to:

- a. 8:00am to 12:00pm, Monday to Saturday; and
- b. 2:00pm to 5:00pm Monday to Friday.

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

49. Survey Prior to Footings

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

50. Documentation of Demolition and Construction Waste

All waste dockets from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site.

PRIOR TO OCCUPATION CERTIFICATE

51. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

52. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

53. Parking Signoff – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered

Professional Engineer qualifications with Professionals Australia (RPEng) that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property.

- a. The car park has been completed, line marked and all signage relating to car parking erected;
- b. The car park stackers have been completed in accordance with the manufacturers specification and dimensions; and
- c. The mechanical/electrical operations are tested and certified.

54. Dilapidation Report – Post-Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey and structural condition which was compiled after the completion of works. As the report details public infrastructure, a copy is to be furnished to Council at the same time.

55. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD system commissioned any pumps installed/checked in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

56. Noise – Acoustic Report

Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Noise Policy for Industry and Noise Control Manual and conditions of

Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

57. Noise From Road, Rail & Aircraft – Compliance

Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with an acoustic report prepared by suitably qualified acoustic consultant, confirming that the development complies with the requirements of the:

- a. *State Environmental Planning Policy (Infrastructure) 2007*;
- b. NSW Planning, Development near Rail Corridors and Busy Roads – Interim Guideline

58. Smoke Alarms - Certification of upgrade to NCC requirements

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

59. Section 73 Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

60. Affordable Housing

Prior to the issue of any occupation certificate, a restriction is to be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that:

- a. Unit 2, must be used for the purposes of affordable housing, and
- b. As per Council resolution from the 30 October 2018 (C1018(2) Item 11), the affordable housing unit is to be managed by a registered community housing provider in perpetuity.

61. Submission of as-built drawings

Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into TAHE (Transport Asset Holding Entity) property or easements, unless agreed to be TAHE (Transport Asset Holding Entity). The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied

ON-GOING**62. Vehicles Leaving the Site**

All vehicles must enter and exit the site in a forward direction.

63. Loading/unloading on site

All loading and unloading are to be conducted within the site at all times. Any designated loading bay/dock area is to remain available for loading/unloading purposes at all times. No storage of goods or parking of cars is to be carried out in these areas.

64. Noise General

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

65. Bin Storage

All bins are to be stored within the site. Bins are to be returned to the property within twelve hours of having been emptied.

ADVISORY NOTES**Permits**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);

- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by

this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Fire Safety Certificate

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces

are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.

NSW Office of Environment and Heritage 131 555
www.environment.nsw.gov.au

Sydney Water 13 20 92
www.sydneywater.com.au

Waste Service - SITA 1300 651 116
www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

WorkCover Authority of NSW 13 10 50
www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

Street Numbering

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.

Sydney Trains or Transport for NSW Satisfaction

Where a condition of consent requires Sydney Trains or Transport for NSW endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates dealing with specific works and compliance conditions can be issued subject to written agreement from those entities to which the relevant conditions applies.

Consultation with Sydney Trains

Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney

Trains external party interface team. In this instance the relevant interface team is Central Interface and they can be contacted via email on Central_Interface@transport.nsw.gov.au.

Notice to Council to deliver Residential Bins

Council should be notified of bin requirements three weeks prior to the occupation of the building to ensure timely delivery.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

Recycling / Garbage / Organics Service Information and Education

The building manager / strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's services, and best practice waste and recycling source separation.

Attachment D- Officers Report for original DA



DEVELOPMENT ASSESSMENT REPORT	
Application No.	0102019000203.1
Address	1A Orchard Crescent ASHFIELD NSW 2131
Proposal	Alteration and additions to a residential flat building
Date of Lodgement	23 December 2019
Applicant	M P Australia Pty Ltd
Owner	M P Australia Pty Ltd
Number of Submissions	Initial: Three (3) Renotification: Four (4) Total: Seven (7)
Value of works	\$2 733 643.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10% Sensitive Development - SEPP 65 applies and the proposal is over four storeys in height
Main Issues	Urban Design
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
Attachment D	Recommended conditions of consent

LOCALITY MAP	
Subject	
Site	
Notified Area	
Objectors	
Supporters	

1. Executive Summary

This report is an assessment of the application submitted to Council for alteration and additions to residential flat building, increasing the building to 8 storeys in height at 1A Orchard Crescent ASHFIELD NSW 2131.

On the 21 May 2020 the applicant submitted amended plans and documentation in response to Council correspondence. This assessment report has been based on the plans and documentation submitted by the applicant on the 21 May 2020.

The application was notified to surrounding properties and three (3) submissions were received in response to the initial notification. Four (4) submissions were received in response to renotification of the application. The application proposes to dedicate one (1) unit, unit 2 located upon the ground floor for the purposes of affordable rental housing, in order to satisfy the requirements of clause 4.3A(3) of the Ashfield LEP 2013.

The main issues that have arisen from the application include:

- Non-compliance with the desired future character and streetscape. In particular the proposal does not re-enforce or respond to the emerging streetscape and desired future character of the locality.

The non-compliances are not acceptable and therefore the application is recommended for refusal.

2. Proposal

The current application submitted to Council seeks consent for alteration and additions to an existing residential flat building, increasing the building to 8 storeys in height and resulting in a total 12 units. In particular the following works are proposed:

Basement

- Introduction of 2 x 2 space car stackers to increase parking to 11 spaces, including a disabled bay
- Creation of a new lift lobby and stairwell to enable disabled access from the basement.

Ground Floor

- Remove existing car parking from Murrell Street frontage
- Create a new entrance lobby

- Relocate waste and recycling store to Murrell Street frontage and add additional bulk waste store
- Relocate cycle parking
- Introduction of hydrant booster
- Re-alignment of lift lobby and stairwell
- Re-configure existing units, relocating kitchens and expanding balconies facing Orchard Crescent.

First, Second and Third Floor

- Re-alignment of lift lobby and stairwell
- Relocation of third bedroom in unit 4,6 and 8
- Creation south facing balcony for bedrooms
- Re-configure existing units, relocating kitchens and expanding balconies facing Orchard Crescent.

Transfer support beam level

- Creation of a new transfer and support beam level
- Creation of new maintenance access
- Provision of planter facing Murrell Street

Fourth to Seventh Floor

- Creation of a new fourth to seventh floor. Each floor is to accommodate one (1) unit. Unit 9 is to become the adaptable unit for the complex.
- Creation of new lift lobby and stair well

Roof Level

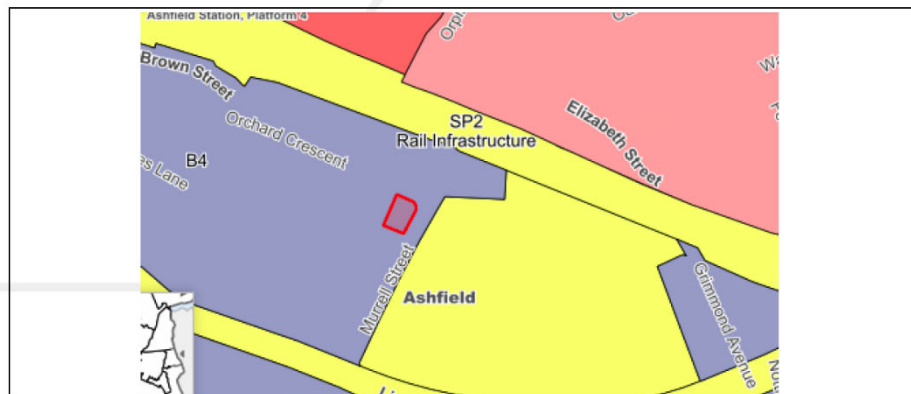
- Introduction of new rooftop communal space with large planter areas, sunshade structures and seating areas.

3. Site Description

The subject site is located on the southern side of Orchard Crescent, on the corner of Murrell Street and Orchard Crescent. The site consists of 1 allotment and is generally rectangular in shape with a total area of 408.2 sqm and is legally described as 1A Orchard Crescent ASHFIELD NSW 2131.

The site has a frontage to Orchard Crescent of 12m and a secondary frontage to Murrell Street of approximate 18.2 metres.

The site supports an existing three – four storey residential flat building, with basement carparking. The adjoining properties support recently constructed residential flat buildings seven storeys in height and an educational premises known as Ashfield Public School.



4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision
10.2012.12	Demolition of existing Structures construction of a three storey residential flat building	Approved

Surrounding properties

8 – 12 Murrell Street

Application	Proposal	Decision & Date
10.2016.127	Demolition of existing structures construction of a residential flat building	Approved – 24/2/2017

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
8 April 2020	<p>On the 8 April Council officers emailed the applicant a letter requesting the application be withdrawn. Within this letter Council officers raised the following concerns:</p> <ul style="list-style-type: none"> - Height of buildings – The proposal seeks consent for a maximum building height of 30.5m. 0.5m higher than the maximum height permitted by clause 4.3A of the ALEP. - Streetscape – The proposal does not respond or contribute to the character of the area and does not reinforce desirable streetscapes. - Overshadowing – The proposal is expected to result in significant overshadowing for units at 8 – 12 Murrell Street. The proposal also does not provide shadow diagrams detailing the extend of shadows cast upon the neighbouring educational establishment. - Neighbouring Amenity – The proposal is expected to result in poor amenity for neighbouring units at 8 – 12 Murrell Street. - Landscape Design/ Communal Open Space – The proposed communal space results in poor amenity for occupants. - Ground Floor Configuration – The proposed ground floor access is not supported as it is non-compliant with the principles of CEPTED and results in poor public domain interface. - Architectural Expression – The proposal has been reviewed by Council's Architectural Excellence Panel (AEP) who noted significant concerns with the architectural expression of the building. - Waste Storage – The proposal incorporates in-sufficient waste storage areas - Parking – The proposed parking spaces accessed directly from Murrell Street are not supported as they result in pedestrian conflict and poor public domain interface - Cost of Works – The original cost of works raised concerns regarding accuracy and a quantity surveyors report was requested. - Extend of Works – The extent of works proposed to existing elements of the building must be clearly outlined. - Moral Rights – Additional information detailing compliance with the requirements of Moral rights must be provided. - Services – The location and treatment of services must be clearly detailed on any amended plans.

21 May 2020	The applicant submitted amended plans and additional documentation to address and respond to the concerns raised by Council.
21 May 2020 – 18 June 2020	The amended plans and documentation resulted in a requirement for the proposal to be placed on re-notification. The application was formally re-notified from the 21 May 2020 to the 18 June 2020.

This assessment report has been based on the plans and documentation submitted by the applicant on the 21 May 2020.

Moral Rights

The current application seeks consent for alterations and additions to an existing building. In accordance with the *Copyright Amendment (Moral Rights) Act 2000* the applicant is required to contact the original Architect of the existing building and gain their consent for changes to its external appearance. In this instance the applicant has demonstrated sufficient attempts to contact the previous architect but has been unsuccessful. The applicant has outlined that the previous architect is no longer practicing and that the Architecture Board emailed the previous architect on the 16th March 2020 with regards to this site and obtaining moral rights consent.

At this time no response has been received and it is considered unreasonable to delay the assessment of the application any further given sufficient attempts to contact have been made.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 1.15 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. Comprehensive Inner West Development Control Plan 2016 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that "the site is, or can be made, suitable for the proposed use" prior to the granting of consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will require remediation in accordance with *SEPP 55*.

5(a)(ii) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). *SEPP 65* prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

The development is not considered acceptable having regard to the nine design quality principles and is therefore recommended for refusal. The proposal is not considered to meet the following design quality principles:

Principle 1: Context and Neighbourhood Character

The current design was reviewed by Council's Architectural Excellence Panel (AEP) on the 26 May 2020. At this meeting the AEP reviewed the amended architectural drawings, photomontage and landscape drawings and considered the developments compliance with design quality principle 1: Context and neighbourhood character.

The AEP noted that the revised scheme does not have sufficient merit for support and that the overall strategy of adding 5 new levels above 4 existing levels is problematic due to:

- a) A lack of correlation/integration between the existing building and proposed additions. The extent of works proposed to the existing building is substantial, yet the proposal does not appear as a cohesive new building.
- b) An inconsistency with the general character of the new works with the area
- c) The transfer level creates a strong separation and not a transition or integration between the old and new, which makes the additions appear readily apparent and unusual in the streetscape.

The panel concluded that the scheme has low architectural merit and should be refused.

It is considered that the development does not respond to its context, does not respond to the built features of the area and does not contribute to the overall character of the streetscape and neighbourhood. The current scheme does not re-enforce or respond to its context as a corner allotment and gate way to link to the Ashfield Train Station.

The current proposal represents a substantial re-development of the site and provides a rare opportunity to substantially improve/ re-enforce an emerging streetscape. This opportunity is one which will not be repeated within the immediate future and as such a high degree of emphasis to public domain, streetscape and urban design should be enforced. The current scheme does not take advantage of the significant re-development opportunity and therefore cannot be considered compliant with the principle of context and neighbourhood character.

Principle 2: Built Form and Scale

The proposal is not compliant with the requirements and intention of principle 2, which seeks development to define the public domain, contribute to the character of streetscapes and provide internal amenity and outlooks. The proposal has a substantial opportunity to improve and define a new resident entry and interface with the public domain which would contribute to the character of streetscape. At the same time the substantial re-development of existing elements also provides numerous opportunities to improve amenity for ground floor units. The current scheme results in a poor public domain interface and poor unit amenity for ground floor units. The proposal is not considered compliant with the requirements of built form and scale and is recommended for refusal.

Principle 9: Aesthetics

As outlined above under principle 1, the proposal has been reviewed by Council's AEP panel and has been determined to result in a poor visual appearance with significant inconsistency with other new works in the area and a distinct lack of integration between existing elements

to be retained and new works. Acceptance of the proposal in its current form is expected to result in a development which does not respond to the existing or future local context and does not represent an acceptable outcome for the emerging streetscape.

Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP certain requirements contained within Inner West Comprehensive Development Control Plan 2016 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
Less than 650m ²	-	7%

Comment:

The proposal results in a deep soil rate of 4%. In this instance the small nature of the allotment and its location within the Ashfield Town Centre means that opportunities for strict compliance with deep soil landscaping requirements are limited and as such strict compliance is not readily achievable. However further opportunities for the introduction of additional deep soil remain available on site, particularly around the pedestrian entrance off Murrell Street. The applicant's justification as that it is not desirable to have excessive deep soil as this would detract from the desired future character of the area is not supported by Council. Every opportunity to introduce additional deep soil and additional tree plantings should be explored. It is considered that the introduction of additional deep soil landscaping within the locality of the pedestrian entrance off Murrell Street would improve streetscape amenity and provide a distinct public domain interface.

The proposals variation from the minimum required deep soil landscaping is not supported and the application is recommended for refusal.

Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres
Over 25 metres (9+ storeys)	12 metres	6 metres

Comment:

The proposed 5 to 7 stories of the development have a 4.5 metre building separation to the rear boundary shared with 8 – 12 Murrell Street and do not comply with the minimum separation of 9 metre under ADG. Notwithstanding, the proposed development has been designed with the consideration of the existing development on the adjoining site at No. 8 - 12 Murrell Street. As seen within figure 1 below, the elements of the development which result in the variation relate to secondary windows to bedrooms and do not directly align to neighbouring balconies located at 8 – 12 Murrell Street. A site inspection of the subject site and neighbouring 8 – 12 Murrell Street has confirmed that acceptance of this variation will result in minimal opportunities for overlooking and privacy loss for residents and neighbours. The non-compliance is unique to this site, would not be perceptible when viewed from the street and would not detrimentally impact upon the visual amenity of the streetscape or the visual and acoustic privacy of the adjoining developments. In this regard, the variations to building separation are considered to be acceptable.

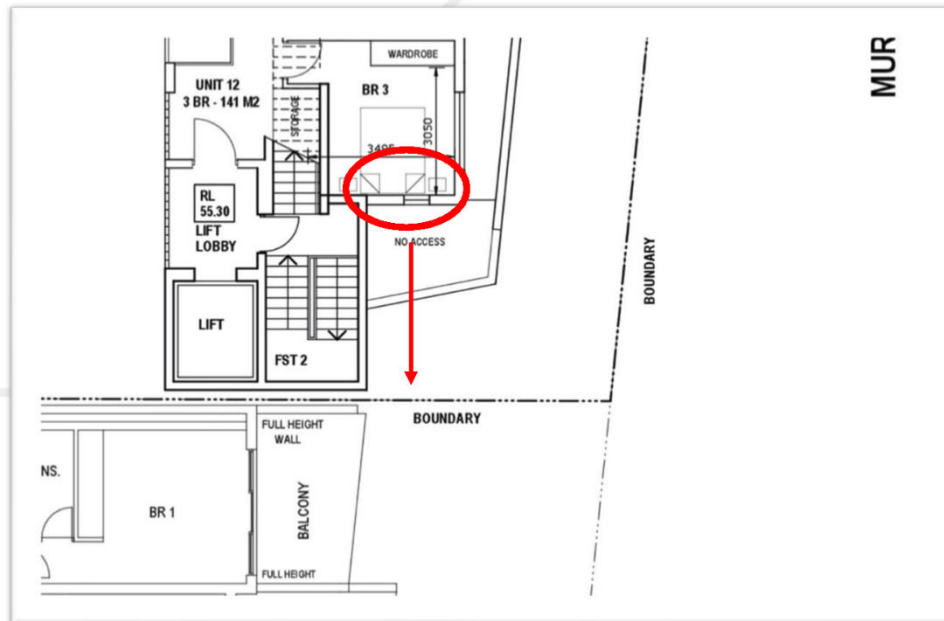


Figure 1 – Floor Plan detailing element of separation variation

As outlined under Chapter 3F – Visual Privacy and 2F Building Separation elements of a proposal which incorporate blank walls on a nil boundary setbacks are not required to have separation. Therefore elements of the proposal which relate to the southern and western boundaries of the development which incorporate blank walls do not require separation. The setbacks of and location of these blank walls have been reviewed and will not impact upon the amenity or streetscape for the locality. The proposed nil boundary setback for the southern elevation has been appropriately located to align with a blank wall of 8-12 Murrell Street also situated on a nil boundary setback, as such this wall will not impact amenity or streetscape.

The proposed blank wall located along the western boundary relates directly to the existing development at 1-2 Orchard Crescent and is within a locality where it can be reasonably anticipated that 1 – 2 Orchard Crescent will develop to a similar setback, size and scale in the future. In the interim to avoid a blank wall presentation to the public domain the applicant has detailed this elevation with decorative panels. This proposed setback and wall presentation will not impact the public domain and is considered supportable. However other outstanding concerns discussed within the report have not been resolved and the application is therefore recommended for refusal.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres

Comment:

Analysis of levels 1 - 3 has highlighted internal habitable ceiling heights of 2.4m. This ceiling height represents a variation from the 2.7m required by the ADG. The proposed variation relates to existing units of the building proposed to be retained. The current application provides minimal opportunities for amendments to these existing ceiling heights. These existing heights are compliant with the minimum standards prescribed by the Building Code of Australia. Should the application be supported by the Panel then no objection to the retention of the existing ceiling heights is raised by Council.

Apartments located upon levels 4 – 7 relate to new units and are compliant with the minimum required 2.7m ceiling heights.

Bicycle and Car Parking

Requirement	Proposal	Complies
Residential	11 spaces proposed	Acceptable – see discussion below
Minimum 1 per dwelling + 1 space for every 5 two-bedroom units.		
And		
1 space for every 2 three-bedroom units		
Total = 16 spaces Visitor 1 per 4 units = 2 spaces		
Total Required = 18 spaces		
Bicycle spaces – 1 per 10 units = 1 spaces	2 resident spaces and 1 visitor space	Yes

The Guide to Traffic Generating Development requires 18 car parking spaces for the proposed residential units, and 2 car parking spaces for visitor parking. The proposed development provides 11 car spaces for residential units and no visitor parking space. The development therefore results in a deficiency of 7 car spaces.

The intention of this control is to ensure that provision of off-street parking satisfies the needs of occupants, minimise loss of on street parking, manage traffic efficiently, consider the capacity of local roads and to encourage sustainable transport such as bicycles and walking.

The subject site has been assessed and is located within an area of high accessibility being only 200m from Ashfield train station, 200m walk from bus stops servicing the Ashfield Train Station and 200m from the Ashfield Mall a major shopping centre. The proximity of the premises to the various public transport options is expected to make it an appealing choice for residents who do not have a motor vehicle and encourage the use of public transport.

The provided 11 on-site parking spaces are sufficient to service residents. Such an arrangement ensures sufficient parking for the operation of the premises without a reliance upon street parking. The addition of two additional (proposed to be introduced under the current application) parking spaces will not impact the flow of traffic along Orchard Crescent and will not significantly impact traffic flow for Murrell Street. Analysis of the existing streets has highlighted limited opportunities for on street parking, this combined with the highly accessible location discourages vehicles. The highly accessible nature of the site and proximity to pedestrian links, bus and trains stations makes it a prime candidate for a reduce parking rate and encourages the use of public transport.

Should the application otherwise be supported, no objection is raised to the proposed rate of parking.

5(a)(iii) State Environmental Planning Policy Affordable Rental Housing 2009

The proposal has been assessed against the provisions of Part 3 – Retention of existing affordable rental housing. The existing residential flat building was approved in 2001 and therefore the provisions of clause 49 (1) does not apply to this development.

5(a)(iv) State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)

Rail Corridors (Clause 85-87)

SEPP Infrastructure provides guidelines for development immediately adjacent to rail corridors including excavation in, above or adjacent to rail corridors. Clause 87 of the *SEPP Infrastructure 2007* relates to the impact of rail noise or vibration on non-rail development, and for a development for the purpose of a building for residential use, requires appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

An acoustic report accompanied the application and assessed the potential acoustic impacts of rail noise on the proposed development. The report contains recommendations to be incorporated into the proposed development in order to mitigate acoustic impacts and should be referenced as an approved document in condition 1 on any consent granted.

The application was referred to Sydney Trains for concurrence in accordance with Clause 86 of the *SEPP Infrastructure 2007*. Sydney Trains granted concurrence to the development subject to conditions and those conditions have been included in the recommendation of this report.

5(a)(v) *State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)*

Vegetation SEPP concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application seeks the removal of vegetation from within the site and on Council land. The application was referred to Council's Tree Management Officer whose comments are summarised as follows:

Overall, the proposal is considered acceptable with regard to the *Vegetation SEPP* and DCP subject to the imposition of conditions, which have been included in the recommendation of this report.

5(a)(vi) *Ashfield Local Environment Plan 2013 (ALEP 2013)*

The application was assessed against the following relevant clauses of the *Ashfield Local Environmental Plan 2013*:

- Clause 1.2 - Aims of Plan
- Clause 2.3 - Land Use Table and Zone Objectives
- Clause 4.3 - Height of buildings
- Clause 4.3A - Exception to maximum height of buildings in Ashfield town centre
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.4 - Controls relating to miscellaneous permissible uses
- Clause 6.1 - Earthworks

(i) Clause 2.3 - Land Use Table and Zone Objectives

The property is zoned B4 Mixed Use under the provisions of ALEP 2013. The proposed use is described as a Residential Flat Building which is permissible with Council's consent within the zone. The *ALEP 2013* defines a Residential Flat Building as:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The development is permitted with consent within the land use table. The development is consistent with the objectives of the B4 zone.

The following table provides an assessment of the application against the development standards:

Standard	Proposal	% of non-compliance	Compliances
Height of Building			
Maximum 23m	29.4m	N/A	
30m - by operation of clause 4.3A: a) the development will contain at least 1 dwelling used for the purpose of affordable rental housing; and b) at least 25% of the additional floor space area resulting from the part of the building that exceeds the maximum height will be used for the purpose of affordable rental housing	a single unit (unit 2 on the ground floor) is nominated for affordable rental housing. It totals 71.9m ² which is 47% of the additional floor space (150.7m ²) above the height limit and consequently satisfies Clause 4.3A(3)	N/A	Yes
Clause 4.3 (2A) – any part of the building that is within 3 metres of the height limit (30m) must not include any area that forms part of the gross floor area of the building	26m (to top of habitable floor)	N/A	Yes

Floor Space Ratio			
Maximum 3:1 (1,225.2m ²)	3.9:1 (1,608.3m ²) Of this 71.9m ² is nominated for affordable rental housing.	31.2% (383.1m ²)	No – see discussion below

The following provides further discussion of the relevant issues:

Clause 4.3 of the ALEP 2013 provides that maximum building height on any land should not exceed the maximum height shown for the land on the height of building map. The maximum permissible building height for the subject site is 23m. However, Clause 4.3A allows an additional 7m height in Ashfield Town Centre provided the development will contain at least 1 dwelling used for the purpose of affordable rental housing, and at least 25% of the additional floor space area resulting from the part of the building that exceeds the maximum height will be used for the purpose of affordable rental housing.

The proposed development nominates a single unit (unit 2) for affordable rental housing. This unit totals 71.9m² which is 47% of the additional floor space (150.7m²) above the height limit and consequently satisfy Clause 4.3A(3).

Furthermore, Clause 4.3 (2A) states “If a building is located on land in Zone B4 Mixed Use, any part of the building that is within 3 metres of the height limit set by subclause (2) must not include any area that forms part of the gross floor area of the building and must not be reasonably capable of modification to include such an area”. The proposed development has a maximum of 26m height to top of the habitable floor. Consequently, the development satisfies Clause 4.3 (2A).

Clause 4.4 of the ALEP 2013 provides that maximum floor space ratio on any land should not exceed the maximum floor space ratio shown for the land on the floor space ratio map. The maximum permissible floor space ratio for the subject site is 3:1. The proposed development would have a floor space ratio of 3.9:1 (1,608.3m²) which does not comply with this provision. Accordingly, the applicant has submitted a Clause 4.6 variation to the development standard.

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard/s:

- Clause 4.4 - Floor space ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the applicable local environmental plan by 31.2% (383 sqm).

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the applicable local environmental plan below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the applicable local environmental plan justifying the proposed contravention of the development standard which is summarised as follows:

- *The additional floor space is proposed as a consequence of seeking the height bonus pursuant to Clause 4.3A of the LEP. This allows for additional height subject to the provision of an element of affordable housing. As such, there is a corresponding uplift in GFA which is unavoidable if the additional height bonus is to be of any benefit. There is a clear and direct public benefit associated with the affordable housing element proposed in conjunction with the development;*
- *The varied FSR will have no adverse impact on adjoining properties with regard to overshadowing. No.8-12 Murrell Street overshadows itself at 9am through the provision of balconies with full height blank walls and 1.8m high walls facing north. Where the substantial balcony area is provided for units at No.8-12 Murrell Street the glazing line is setback significantly and receives no direct sunlight at 9am. Where the units at No.8-12 Murrell Street have been designed to have glazing which is not overshadowed by the balconies, those windows are unaffected by the proposed development.*
- *Although the development does not result in any adverse overshadowing of No.8-12 Murrell Street, Council has supported some reasonable overshadowing of adjoining developments to the south in the recent approvals at both No.8-12 and 2-4 Murrell Street. Similarly, these developments have been justified on the basis that only early morning overshadowing would result.*
- *The varied FSR will not result in any adverse impact on the adjoining properties with regard to overlooking. No.8-12 Murrell Street contains a blank north facing wall at the boundary and the redesigned scheme therefore does not overlook any habitable space.*
- *Despite the non-compliance, the objectives of the FSR standard have been achieved as demonstrated below in section 7;*

- *The non-compliance provides a suitable transition to the adjoining properties likely to undergo a similar transition to higher density development in the future; and,*
- *The variation to FSR does not impact on views or outlook, the streetscape appearance is not adversely impacted by the variation and does not result in any adverse impacts to neighbouring properties.*
- *To require strict compliance would not have any planning benefit and would in fact be counterproductive as it would result in the loss of additional high quality accommodation and affordable housing within the locality. To insist on strict compliance would thwart and preclude the redevelopment of the land to a reasonable standard, and not allow the site to reach its full development potential;*

The applicant's written rational adequately demonstrates compliance with the development standard could be unreasonable / unnecessary in the circumstances of the case, and that there is sufficient environmental planning grounds to justify contravening the development standard.

It is considered that a variation to a development standard for the subject site is in the public interest because it is consistent with the objectives of the B4, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The proposal provides residential accommodation including affordable housing.
- The proposal would enhance the viability, vitality of Ashfield the town centre.
- The proposed development would encourage the orderly and efficient development of land.
- The development meets the objectivities of the FSR standard and the objectives of the zone.

A variation such as the one sought is consistent with the objectives of the floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The development would provide consistency between the mismatch in the development standards of building height and floor space ratio. The bonus 7m building height provision for affordable housing in Ashfield town centre cannot be achieved without the additional floor space ratio.
- The proposed floor space ratio would be within the maximum building height envisaged within the ALEP for the provision of at least 25% affordable housing.

- The proposed development provides comparable bulk and scale to the existing development on Murrell Street, in particular Nos. 8-12 Murrell Street and 2 – 4 Murrell Street.
- The proposed development would not have impact on the environmental amenity and enjoyment of the adjoining properties with respect to privacy and solar access.
- The proposed development would not have adverse impacts on heritage properties.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of the applicable local environmental plan.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the applicable local environmental plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from floor space ratio development standard should the application be otherwise supported.

It is recommended the Clause 4.6 exception not be granted and that the proposal be refused as the overall development is not within the public interest, due to streetscape and urban design concerns. In order to support the variation sought significant benefits to re-enforce the character, streetscape and urban design of the locality should also be demonstrated. The development does not improve and align with emerging streetscape and does not re-enforce urban character. It is therefore recommended that the application be refused.

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

IWCDCP2016	Compliance
Section 1 – Preliminary	
B – Notification and Advertising	Yes
Section 2 – General Guidelines	
A – Miscellaneous	
1 - Site and Context Analysis	Yes
2 - Good Design	No – see discussion
4 - Solar Access and Overshadowing	Yes
7 - Access and Mobility	Yes
8 - Parking	No – see discussion
13 - Development Near Rail Corridors	Yes
15 - Stormwater Management	Yes
B – Public Domain	
C – Sustainability	
1 – Building Sustainability	Yes
2 – Water Sensitive Urban Design	Yes
3 – Waste and Recycling Design & Management Standards	Yes
D – Precinct Guidelines	
Ashfield Town Centre	Yes
F – Development Category Guidelines	
5 – Residential Flat Buildings	No – see discussion

The following provides discussion of the relevant issues:

Chapter A – Good Design

The development application has been assessed against the provision of Chapter A section 2 – Good Design. These controls have been established to ensure that development:

- Responds and contributes to its context
- Contributes to the quality and identity of the area
- In areas of relatively stability, reinforces desirable element of established street and neighbourhood character
- In areas undergoing substantial change, contributes to the creation of the identified desired future character

As mentioned above under section 5(a)(ii) the proposal was referred to Council's Architectural Excellence Panel who reviewed the application against the principles of SEPP 65 and the Good Design Controls contained within the DCP. Following this review the AEP has outlined that that the scheme has low architectural merit and should be refused.

Concerns are raised with the retention of existing built form interface to Murrell Street. The retention of the nil boundary setback provides a distinct and lasting anomaly to the emerging streetscape created by new buildings at 1 – 2 Murrell Street and 8 – 12 Murrell Street and results in a harsh urban environment which may be readily fixed or improved under a revised scheme. This is best illustrated through figures 2 – 4 below which details the site in its current and proposed forms. The subject site should instead be redeveloped in a manner which utilises the south boundary and south western corner to provide/continue an emerging streetscape pattern of setback along Murrell Street. Utilisation of such a scheme would allow for a greater emphasis on softening public domain interface, through the introduction of landscaping and would provide opportunities for additional terraces and openings to proposed units. Furthermore a focus of re-development along the southern and south western corner of the site would directly align with the existing blank wall at 8 – 12 Murrell Street and provide further development opportunities for the neighbouring development at 1 – 2 Orchard Crescent in the future.

The overall strategy of development and proposed transfer level is considered to be problematic and as noted by the AEP the development results in:

- a) A lack of correlation/integration between the existing building and proposed additions.
- b) An inconsistency with the general character of the new works with the area and
- c) The transfer level creates a strong separation and not a transition or integration between the old and new, which makes the additions appear readily apparent and unusual in the streetscape.

The proposal is non-compliant with the requirements of the DCP which requires development to contribute to the quality and identity of the area and contribute to the creation of the desired future character. The current scheme is not reflective of the desired future character for the locality and is therefore recommended for refusal.



Figure 2 – Site existing as viewed from Murrell Street



Figure 3 – View of existing streetscape as viewed from 6 Murrell Street



Figure 4 – Photomontage of proposed development

Solar Access and Overshadowing

The revised plans have been assessed against the provisions of Chapter A – Part 4 Solar Access and Overshadowing. Within this section residential flat buildings are required to:

- maintain existing levels of solar access to adjoining properties

Or

- ensures living rooms and principal private open space of adjoining properties receive a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June.

The shadow impacts resultant from the proposed development application are compliant with the above controls. As outlined by the applicant there is no significant overshadowing impacts upon 8 – 12 Murrell Street resulting from the revised scheme. Analysis of the existing balconies of 8 – 12 Murrell Street (which address the street frontage on the southern façade), highlights full height blank walls to northern elevations of balconies and glazing to living areas setback from the balconies. Units of 8 – 12 Murrell Street are therefore unaffected shadows cast by the proposed development and will retain existing levels of solar access.

Analysis of the nearby school playground and shadow diagrams provided by the applicant has highlighted that the playground receives uninterrupted direct solar access until 2pm. At 3pm a larger portion of the playground is overshadowed. The extent of overshadowing to the neighbouring playground is compliant with the overshadowing controls listed above and ensures over 2 hours solar access between 9am to 3pm on 2 June. In the extent of overshadowing is considered to be unavoidable given the maximum permitted height limit and orientation of sites resulting from original subdivision. As outlined by the applicant predominant overshadowing only occurs at 3pm which is at, or close to, home-time for students and they are unlikely to be utilising the playground for breaks at this time. Impacts of overshadowing to school are therefore considered to be acceptable.

Residential Flat Buildings

The proposal has been assessed against the provisions of Chapter F – Part 5 Residential Flat Buildings. The development results in a variation to the requirements of DS6.1 and 6.2 which requires development to be sited to respond to:

- The requirements of the Apartment Design Guide
- Lot size and shape
- Good streetscape principles
- Provision of deep soil planting areas to provide a garden setting as viewed from the street
- The need for planting to screen and soften developments
- The need to provide an open and attractive outlook to new and existing dwellings, and to avoid an overbearing scale for neighbouring properties
- “Carriage style” development is not supported

Note: “Carriage style” development aligned down the site with principal orientation to side boundaries rather than the street. This form of development is out of character with established development in residential zones and tends to create problems in terms of privacy and outlook, irrespective of setbacks and screen planting

The current development results in non-compliances with the above requirements as it does not employ good streetscape principles, provision of deep soil landscaping when viewed from the street, results in an overbearing scale to the street (due to the proposals harsh interface with Murrell Street) and continues a carriage style development. The current proposal

represents a substantial re-development of the site and provides a rare opportunity to substantially improve/ re-enforce an emerging streetscape. This opportunity is one which will not be repeated within the immediate future and as such a high degree of emphasis to public domain, streetscape and urban design should be enforced. It is considered that the DCP controls outlined above should be strictly enforced and that the proposal be refused due to its non-compliance with controls and subsequent poor streetscape/urban design outcomes. A revised scheme which demonstrates compliance with the above controls should instead be explored, as this will ensure a substantial improvement and alignment with the emerging streetscape.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in the following way:

Streetscape

The proposal will result a distinct and lasting anomaly to the emerging streetscape (created by new buildings at 1 – 2 Murrell Street and 8 – 12 Murrell Street) and results in a harsh urban environment which may be readily fixed or improved under a revised scheme.

Urban Design

As noted by the AEP the overall strategy of adding 5 new levels above 4 existing levels is problematic and is expected to result in a lack of correlation/integration between the existing building and proposed additions and an inconsistency with the general character of the new works with the area.

5(f) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised and concerns regarding urban design and streetscape are resolved, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(g) Any submissions

The application was notified in accordance with Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer for a period of 28 days to surrounding properties. In response to the initial notification period Council received three (3) submissions. Following the submission of amended plans by the applicant Council proceeded to re-notify the amended proposal for an

additional 28 days. In response to this re-notification four (4) additional submission was received.

The submissions raised the following concerns which are discussed under the respective headings below:

Issue: Overshadowing

Comment: Impacts of overshadowing have been assessed above. The amended proposal does not significantly overshadow neighbouring residential properties and does not result in a non-complaint rate of overshadowing.

Issue: Impact to views/outlook

Comment: Submissions regarding view loss and loss of outlook have originated from the neighbouring 8 – 12 Murrell Street building. Council has on multiple occasions attempted to contact the parties which have raised these concerns in order to obtain further information regarding the areas of concern and if necessary undertake a view loss inspection. This correspondence has only been answered by one neighbour. Council has been therefore forced to undertake an assessment of potential impacts based off site inspections from this one neighbour and the approved plans for 8-12 Murrell Street. The submissions have included individual unit numbers and this has been correlated to approved plans of the building 8 – 12 Murrell Street. The analysis of the approved plans for the building 8 – 12 Murrell Street and the subject site has highlighted minimal opportunities for view loss.

One submission regarding view loss relates to a rear ground floor unit at 8 – 12 Murrell Street located towards the centre of 8 – 12 Murrell Street. This unit has a visual outlook towards 54 Brown Street and 1 – 2 Orchard Crescent. No sightlines to 1a Orchard Crescent are achievable from the unit as the development at 8 - 12 Murrell Street actively screens the subject site. This is best illustrated through figure 5 below. No view loss impacts to this unit will result from the current proposal.

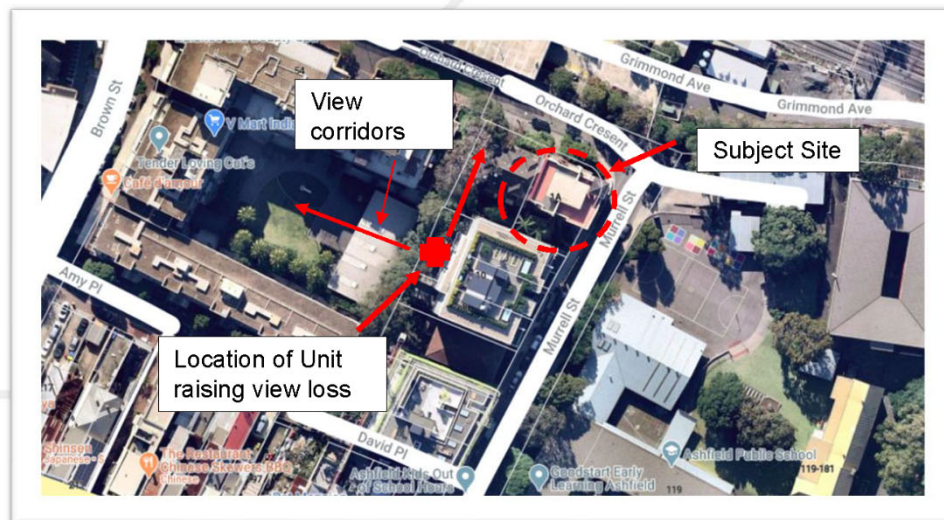


Figure 5 – Location of units raising view loss as a concern

The second submission raising view loss relates to a unit located upon level 7 of 8 – 12 Murrell Street and is also located towards the rear of 8-12 Murrell Street, this unit has a frontage towards 54 Brown Street and 1 – 2 Orchard Crescent. Sightlines obtained from this unit are also demonstrated within figure 5 above and detail that the primary orientation of this balcony is west facing. Council Officers were able to undertake a view loss inspection from this unit. Sightlines currently obtained from this view loss inspection are detailed below within figures 6 – 8. These pictures detail the sightlines obtained from the unit's balcony and confirm that the readily achievable sightlines are those which is detailed in figure 5 above. This unit is will not be impacted by view loss and will maintain the existing outlooks. In this instance views to the subject site (1A Orchard Crescent) are only obtainable by leaning over the balustrade and sustainably extending out to look north towards 1a Orchard Crescent.



Figure 6 – Views towards 54 Brown Street, as viewed from the balcony looking west



Figure 7 – Views towards 1 – 2 Orchard Crescent, as viewed from the balcony looking north



Figure 8 – Views towards 54 Brown Street, as viewed from the balcony looking northwest.
Note the site subject to development is to the north and is not visible from the balcony

Council officers have also considered potential view loss impacts for units facing Murrell Street as seen in figure 9 (below). The orientation of these unit is such that view/ outlook corridors are gained by looking east over Murrell Street and over the adjacent school. The new elements of the proposal (levels 4 – 7) at 1a Orchard Crescent have been appropriately designed incorporate an additional street setback and result in a setback similar to that enjoyed by 8 – 12 Murrell Street, therefore the proposal is will not block view/outlook corridors. Further analysis of the balconies of 8 -12 Murrell Street has also highlighted full height blank walls to northern elevations, as such residents of 8 – 12 Murrell Street are currently unable to obtain a view corridor directly to the north where this proposal is to be constructed. This unit will not be impacted by view loss from the current development.

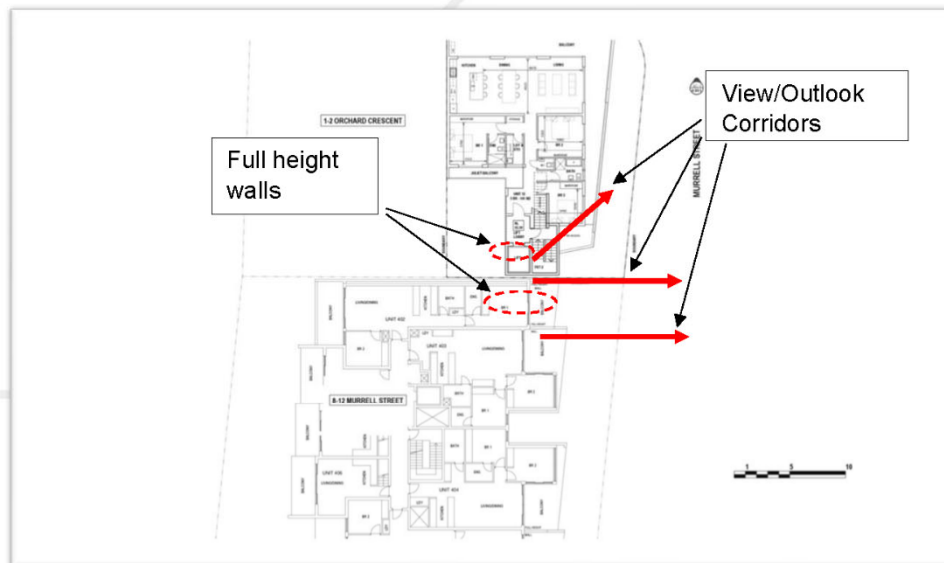


Figure 9 – Sightlines obtained from units facing Murrell Street.

Issue: Height of Building

Comment: The proposed height of building has been designed to align roughly with that of the neighbouring 8 – 12 Murrell Street and is compliant with the maximum overall building height expressed by the ALEP 2013. The proposed building is considered to be acceptable and in-line with that of the emerging streetscape.

Issue: Overdevelopment

Comment: The proposed development generally reflects the scale and density permitted by the ALEP 2013 and aligns with the usage, height and density permitted at neighbouring site 8 – 12 Murrell Street and 2 – 4 Murrell Street. The location of the site within the Ashfield Town Centre makes it a prime candidate for the proposed use and density. The proposal is not considered to be an overdevelopment and reflects the permissible built form for the locality.

Issue: Impact to property prices

Comment: Impact upon property prices is not a matter for consideration under the Environmental Planning and Assessment act 1979.

Issue: Establishment of a precedent

Comment: The proposed development is compliant with LEP controls for height and has been designed to be of a scale and density of that similar to neighbouring sites recently constructed or currently undergoing construction. The proposal will not establish a precedent with each application assessed on merit.

Issue: Traffic and Parking

Comment: Matters of traffic and parking have been reviewed and assessed above within the main body of the assessment report.

Issue: Damage to Neighbouring Buildings

Comment: Appropriate conditions regarding dilapidation reports and stability have been recommended for the consent should the application be approved.

5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is contrary to the public interest, due to the streetscape and urban design discussed within the report.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Architectural Excellence Panel (AEP) – Council's Architectural Excellence Panel reviewed the application against the principles of SEPP 65 and the Good Design Controls contained within the DCP. Following this review the AEP has outlined that the scheme has low architectural merit and should be refused. A full assessment and explanation of this referral can be found within the assessment section of this report.
- Environmental Health – The proposal was referred to Council's Environmental Health Team who outlined no objection to the proposal subject to the inclusion of suitable conditions of consent. These conditions include adoption of the recommendations made within the provided acoustic report and conditions regarding contaminated land.

- Resource Recovery - The proposal was referred to Council's Resource Recovery Team who outlined no objection to the proposal subject to the inclusion of suitable conditions of consent.
- Development Assessment Engineers - The proposal was referred to Council's Development Assessment Engineers who outlined no objection to the proposal subject to the inclusion of suitable conditions of consent.

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- Transport for NSW – The proposal has been referred to Sydney Trains under clause 85 – 87 of the Infrastructure SEPP. Transport for NSW has outlined no objection to the proposal subject to suitable conditions of consent. These conditions have been included in the recommended conditions of consent should the proposal be supported.
- Ausgrid – The proposal has been referred to Ausgrid under clause 45(2) of the State Environmental planning Policy (Infrastructure) 2007. Ausgrid have outlined no objection to the development application.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted.

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in *Ashfield Local Environmental Plan 2013 1* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The development will result in significant impacts on the streetscape and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.4 - Floor space ratio of the *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. 0102019000203.1 for Alteration and additions to residential flat building, increasing the building to 8 storeys in height at 1A Orchard Crescent ASHFIELD NSW 2131 for the following reasons.

Attachment A – Reasons For Refusal

The Inner West Local Planning Panel, as the responsible authority, hereby refuses Development Application No. 10.2019.203.01 for alteration and additions to residential flat building at 1a Orchard Crescent, Ashfield for the following reasons:

1. The proposal has not satisfactorily demonstrated compliance with Schedule 1 – Design Quality Principles as required by clause 30 (2) (a) & (b) of SEPP 65 – Design Quality of Residential Flat Buildings.
2. The proposal is inconsistent with the aims set out in clause 1.2(2) of the Ashfield Local Environmental Plan 2013 as the proposal does not enhance the amenity and quality of life for local communities, nor does it achieve a high quality form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of the subject locality.
3. The proposal is contrary to Performance Criteria PC6 of Chapter A, Part 2 of the Comprehensive Inner West Development Control Plan 2016 the proposal does not provide high quality amenity through physical, spatial and environmental design.
4. The proposal is contrary to Performance Criteria PC2 of Chapter F, Part 5 of the Comprehensive Inner West Development Control Plan 2016 the proposal does not respond to and contribute to its context or reinforce desirable elements of the established street and neighbourhood.
5. In accordance with Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development would have adverse environmental impacts on both the natural and built environments, and social and economic impacts in the locality.
6. Pursuant to the provisions of Section 4.15(1)(d)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposal would not be in the public interest.