



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA 2017/172
Address	2-4 Murrell Street, Ashfield Lot 6 in DP 956 & Lot 2 in DP 330882
Proposal	Demolition of existing structures, removal of trees, and construction of an 8 storey residential flat building comprising 39 units and 3 levels of basement car parking.
Date of Lodgement	22 September 2017
Applicant	CD Architects C/ - Ziad Chanine
Owner	Messers G D King & J S Huang
Number of Submissions	One
Value of works	\$10,659,458
Reason for determination at Planning Panel	Clause 4.6 variation/ Exceeds officer delegation
Main Issues	<ul style="list-style-type: none"> • Floor space ratio; • Visual Privacy/Building Separation; • Solar and daylight access; and • Site isolation
Recommendation	Approval

Location Plan	Legend
	<p>Subject Site</p> <p>Submission</p> <p>Notification Area</p>

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of existing structures, construction of an 8 storey residential flat building comprising 39 units with 3 levels of basement car parking at Nos. 2-4 Murrell Street, Ashfield. The application was notified to surrounding properties and one submission was received.

The main issues that have arisen from the application include:

- Floor space ratio;
- Visual privacy/building separation;
- Solar and daylight access; and
- Site isolation – No 6 Murrell Street.

The non-compliances are acceptable given a well-founded clause 4.6 variation to the development standard has been submitted and the unique siting and orientation of the building; accordingly the application is recommended for approval.

2. Proposal

The development application proposes to demolish the existing buildings and structures on the site and construct an 8 storey residential flat building comprising 39 units and three levels of basement car parking consisting of 47 car parking spaces, including 9 visitors' space.

The proposed unit mix for the development consists of:

- 14 x 1 bedrooms;
- 24 x 2 bedrooms; and
- 1 x 3 bedrooms.

Out of the proposed 39 units, six units are nominated for affordable housing. These units are 101, 102 and 104 on level 1; 202, 204 on level 2; and 304 on level 3.



Figure 1 – Front Murrell Street elevation and south-east perspective of the proposed development

The units are accessed by a centrally located lift and include balconies that face the front, rear and southern side boundaries.

Vehicular access and a separate pedestrian entry is proposed from Murrell Street.

Landscaped areas are proposed along the eastern, western and southern boundaries. A garbage storage room is proposed at the eastern side of property, fronting Murrell Street.

Two trees are proposed to be removed to facilitate the development.

3. Site Description

The subject site is located on the western side of Murrell Street, between Orchard Crescent and Liverpool Road. The site consists of two allotments and is generally rectangle shaped with a total combined area of 761.7m² and is legally described as Lot 6 in DP 956 & Lot 2 in DP 330882.

The combined site has a frontage to Murrell Street of 22.88 metres and is 33.76 metres in length.

The site currently contains a single storey brick dwelling house, secondary dwelling and a two storey unit building. The adjoining properties support high density residential uses towards the north, commercial/retail/business uses towards south and west, Ashfield Public School, Ashfield Boys High School and early learning on the eastern side of the site.

The site is located approximately 400m from the Ashfield Railway station and Ashfield Mall.

The subject site is located in close proximity to heritage listed items along Liverpool Road, namely:

- “shops with dwellings above” at Nos. 183, 187-191 Liverpool Road, Ashfield,
- “church and hall” at No. 180 Liverpool Road, and
- “club” at No. 182 Liverpool Road, Ashfield.

The following trees are located on the site and within the vicinity.

1	Eucalyptus saligna (Sydney Blue Gum)	On the adjacent property to west of boundary
2	Eucalyptus saligna (Sydney Blue Gum)	On the adjacent property to west of boundary
3	Howea forsteriana (Kentia Palm)	On subject site, on the western boundary
4	Cinnamomum camphora (Camphor laurel)	On subject site, on the western boundary

4. Background

4(a) Site history

The following applications outline the relevant development history of the subject site and relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
DA 2014/319	Dual occupancy	14/01/2015
DA 2012/60	Garden shed/outbuilding	05/04/2012
DA 2012/60/2	Modification to the development consent	07/08/2012
DA 1998/655	Front metal fence	22/01/1999
BA 1994/93	Additions to a dwelling	12/05/1994
BA 1966/5891	Alterations to a dwelling	06/06/1966
BA 1965/5583	Alterations to a dwelling	21/09/1965

Surrounding properties – 8-12 Murrell Street, Ashfield

Application	Proposal	Decision & Date
DA 2016/127	Demolition of existing structures and construction of an 8 storey residential flat building containing 42 dwellings above 3 basement levels of car parking *This development has been constructed	24/01/2017

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
25/09/2017	The subject application was lodged.
10/10/2017	The application was put on public notification.
18/01/2018	Request for additional information was sent to the applicant to address the following concerns: <ul style="list-style-type: none"> - isolation of adjoining site given the development on 8-12 Murrell Street; - streetscape; - 3m non habitable height limit; - no details of units allocated to affordable rental housing; - proposed 9 storey does not comply with the maximum 8 storey requirement; - floor to floor height for the ground floor and first floor; - front façade and communal open space; - main entry; - conflict with the G01 unit and lift; and - insufficient facilities provided on landscape plan.
02/02/2018 and 14/3/2018	Additional information received by Council addressing several of the above matters.
22/03/2018	Request for additional information was sent to the applicant to address the following concerns: <ul style="list-style-type: none"> - further information requested with relation to site isolation; - building separation and visual privacy; - private open space; - communal open space; - housing choice; - location of hydrant and substation; and - and minor inconsistencies and anomalies on the plans.
13/04/2018	Additional information was received addressing the concerns raised by Council.
11/05/2018	Request for additional information to address the following outstanding matters:

	- allocation of the affordable housing on the floor plans, including GFA; - revised landscape plan; and - a revised clause 4.6 variation statement.
18/05/2018	Additional information received including revised landscape plan, allocation of the affordable rental housing and a revised clause 4.6.
25/05/2018	Request for additional information was sent out to address waste storage area, fire hydrant location, materials and colour of the top two levels of the building.
29/05/2018, 1/6/2018	Additional information received including revised plans addressing waste storage area, fire hydrant location, materials and colours of the top two levels of the building.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 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 (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The following provides further discussion of the relevant issues:

5(a)(viii) 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. The application has been assessed against the requirements of SEPP 55. This Policy provides State-wide planning controls requiring that consent must not be granted to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

A search of Council's records and aerial images reveals that the property has been used exclusively for residential purposes with no record of any site contamination. Given this, the site would be suitable for the proposed use and no further assessment in relation to this SEPP is required. It is also noted that due to the age of the existing structures on site, there is potential for the existing building to contain asbestos. Appropriate conditions are included to require all asbestos to be removed from the site appropriately.

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 not require remediation in accordance with SEPP 55.

5(a)(ix) 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 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) and how the objectives in Parts 3 and 4 of the guide have been achieved.

The development is acceptable having regard to the nine design quality principles.

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 Comprehensive Inner West 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:

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

The proposed 5 to 7 stories of the development have a 6 metre building separation to the rear boundary 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. 1 Brown Street.

The existing development at No. 1 Brown Street is a four storey mixed use development, and the proposed 5 to 7 stories would only overlook into the roof of the adjoining development (as shown in the figure below). Although the proposed 5 to 7 stories of the building do not comply with the numerical requirement for separation; the proposal provides adequate separation for residential amenity.



Figure 1 – Relationship between subject site and No. 1 Brown Street development.

The non-compliance is unique to this site and 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.

The proposed development on the northern elevation (adjoining No. 6 Murrell Street) has nil separation. Given that this elevation has a blank wall, and therefore no separation is required. The proposed development has a building separation of nil – 0.8metre along the southern elevation, which adjoins a laneway (which is approximately 3.6 metres wide). All the windows on the southern elevation are designed as highlight windows apart for two windows on level 7 and 8 that come off a bedroom and a kitchen. A condition of consent has been recommended that these windows on level 7 and 8 on the southern elevation that are less than 1.5m above floor level must be permanently fixed and of obscure glass. This would ensure visual privacy for residents when the adjoining site on the south along Liverpool Road is redevelopment in the future.

The balconies on levels 3-6 on the southern elevation proposes a sliding laser cut screening. A condition of consent has been recommended that all balconies on levels 6 and 7 oriented towards the southern elevation are to provide sliding laser cut privacy screening. This will provide visual privacy between subject site and future development across the laneway sites. Also a condition of consent has been recommended that privacy screen be installed in between balconies of units G03, G02, G01, and 101, 102, 103, and 104, 105 and 201, 202, 203, and 204, 205, and 301, 302, 303, and 304, 305, and 401, 402, 403, and 404, 405, and 501, 502, 503, and 504, 505, and 601, 602, 603 and 704, 705, 706, 707 so there is no privacy conflict between these units.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment

The assessment revealed that the proposed development provides 70% of units' living rooms and private open spaces with a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.

The ADG further provides that not more than 15% (6 units) of units can receive no solar access to the living rooms of each unit in midwinter. The assessment revealed that the proposal does not comply with this requirement as 23% (9 units – 105, 204, 304, 404, 504, 205, 305, 405 and 505) do not receive any direct solar access between 9.00am and 3.00pm on the 21 June. The non-compliance is unique to this site as the site is orientated east west and the northern elevation is a blank wall. These units generally meet all the other provisions of the ADG with respect to unit size, layout, natural ventilation, private open space, floor to ceiling height and is considered that these units would still be provided with adequate amenity for future residents. In this regard, the variation to solar access is considered acceptable.

Furthermore it should be noted that the communal open space will achieve in excess of the minimum direct sunlight providing residents with an open space area with good levels of amenity.

Bicycle and Car Parking

Requirement	Proposal	Complies
Residential 0.6/1 br spaces = 7.2 spaces 0.9/2 br spaces = 22.5 spaces 1.4/3 br spaces = 1.4 Total = 31.1 spaces	38 spaces	Acceptable – see discussion below
Visitor 1/5 units = 7.8 spaces	9 spaces	Acceptable – see discussion below
Bicycle spaces – 5 + 5 (visitor) = 10 spaces	8 spaces	No – see discussion below
Motorbike spaces – 2 spaces	2 spaces	Yes
Adaptable car spaces – 5 spaces	5 (including 1 visitor)	Yes
Car wash bay	1 car wash bay provided	Yes

The Guide to Traffic Generating Development requires 31 car parking spaces for the proposed residential units, and 8 car parking spaces for visitor parking. The proposed development provides 38 car spaces for residential units and 9 spaces for visitor parking. The proposed car parking complies with the rates within the Comprehensive Inner West Development Control Plan. The application does not provide ten bicycle spaces, accordingly a condition of consent has been recommended that an additional two bicycle spaces are to be provided resulting in a total of 10 spaces. There is sufficient space within the basement for the additional two bicycle spaces.

One submission raises concerns with respect to unacceptable traffic from the proposed development. The applicant provided a Traffic and Parking Impact Assessment Report (TPIAR) prepared by Hemanote Consultants dated September 2017. The TPIAR estimates traffic generation of the existing site and proposed development using RMS data. The net traffic generation is estimated to be 6-8 vehicle trips in the am/pm peak hours and 61 daily vehicle trips, which would not have any noticeable or unacceptable effect on the road network serving the site in terms of road network capacity or traffic-related environmental effect.

Council's traffic assessment of the development concludes that traffic generation is not considered an issue for the proposed development. The proposal is considered acceptable subject to conditions.

Built Form, Streetscape and Heritage

The built form responds to density provision, the existing streetscape and design provisions within the ALEP 2013 and DCP 2016. The proportions, alignments and articulation provide an appropriate scale relationship between properties and create streetscape interest.

Council's heritage assessment raised no objections to the proposed development as the proposed external finishes would provide a variety in built form and blend with the existing developments in the street including heritage listed items.

The proposed development has external finishes of face brick on the first two storeys, stone cladding on the next 4 stories and render paint finish on the top two stories. However, a condition of consent has been recommended that the render paint finish on level 7 of the eastern elevation (front façade) of the development be same as level 8 which is 'Dulux natural white' so it's consistent with the southern and western elevations.

The application proposes a fire hydrant with brick enclosure in the front setback of the subject site. To reduce the bulk of this fire hydrant structure, a condition of consent has been recommended that the fire hydrant enclosure be made of light weight metal structure instead of brick. Furthermore, the fire hydrant enclosure door opens out on to Murrell Street. A condition of consent has been recommended that the entire fire hydrant structure is within the property boundary.

The proposal is acceptable in terms of its density scale and future built form anticipated in the B4 Mixed use zone.

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

A BASIX Certificate was submitted with the application, which indicates that the proposal meets the required reduction targets. An appropriate condition of consent will be imposed to ensure future compliance with these targets.

5(a)(xi) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

5(a)(xii) Ashfield Local Environment Plan 2013 (ALEP 2013)

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

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

Land is Zoned - B4 Mixed use

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

[illegible]

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 6 units (101, 102, 104, 202, 204, and 304) for affordable rental housing. They total 370m² which is 51.9% of the additional floor space (713.1m²) 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 24.8m 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 3.7:1 (2,839.5m²) 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

Under Clause 4.6 of the ALEP 2013, the consent authority may consider a variation, where that variation would achieve a better outcome.

As demonstrated in the table above, the proposed development fails to comply with the maximum floor space ratio development standard permitted under Clause 4.4 of the ALEP 2013. The area of non-compliance relates to an additional 7m building height provision under clause 4.3A – exception to maximum height of buildings in Ashfield town centre.

Clause 4.6(3) of the ALEP 2013 states the following:

“Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant has provided a written request that seeks to justify the proposed contravention of the floor space ratio development standard on the following grounds:

- The LEP has a number of clauses that seek to regulate bulk and scale by way of height and FSR controls. However, as a collective they are contradictory. The FSR control is clearly set at 3.0:1 with a matching height of building control of 23m, although a subsequent clause (4.3A) permits an additional 7m of height provided that 25% of the additional FSR is used for affordable housing.

By nature, any increase in height as per the bonus clause will generate additional gross floor area (GFA), immediately increasing the FSR of such a building. The controls of building height area automatically in content with the control of FSR, as clearly you cannot allow an increase in one without a corresponding increase in the other.

- Accordingly, compliance with the base FSR standard would be unreasonable when exercising the bonus height opportunity in clause 4.3A. This is particularly the case as the opportunity for additional height is not restricted by any further control to ensure that the relevant FSR standard is maintained.

- The proposed variation of the FSR control will not impact on any of environmental amenity criteria, such as overshadowing, privacy/overlooking, view loss, visual domination. The building is designed to achieve the required height controls and provide the required setbacks to all boundaries. It is therefore reasonable to expect that any shadow impact will remain commensurate with that anticipated within the planning controls for a compliance building.
- The building will “fit” within” its locational setting with surrounding sites once the regeneration and redevelopment of the Precinct is completed in accordance with the built form outcomes envisaged in DCP.
- As the height of the current proposal is below that permissible in the LEP, the building will meet the expected development outcomes and the desired future character of the area. The variation sought does not seek to enlarge the building beyond the relevant massing controls and height options within the LEP and thus the desired character is achieved with minimal environmental impact.
- All of the above benefits could be achieved by a smaller compliant development. However, such a proposal would be unlikely to provide the opportunity for affordable housing close to the Town Centre and may not be sufficient to sustain the upgrade of the built form and the capacity to provide residential variety. A compliant FSR would also reduce the building envelope, reducing the site’s orderly and economic land use potential and environmental capacity.
- In view of all of the above, compliance with the FSR standard within the LEP is considered to be unreasonable and unnecessary in the circumstances. If approved, the proposal (when built) will not be out of place with, nor detrimental to the amenity of its surroundings. It is also considered that the continued revitalised and improvement of the locality can only benefit the community.
- The proposed development represents a good fit with the aims of the LEP, the objectives of the FSR standard and the objectives of the zone.

Clause 4.6(4) of the ALEP 2013 states the following:

“Development consent must not be granted for a development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3)*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.”*

The proposal is consistent with the objectives of the development standard in that:

- The proposed development essentially 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.

- 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 protect the use and enjoyment of the adjoining properties and the public domain.
- The proposed development would not have adverse impacts on the adjoining heritage properties.
- The proposed development would maintain the visual relationship between the proposal and the existing character of the area.

The site is Zoned B4 Mixed Use under ALEP 2013 wherein development for the purposes Residential Flat Building is permissible with consent. The proposal is generally consistent with the objectives of the B4 Zone in that:

- The proposed development would provide residential accommodation including affordable housing.
- The proposed development is considered suitable as it integrates with the surrounding developments and is located in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- The proposed development would enhance the viability, vitality and amenity of Ashfield town centre.
- The proposed development would encourage the orderly and efficient development of land.
- The proposed development meets the objectivities of the FSR standard and the objectives of the zone.

“(b) the concurrence of the Secretary has been obtained.”

Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018.

In conclusion, the applicant’s written request to justify the contravention of the Floor Space Ratio development standard is considered to be well founded in that the applicant has satisfactorily demonstrated that compliance with the standard is unnecessary or unreasonable in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

5(b) Draft Environmental Planning Instruments

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

Draft Remediation of Land State Environmental Planning Policy (SEPP)

The intention of the draft Remediation of Land SEPP and draft planning guidelines is to replace the current SEPP No. 55 – Remediation of Land. The draft Policy was on public exhibition between 31 January and 13 April 2018. The Department of Planning and Environment is currently collating the submissions that were received during the exhibition period.

The subject property has been used exclusively for residential purposes with no record of any site contamination, accordingly no further consideration under this draft Policy is required.

Draft Environment SEPP

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Comprehensive Inner West Development Assessment Policy 2016.

Section 2 Chapter A	Compliance
Car parking Residential - min 1 space per dwelling = 39 spaces Visitor spaces - 1 space per 4 dwellings = 9.75 spaces	38 spaces – acceptable see ADG comments above 10 spaces (including a car wash bay) – acceptable
Section 2 Chapter D	Compliance
Maximum number of storeys – 6 storey + 2 storey (bonus)	Yes - 8 storey
Front setback – Main front face of the building is setback within 20% of that of the average of immediately adjoining properties	Yes – 3m
Section 2 Chapter F	Compliance
Side and rear setback	ADG prevails
Communal Open space	ADG prevails
Landscaping	ADG prevails
Maximum dwelling size	ADG prevails

The following provides discussion of the relevant issues:

Car parking

The proposed development provides 38 car spaces for residential units and 9 spaces for visitor parking, resulting in a shortfall of 1 car parking space. As discussed above, the Guide to Traffic Generating Development requires 31 car parking spaces for the proposed residential units, and 8 car parking spaces for visitor parking. Given that the proposed car parking meets the minimum required under the Guide to Traffic Generating Development, the shortfall in one car parking space is considered acceptable.

Tree and Vegetation Preservation

The proposed development would necessitate the removal of 2 trees (T3 & T4) from the site. None of these trees to be removed are identified as 'significant trees'. The application is

supported by an Arboricultural Assessment/Impact report prepared by Tree and Landscape Consultants dated 29 August 2017 that assesses existing trees as low in significance.

Council's assessment of the proposal included a detailed examination of the existing trees on site. It is considered that the removal of the trees is acceptable due to their low retention value.

Two trees located on the adjoining site have been identified as worthy of protection (trees T1 and T2). Accordingly, a condition of consent has been recommended for the protection of these trees.

The submitted landscape plan includes planting of trees incorporating a variety of groundcovers and low and tall shrubs. Subject to recommendation conditions for additional canopy tree planting, the submitted landscaping plan would increase the local tree canopy and contribute to the natural environment.

Stormwater Management

The development proposes to connect to Council's drainage system located in Murrell Street via a below ground on-site detention (OSD) system to control discharge of water from the site. The proposed development complies with the requirements within Section 2, Chapter A, Part 15 of the DCP. Council's engineering assessment concludes that the OSD system and the drainage system is satisfactory, subject to recommended conditions.

Site Isolation

Approval of the proposed development may result in No. 6 Murrell Street being isolated. No. 6 Murrell Street is situated in between the subject site and Nos. 8-12 Murrell Street which has been approved for an 8 storey residential flat building which has been constructed.

Whilst Council's controls does not provide any specific site amalgamation requirements, i.e. minimum lot size and/or minimum frontage requirement it is considered prudent to consider the planning principles of site isolation.

In *Karavellas v Sutherland Shire Council [2004] NSWLEC 251* consideration was given to the following questions when a site is to be isolated through redevelopment:

1. Is the amalgamation of the sites feasible?
2. Can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?

The following Land and Environment Court planning principles are to be applied in determining when answering the above questions:

- Negotiations for amalgamations of sites commenced early, prior to the lodgement of a development application,
- If negotiations were not successful, details of the negotiations, including at least one recent independent valuation (which considers the property as being part of a complying amalgamated site) and include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property, and
- Where it has been shown that reasonable efforts have been undertaken to facilitate amalgamation of the isolated properties, and where no resolution can be reached between the parties, applicants must include with their development application a plan of adjoining lots excluded from the amalgamation which shows a schematic design of how the site may be developed, for the orderly and economic development of the isolated site. This should include an envelope for that site, indicating height, building form, setbacks and separations (building and basement) sufficient to understand the

relationship between the proposed development and the isolated site and the streetscape implications.

The applicant sought to negotiate with the owners of No. 6 Murrell Street with the following offers:

- 3 units + cash (\$880,000 per unit + \$1,760,000 cash = Total \$4,400,000), or
- 5 units (\$880,000 per unit = \$4,400,000), or
- All cash - \$4,400,000.

Details of the attempts (including an email correspondence in May 2017 with offers and statutory declaration made by the applicant) to acquire No. 6 Murrell were submitted with the application. On 22 May 2017, the owners of No. 6 Murrell Street confirmed via email correspondence that they do not wish to sell their property.

The applicant has submitted a valuation report prepared by m3 property dated 6 April 2018, which values No. 6 Murrell Street as \$3,680,000 (exclusive of GST). Based on this valuation report, the amount of \$4,400,000 offered to the owner of No. 6 Murrell Street in May 2017 is considered to be reasonable.

The adjoining site at No. 6 Murrell Street has a 13.7 metre frontage and a total site area of approximately 457m². The applicant has submitted a concept plan demonstrating that No. 6 Murrell Street can be redeveloped for an 8 storey residential flat building comprising of 21 units equating to a GFA of approximately 1500m². The option put forward indicates that the development would have blank walls on the side elevations, with 2-3 units per floor with a small lobby and a lift to each floor. This redevelopment option relies on similar bonus building height provisions as the subject site. The proposed building separation would be similar to the adjoining developments. Below are schematics of the potential redevelopment of No. 6 Murrell Street provided by the applicant.

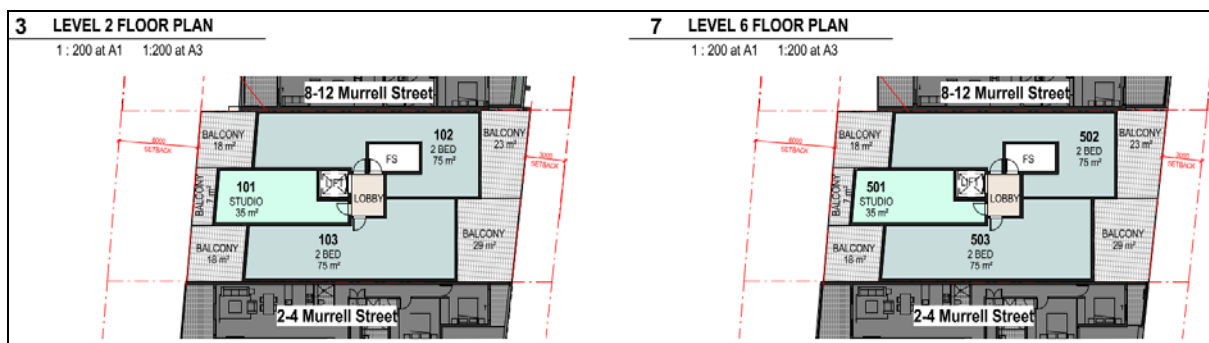


Figure 3 – Extract of typical floor layouts of No. 6 Murrell Street



Figure 4 – Extracts of No. 6 Murrell Street when viewed from the street



Figure 5 – 3D view of No. 6 Murrell Street when viewed from the street

Based on the above, the applicant has made reasonable attempts to acquire the adjoining site in accordance with the Land and Environment Court planning principles and the adjoining site is assessed as being capable of being orderly and economically redeveloped.

Waste Management

The proposal includes a waste management plan with details of waste management during the demolition phase and the construction phase of building works.

The application proposes garbage chutes and recycles bin rooms on each of the levels. A common garbage bin bay and bulky waste storage area is proposed to be located on the ground floor. Waste bins will be wheeled in and out for service on waste collection day.

Subject to conditions of consent, the proposed development is assessed as satisfactory with regard to on-going waste management operations on site.

5(d) The Likely Impacts

Section 4.15(1)(b) of the Act requires Council to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

Social Impacts

The residential development would improve housing choice and affordability in the locality by providing a range of house hold types. This is consistent with Eastern City district plan which identifies the need to provide a mix of housing options to meet future demographic needs in the Inner West Council LGA.

Furthermore, the application was referred to NSW Police Force and no objections were raised subject to crime prevention through environmental design conditions.

Economic Impacts

The proposal would have a minor positive impact on the local economy in conjunction with other new high density residential development in the locality by generating an increase in demand for local services.

The application was referred to Ausgrid and no objections were raised subject to conditions.

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

The site is zoned B4 Mixed use. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with Comprehensive Inner West Development Control Plan 2016 for a period of 21 days to surrounding properties. One submission was received raising a number of concerns which are addressed below:

Issue: Car parking issues

Comment: Council received one submission raising concerns with respect to car parking. It is considered that the car parking demand resulting from the proposed development would be accommodated within the proposed on-site parking spaces within the basement. Furthermore, the subject site has very good access to existing public transport services in the form of regular train and bus services. The proposal provides car parking spaces in accordance with the requirements of the Apartment Design Guide.

Issue: Noise

Comment: Council received one submission raising concerns with respect to noise impacts from the proposed development. A condition of consent has been recommended to reduce any adverse noise impact from the proposed development.

Issue: Dirt/dust/rubbish

Comment: Council received one submission raising concerns with respect to the generation of dirt, dust and rubbish from the proposed development. A condition of consent has been recommended that all works on site are to be managed in accordance with the Australian Standards and SafeWork NSW to manage all dirt, dust and rubbish during construction.

Issue: Construction hours

Comment: Council received one submission raising concerns with construction hours of the proposed development. A condition of consent has been recommended to restrict construction hours.

Issue: Behaviour of construction workers

Comment: Council received one submission raising concerns with respect to behaviour of construction workers. Standard conditions of consent will apply relating to construction management and construction hours.

Issue: Approval of 8-12 Murrell Street

Comment: Council received one submission raising concerns with respect to approved development at No. 8-12 Murrell Street. This application is for No.2-4 Murrell Street and therefore cannot comment on the approved development at Nos. 8-12 Murrell Street.

Issue: Demolition of existing dwellings

Comment: Council received one submission raising concerns with respect to demolition of existing dwellings. The existing dwellings on site are not a heritage item or in a heritage conservation area and therefore Council has no objection to the demolition of these dwellings. Furthermore, a condition of consent has been recommended to manage the demolition of the existing structures as per the Australian Standard and SafeWork NSW.

Issue: Traffic safety

Comment: Council received one submission raising concerns with respect to car parking. It is considered that the car parking demand resulting from the proposed development would be accommodated within the proposed on-site parking spaces within the basement. Furthermore, the subject site has very good access to existing public transport services in the form of regular train and bus services. The proposal provides car parking spaces in accordance with the requirements of the Apartment Design Guide.

Issue: Scale of the proposed development

Comment: Council received one submission raising concerns with respect to scale of the proposed development. The proposed development complies with the building height requirements and is considered acceptable.

5(g) 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 public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

The proposal is not 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.

- Heritage Officer
- Development Engineer
- Landscape
- Waste Management

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.

- Ausgrid
- Police

7. Section 7.11 Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$430,097.59 would be required for the development under Ashfield Section 94 Contributions Plan 2014, being for 39 residential accommodation made up of the following:

- Residential accommodation less than 60m² GFA – 14 units;
- Residential accommodation between 60-84m² GFA – 24 units; and
- Residential accommodation greater than 84m² GFA – 1 unit.

And credit for two existing dwellings.

A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development, Apartment Design Guide, Ashfield Local Environmental Plan 2013 and Comprehensive Inner West Development Control Plan 2016.

The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape.

The non-compliance with the FSR development standard has been adequately justified in the applicant's written request in accordance with Clause 4.6 Exceptions to Development Standards.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. That the variation to Clause 4.4 Floor Space Ratio of Ashfield Local Environmental Plan 2013 be supported under the provisions of Clause 4.6 exceptions to development standards.
- B. That the Panel, as the consent authority pursuant to 4.16 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No: 2017/172 for demolition of existing structures, removal of trees, and construction of 8 storey residential flat building comprising of 39 units and 3 levels of basement car parking at Nos. 2-4 Murrell Street, Ashfield subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS

DA 2017.172.1

2-4 Murrell Street ASHFIELD 2131

Description of Work as it is to appear on the determination:

Demolition of existing structures, removal of trees, and construction of 8 storey residential flat building comprising of 39 units and 3 levels of basement car parking.

A General Conditions**(1) Approved plans stamped by Council**

The development must be carried out only in accordance with the plans and specifications set out on drawing numbers prepared by and date stamped by Council and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

Approved Plans:

Drawing No.	Title/Description	Prepared by	Issue/Revision	Date
DA 1005	Site Plan	CD Architects	B	1/02/18
DA 1007	Demolition Plan	CD Architects	A	21/09/17
DA 1101	Basement 3	CD Architects	C	13/04/18
DA 1102	Basement 2	CD Architects	C	13/04/18
DA 1103	Basement Floor Plan	CD Architects	C	13/04/18
DA 1104	Ground Floor Plan	CD Architects	E	01/06/18
DA 1105	Level 1 Floor Plan	CD Architects	E	01/06/18
DA 1106	Level 2 Floor Plan	CD Architects	D	28/05/18
DA 1107	Level 3 Floor Plan	CD Architects	D	28/05/18
DA 1108	Level 4 Floor Plan	CD Architects	C	28/05/18
DA 1109	Level 5 Floor Plan	CD Architects	C	28/05/18
DA 1110	Level 6 Floor Plan	CD Architects	E	28/05/18
DA 1111	Level 7 Floor Plan	CD Architects	E	28/05/18
DA 1112	Roof Level Plan	CD Architects	C	28/05/18
DA 1113	Roof Plan	CD Architects	C	28/05/18
DA 2001	West Elevation	CD Architects	E	01/06/18
DA 2002	East Elevation & Entry close-up view	CD Architects	F	01/06/18
DA 2003	North Elevation	CD Architects	C	12/02/18
DA 2004	South Elevation	CD Architects	E	01/06/18
DA 3001	Section A & Front Courtyard Detail	CD Architects	E	01/06/18
DA 3002	Ramp Section & Ramp Section 2	CD Architects	B	01/02/18
DA 5001	Typical pre adaption unit & Typical post adaptation unit	CD Architects	A	21/09/17
DA 7025	Common Open	CD Architects	A	13/04/18

	Space			
D00	Cover Sheet, Legend & Drawing Schedule	Australian Consulting Engineers	B	31.08.17
D01	Basement 3 Stormwater Drainage Plan	Australian Consulting Engineers	B	31.08.17
D02	Basement 2 Stormwater Drainage Plan	Australian Consulting Engineers	B	31.08.17
D03	Basement 1 Stormwater Drainage Plan	Australian Consulting Engineers	B	31.08.17
D04	Ground Floor Stormwater Drainage Plan	Australian Consulting Engineers	C	18.09.17
D05	Stormwater Drainage Sections & Details 1	Australian Consulting Engineers	B	31.08.17
D06	Stormwater Drainage Sections and Details 2	Australian Consulting Engineers	B	31.08.17
D10	Erosion and Sediment Control Plan & Details	Australian Consulting Engineers	B	31.08.17
1692.GD.01	Landscape Plan – Ground Floor	Greenland Landscape Architects Design	B	29.01.18
1692.GD.02	Landscape Plan – Level 8	Greenland Landscape Architects Design	B	29.01.18
1692.GD.03	Landscape Details & Specification	Greenland Landscape Architects Design	B	29.01.18

Supporting Documents:

Title/Document	Prepared by	Issue/Revision	Date
Arboricultural Assessment/Impact Report	Tree and Landscape Consultants		29 August 2017
Acoustic Report – Environmental Noise Assessment	Acoustic Noise & Vibration Solutions P/L	Reference No. 2017-34	9 August 2017
Waste Management Plan	CD Architects	C	18/09/2017
Basix Certificate No. 847381M	Outsource Ideas p/l		20 September 2017

In the event of any inconsistency, the conditions of this consent shall prevail.

(2) Privacy

In order to preserve the privacy of adjoining properties, the following amendments are necessary:

- (a) Window panels on the southern elevation on levels 7 and 8 that are less than 1.5m above floor level must be permanently fixed and of obscure glass.
- (b) Sliding laser cut screens (same as on levels 1-5) are to be installed on the southern elevation balconies on levels 6 and 7.
- (c) To ensure, privacy between units, a light weight material privacy screen with a minimum height of 1.7m must be installed in between balconies of these units:
 - i. G03, G02, G01;
 - ii. 101, 102, 103;
 - iii. 104, 105;
 - iv. 201, 202, 203;
 - v. 204, 205;
 - vi. 301, 302, 303;
 - vii. 304, 305;
 - viii. 401, 402, 403;
 - ix. 404, 405;
 - x. 501, 502, 503;
 - xi. 504, 505;
 - xii. 601, 602, 603; and
 - xiii. 704, 705, 706, 707

Details of the above privacy measures are to be submitted with the application for a Construction Certificate.

(3) Amendments

- (a) The enclose of the fire hydrant structure and booster are to be of a light weight metal structure instead of brick.
- (b) The whole fire hydrant and its enclosure structure is to be located within the property boundary.
- (c) The render paint finish on level 7 of the eastern elevation (front façade) of the development must be of the same finish as level 8 – 'Dulux natural white'.

Amended plan is to be prepared and submitted with the application for a Construction Certificate.

(4) Compliance with BCA

All architectural drawings, specifications and related documentation shall comply with the Building Code of Australia (BCA). All work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(5) Waste – trackable

Removal of trackable waste (as defined by the NSW Environment Protection Authority) from the site must comply with the Protection of the Environment Operations (Waste) Regulation 2005 for the transportation, treatment and disposal of waste materials. Waste materials must not be disposed on land without permission of the land owner and must with the provisions of the *Protection of the Environment and Operations Act 1997*.

(6) Tree Removal

This development consent permits the removal of tree numbered T3 & T4 as identified on Arboricultural Assessment/Impact report prepared by Tree and Landscape Consultants dated 29 August 2017.

(7) Engineering staff to inspect roadworks/drainage/street tree planning

An inspection by Council's staff will be required for kerb & gutter, footpath, road pavement, and vehicle crossing works, at the following stages:

- (a) after excavation
- (b) after the erection of formwork and placement of reinforcement and prior to pouring of concrete
- (c) after placement of road base course
- (d) during construction of asphaltic concrete pavement layers
- (e) on completion of the works

A minimum of 48 hours notice shall be given to Council to obtain an inspection. Work shall not proceed until the works or activity covered by the inspection is approved.

(8) Materials and colour schemes

Materials of construction are to be as specified in the schedule of finishes submitted with the development application and on the approved plans, except where amended by the conditions hereunder.

(9) Police conditions

- (a) As the proposed development may be exposed to Break Enter and Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit television system (CCTV) which complies with the Australian Standard – Closed Circuit Television System (CCTV) AS:4806:2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti social or criminal behaviour. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation.
- (b) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise. Cameras should be strategically mounted at the entry and exit points to monitor unauthorised access and prevent opportunistic crime and anti-social behaviour, assaults etc. These areas should include but are not limited to:
 - i. Ramp for underground car park to cover vehicular access;
 - ii. Wide angle CCTV to cover bicycle/motorcycle parking as well as stairwell/life access;
 - iii. Entrance to office area/sign in sheet and lobby area; and
 - iv. Corridor for pedestrian access from Stuart Street
- (c) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis.
- (d) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site in order to prevent malicious damage and stealing during construction stage.
- (e) CCTV to be installed inside main foyer/ lobby, car park entry and exit points area with appropriate high definition quality to record for a minimum 14 days. Appropriate signage stating that these premises are under surveillance.

- (f) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours. Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.
- (g) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations. It also needs to be provided to assist occupants to identify fire suppression equipment, eg extinguishers, fire hoses etc.
- (h) Angle fire egress inlet walls 45 degrees or more to minimise the opportunities for entrapment, loitering and vandalism.
- (i) Bin holding room and other communal spaces should be kept in the area specified on the ground floor plan as it ensures they remain as the thoroughfare to the rear building. Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are unused or sporadically used after hours and unsupervised should not be accessible to the public.
- (j) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.
- (k) Bicycle parking areas should be located if practicable within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.
- (l) Convex mirrors should be utilised at the entrance of the underground carpark to increase the visibility of pedestrians to vehicles and vice versa.
- (m) Areas which are isolated, unused and maintained poorly become a breeding ground for anti social behaviour.
- (n) A Plan of Management document to be created and a condition on the DA to include the following: CCTV, security, alarms, minimise risk of anti-social behaviour and noise complaints by residents. This is to be endorsed by Burwood Police prior to implementation.
- (o) IMPORTANT: CCTV to be placed at all access points to the mail box areas, mail theft is an issue within Burwood Police area commands as well as other areas.
- (p) All access to the letter boxes should be by a key that can not be duplicated nor have a serial number on the front of the lock which advised possibly criminals of the master key number. Master keys are easy to obtain and will unlock ALL mail boxes with the aligning serial numbers.
- (q) Letterboxes should be, if practicable, accessed from internal means only. This reduces the risk of stealing or identity theft. If this is not possible letterboxes should have sturdy combination padlocks to minimise the risk of mail theft through master key.
- (r) Individual swipe card entry should be used as security for units, common areas and carpark to reduce the risk of stealing and break and enters. This will enable the ability for cards to be deactivated when a tenant vacates. It is suggested that swipe cards and combination locks are issued with a deposit bond eg \$50 which is to be refunded upon vacating the premises and returning the items. This reduces the risk of having keys copied and used at a later date by ex-tenants to access property.

- (s) Entry to underground carpark should have a roller door. This garage door should have the same swipe access to restrict unauthorised access and minimise the risk of steal from motor vehicles/bicycle theft. This will also minimise the opportunity for unauthorised parking by non tenants. The opening/closing mechanism of the door should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering. There should be a short phasing for the opening and closing of this roller door to prevent any unauthorised access.
- (t) Any sliding doors on balconies must be fitted with lockable bolts in the bottom and top of the door frame to minimise the risk of a break in.
- (u) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).
- (v) Police have concerns about whether emergency services have the ability to access the internal grounds of the site in an emergency. It is recommended that adequate directional signage/maps to be erected at all access points. Police suggest signage should include; an emergency contact number of the live-in manager for the purpose of emergency access and maps of the site, clearly outlining the building numbers and room number locations. This will greatly assist the residents and emergency services with their way finding throughout the site.
- (w) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime. These measures will assist in minimising the risk of unauthorised access and protect tenants and their property.
 - i. "Private Property" "Warning, trespassers will be prosecuted"
 - ii. "Do Not leave valuables in vehicles"
 - iii. "Warning, these premises are under electronic surveillance"
 - iv. "Secure bicycles"
 - v. "Do not proceed until gate is shut" "No tailgating"
- (x) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
- (y) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations 2000 Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
- (z) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations. It also needs to be provided to assist occupants to identify fire suppression equipment, eg extinguishers, fire hoses etc.
- (aa) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing

graffiti attacks is the quick removal of such material generally within 24 hours. Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.

- (bb) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens, poor lamp type could decrease the colour rendition of objects, vehicles or persons).
- (cc) The luminaries (light covers) should be designed to reduce opportunities for malicious damage/graffiti. Lighting within the development needs to be checked and maintained on a regular basis by the onsite manager.
- (dd) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- (ee) Sensor lighting to be used in underground car park during dark hours to work in conjunction with CCTV (incandescent, fluorescent or halogen lighting as colour rendition is more appropriate).
- (ff) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.
- (gg) It is not advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should NOT be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Solid steel housing and quality key locks should be used to prevent access.
- (hh) Police request that the management should provide Police and council with contact details of the managers and caretakers of the premises. These numbers should also be placed in the common areas and in the office areas. A contact number for external complaints by surrounding neighbours should be provided to nearby residents. This number could be placed on all entry points to the site.

B Conditions that must be satisfied prior to issuing/releasing a Construction Certificate

(10) Consolidation of allotments

The following properties Nos. 2 and 4 Murrell Street, Ashfield, Lot 6 in DP 956 and Lot 2 in DP 330882 are to be consolidated into one plan of consolidation prepared by a registered surveyor and six (6) paper copies are to be submitted to Council for signature prior to registration at the Land Titles Office (Land and Property Information NSW). Evidence of consolidation from the Land Titles Office shall be submitted to Council or the Principal Certifying Authority prior to the release of a Construction Certificate.

(11) Waste Management Plan

Prior to the issue of a Construction Certificate, the applicant shall prepare and submit a Waste Management Plan in accordance with the provisions of Ashfield Development Control Plan - Planning For Less Waste and the Waste Planning Guide for Development Applications (Planning for Less Waste, prepared by the Regional Waste Boards), including:

- (a) Estimations of quantities and type of materials to be reused, recycled or left over for removal from site;
- (b) Identification on a plan of on site material storage areas during construction, waste storage, recycling and composting areas;
- (c) Details of construction materials and methods to be used to minimise the production of waste in the completion of the new building work.
- (d) How waste is to be treated on the site.
- (e) How any residual non-reusable and non-recyclable waste is to be disposed of and including details of the approved waste disposal outlets where disposal will take place.

(12) Construction and Site Management Plan

Prior to the issue of a Construction Certificate the applicant shall submit to Council or the accredited certifier a construction and site management plan that clearly sets out the following:

- (a) what actions and works are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like,
- (b) the proposed method of loading and unloading excavation machines, building materials, formwork and the erection of any part of the structure within the site,
- (c) the 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,
- (d) how it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways,
- (e) the proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a chartered Civil Engineer or an accredited certifier.

Where it is proposed to:

- pump concrete from within a public road reserve or laneway, or
- stand a mobile crane within the public road reserve or laneway, or
- use part of Council's road/footpath area,
- pump stormwater from the site to Council's stormwater drains, or
- store waste and recycling containers, skip, bins, and/or building materials on part of Council's footpath or roadway,

An Activity Application for a construction zone, a pumping permit, an approval to stand a mobile crane or an application to pump water into a public road, together with the necessary fee shall be submitted to Council and approval obtained before a Construction Certificate is issued.

Note: A separate application to Council must be made for the enclosure of a public place (hoarding).

(13) Soil and Water Management Plan

Prior to the issue of a Construction Certificate, the applicant shall submit to and obtain approval from Council or the accredited certifier of a Soil and Water Management Plan and Statement which clearly identifies site features, constraints and soil types together with the nature of proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures and also rehabilitation techniques necessary to deal with such activities.

The Plan shall be compatible with any Construction and Site Management Plan and shall ensure the following objectives are achieved, namely:

- (a) to minimise the area of soils exposed at any one time
- (b) to conserve top soil
- (c) to identify and protect proposed stockpile locations
- (d) to preserve existing vegetation and identify revegetation techniques and materials
- (e) to prevent soil, sand, gravel, and any other sediment or spoil from leaving the site in an uncontrolled manner
- (f) to control surface water flows through the development construction site in a manner that:-
 - i. diverts clean run-off around disturbed areas
 - ii. minimises slope gradient and flow distance within disturbed areas.
 - iii. ensures surface run-off occurs at non-erodable velocities.
 - iv. ensures disturbed areas are promptly rehabilitated
- (g) to ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works.

The plan is to be prepared in accordance with *"Managing Urban Stormwater: Soils and Construction Manual"* prepared by NSW Department of Housing (1998).

(14) Erosion & sedimentation control-management plan

Prior to issue of a construction certificate the applicant shall prepare an erosion and sedimentation control plan in accordance with Part 4 of the guidelines titled *"Pollution Control Manual for Urban Stormwater"*, as recommended by the Environmental Protection Authority.

Any stormwater runoff collected from the site must be treated in accordance with the Guidelines, before discharge off the site to comply with the *Protection of the Environment Operations Act 1997* or other subsequent Acts.

Where sedimentation control basins are provided discharge shall be to the requirements of the Environmental Protection Authority.

Applicants are further advised to refer to the following publications for additional information:

- (a) *"Sedimentation and Erosion Control"* - Department of Conservation and Land Management.

- (b) “*Soil and Water Management for Urban Development*” - Department of Housing.

The plan must be submitted with the application for a construction certificate.

Further information may be obtained from:

Environment Protection Officer
Environment Protection Authority
Inner Sydney Region
Locked Bag 1502
BANKSTOWN NSW 2200

(15) Engineering, sediment control, stormwater and covenants bond

A bond of \$70,000 in the form of cash or bank guarantee shall be lodged prior to the release of the Construction Certificate. This bond covers:

- (a) road and stormwater drainage works in roadways and public areas.
- (b) connection to Council's stormwater drainage.
- (c) the installation and maintenance of sediment control measures for the duration of construction/demolition activities.
- (d) the final Work-As-Executed Plans complies with Council's *Stormwater Management Code*, all relevant Australian Standards and all DA Consent conditions.
- (e) the creation of the Positive Covenant - Restriction-As-To-User on the title.
- (f) all necessary Council inspections in regards to stormwater and roadworks are undertaken.
- (g) the release to Council of the approved Stormwater Construction Certificate plan.

(16) Damage deposit/footpath, road, kerb and gutter

A Damage Deposit of \$15,680 is to be submitted prior to the release of the Construction Certificate covering repair and/or replacement of adjoining footpath, road shoulder, road pavement, kerbing and guttering both outside the subject site and the surrounding area. This is to be paid to Council and may be refunded subject to satisfactory completion of construction or demolition.

This Damage Deposit covers unforeseen damage to the above property by construction vehicles, skip bins, construction methods etc. Note: Should repair works or maintenance be required on Council land, a Road Opening Permit must be obtained before those works take place.

Bank Guarantees are accepted in lieu of any Council security deposit/bond subject to the following:

It must be an original with no end date and issued in favour of Council, details of the proponent's address shall be included.

A charge equal to the value multiplied by the current “overdue rates interest charge” be levied, per month or part thereof, with a minimum charge of three months is to be paid upon lodgement.

Any remaining charge is to be calculated at the prevailing “overdue rates interest rate” for each month or part thereof beyond the original three months that the Bank Guarantee was held, and paid prior to its release.

Any costs incurred in the acceptance, administration or release of such Bank Guarantees be on-charged to the entity claiming the release of such Bank Guarantee, and that these amounts be paid prior to its release.

At the time of lodgement, Council will seek verification of the Bank Guarantee. Please provide contact details for the branch (phone number and officer) to assist with verification of the bona fides of the Bank Guarantee.

Until all items above are completed, no documents or usage sought from Council by the party lodging the Bank Guarantee can be issued. Please allow a minimum of 2 business days for this process.

(17) Long service levy

Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building of \$25,000.00 and over are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. Payments can be made at Long Service Payments Corporation offices or most Councils.

(18) Services and infrastructure adjustment/relocation

The applicant shall meet the full cost for Telstra, Sydney Water, Energy Australia, AGL Electricity/AGL Retail Energy or alternative service/energy providers to adjust/relocate their services/infrastructure as required. The applicant shall make the necessary arrangements with the relevant service authority or relevant retail energy company.

(For information on the location of services contact the “Dial before you Dig” service on 1100.)

Documentary evidence from the utility authorities/retail energy company confirming that all of their requirements have been satisfied shall be submitted to Council with the Construction Certificate.

(19) Driveway crossing fee

Council can construct the driveway crossing for a fee. Contact Council on 9382 5999 in order that a fee estimate can be sent to you for acceptance.

(20) Redundant crossing removal fee

Council will need to remove any redundant crossings and replace with kerbing and other ancillary works where necessary. Contact Council on 9392 5000 and you will be advised as to the estimate of cost of this work. **Note: Cost of this work to be borne by the applicant.**

(21) Lighting to basement/pedestrian routes-safety

Lighting which meets the relevant Australian Standard of 40 lux., spaced at appropriate intervals to provide the required surveillance shall be provided to the vehicular basement parking area and along pedestrian access routes for safety and security purposes during the evenings.

Details to be shown on the construction certificate.

(22) Car parking provision/layout

The following 47 off-street parking spaces are to be provided:

- a) 38 car spaces for residential units (including 5 spaces for the accessible/adaptable units); and
- b) 9 visitor car spaces.

Additionally 1 car wash bay, 10 bicycle spaces and 2 motorbike spaces are to be provided.

A total of 47 car spaces including 5 spaces for the accessible parking shall be provided and allocated in accordance with the provisions of AS2890.1, AS2890.2 and AS2890.6 and the requirements of Inner West Comprehensive Council's Development Control Plan 2016 for Access, Adaptability and Mobility (Phone 9392 5000 for a free copy).

Details to be shown on the application with the Construction Certificate.

Note: Minimum basement ceiling height above any parking spaces provided for people with disabilities is to be 2.6 metres.

(23) Access and services for people with a disability

Detailed plans drawn to the scale of 1:50 shall be submitted detailing compliance with the requirements of AS4299 and AS 1428 and the provisions of Part C1 – Access, Adaptability and Mobility, Inner West Comprehensive Development Control Plan 2016 prior to the issue of a Construction Certificate, and details of complying levels, ramp slopes, door widths, circulation spaces.

(24) Preparation of geotechnical report

To ensure that the structural integrity of the proposal and neighbouring buildings will be maintained, a full geotechnical report must be submitted to the Council or the PCA prior to the issue of a construction certificate and prior to the commencement of excavation works. The report must include an investigation of site and soil conditions as well as the proposed means of construction and must contain, where required, recommendations to ensure that excavation, backfilling and construction, including temporary works during construction, will not affect the structural integrity of neighbouring buildings or the structural stability of neighbouring public land, property or services. The report is to be prepared and certified by an appropriately qualified practicing geotechnical engineer.

All demolition, excavation, backfilling and construction must be undertaken in accordance with the recommendations of the geotechnical report.

(25) Ventilation

To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

- (a) *Building Code of Australia.*
- (b) AS 1668.1 - 1998.
- (c) AS 1668.2 - 1991.
- (d) *Public Health Amendment Regulation 2003*
- (e) *Public Health Act 1991*
- (f) SafeWork NSW.
- (g) AS/NZS 3666.1 - 2002.

Evidence from an appropriately qualified person certifying that these design requirements have been met shall accompany the application for the Construction Certificate.

(26) Water efficient irrigation system

The communal open space areas shall be provided with a water efficient irrigation system to enable effective landscape maintenance. Details shall be included with the landscape plan to be submitted with the Construction Certificate.

(27) Planter Boxes/ On slab planting

On slab planter boxes must include waterproofing, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric) automatic irrigation, minimum 500mm planting soil for shrubs and minimum 1000mm planting soil for trees and palms and 75mm mulch.

(28) Services adjustment or relocation

The applicant shall meet the full cost for Telstra, Sydney Electricity, Sydney Water or Natural Gas Company to adjust/relocate their services as required. The applicant shall make the necessary arrangements with the service authority. (For information on the location of these services contact the "Dial before you Dig" service on 1100.)

Documentary evidence from the public utility authorities confirming that all of their requirements have been satisfied shall be submitted to council with the Construction Certificate under Section 68 of the *Local Government Act, 1993*, for construction of the development

(29) Footpath/laneway – photographs to be submitted

Prior to the release of the Construction Certificate, the applicant shall lodge with Council photographs of the roadway, footpath and/or laneway at the property indicating the state of the relevant pavements. At the completion of construction, again at the expense of the applicant, a new set of photographs is to be taken to determine the extent, if any, of any damage which has occurred to the relevant pavements. If any damage has occurred, the applicant shall meet the full cost to repair or reconstruct these damaged areas to Council's relevant standard. Failure to do this shall result in the applicant being held accountable for the cost of all repairs in the area near/at the site.

(30) Driveway details approval – PCA

Proposed internal driveway grate and longitudinal section details shall be submitted to the Principal Certifying Authority in conjunction with the application for approval of the Construction Certificate. In particular, the driveway ramp from internal and across the footpath to Murrell Street, shall be checked for clearances at changes of grade and vertical height, in accordance with AS 2890.1-2004, and any amendments implemented.

(31) Public Liability Insurance – Works on Council/public lands

The applicant or any contractors carrying out approved works on public or Council controlled lands with consent shall have public liability insurance cover to the value of \$20m and shall provide proof of such cover to the principal certifying authority prior to carrying out the works and annually for the period of time for which works are being carried out on Council or public lands.

(32) Section 94 Development Contributions

In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the Ashfield Council Development Contributions Plan, the following monetary contributions shall be paid to Council Prior to issue of a Construction Certificate to cater for the increased demand for community infrastructure resulting from the development:

Community Infrastructure Type	Contribution
Local Roads	\$12,270.66
Local Public Transport Facilities	\$22,292.66
Local Car Parking Facilities	\$0.00
Local Open Space and Recreation Facilities	\$358,828.23
Local Community Facilities	\$18,894.03
Plan Preparation and Administration	\$17,812.01
TOTAL	\$430,097.59

Being for 39 residential accommodation made up of the following:

- Residential accommodation less than 60m² GFA – 14 units;
- Residential accommodation between 60-84m² GFA – 24 units;
- Residential accommodation greater than 84m² GFA – 1 unit;

And credit for two existing dwellings.

If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Ashfield Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\text{\$C}_c = \frac{\text{\$C}_p \times \text{CPI}_c}{\text{CPI}_p}$$

Where:

\\$ C_c is the amount of the contribution for the current financial quarter

\\$ C_p is the amount of the original contribution as set out in this development consent

CPI_c is the Consumer Price Index (Sydney – All Groups) for the current financial quarter as published by the ABS.

CPI_p is the Consumer Price Index for the financial quarter at the time of the original consent.

Prior to payment of the above contributions, the applicant is advised to contact Council's Planning Division on 9392 5000. Payment may be made by cash, money order or bank cheque.

Council's Development Contributions Plan may be viewed at www.innerwest.nsw.gov.au or a copy may be inspected at Council's Administration Centre.

(33) Permits - General

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall 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
- 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.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

(34) Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) is to be prepared by an appropriately qualified Traffic Management Consultant and submitted to and approved by Council's Engineering Section, prior to the commencement of any works including demolition.

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.

(35) SEPP 65 – Design Verification

Prior to release of the Construction Certificate design verification is required to be submitted from the original designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No – 65 Design Quality of Residential Flat Building Development.

(36) Allocation of Resident Storage Areas

Storage areas are to be allocated internally to each unit to comply with the SEPP 65, 6m³ (Min) for 1 bedroom unit, 8m³ (Min) for two bedroom units and 10 m³ (Min) for 3 bedroom units. 50% is to be accessible from the apartments.

(37) Pedestrian Access Management Plan

A Pedestrian Access Management Plan (PAMP) detailing how pedestrian movements will be changed and managed during various stages of development, particularly during any partial or total closure of footpaths on Murrell Street. Council will review the PAMP, agree any modifications with the proponent and enforce the PAMP during construction.

C Conditions that must be complied with before work commences

(38) Notice of Commencement – Notification of Works

Work must not commence until the Principal Certifying Authority or the person having the benefit of the development consent has given Notification in Writing to Council no later than two days before the building work commences.

(39) Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* the erection of a building and/or construction works must not commence until:

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or

- (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

The documentation required under this condition shall show that the proposal complies with all development consent conditions and the Building Code of Australia.

Note: If the principal certifying authority is the Council, the appointment will be subject to the payment of a fee for the service to cover the cost of undertaking building work and / or civil engineering inspections.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the Environmental Planning & Assessment Act 1979. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

(40) Inspections required by Principal Certifying Authority

Inspections shall be carried out at different stages of construction by Council or an accredited certifier. If Council is selected as the Principal Certifying Authority (PCA) the inspection fees must be paid for in advance which will be calculated at the rate applicable at the time of payment.

(41) Sanitary facilities - demolition/construction sites

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

(42) Layout of buildings

The layout of all external walls, including retaining walls and contiguous piling must be checked and verified by survey prior to the commencement of construction to ensure that building construction complies with the development consent and does not encroach beyond the boundaries of the site.

(43) Building location - check survey certificate

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Principal Certifying Authority either prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, indicating the: -

- (i) location of the building with respect to the boundaries of the site;
- (ii) level of the floor in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum);
- (iii) site coverage of the buildings on the site.

(44) Crane permit

Should the applicant need to use a crane during the course of building, it will be necessary to first obtain a "Crane Permit" from Council. The approval of other authorities (eg Police Department, RTA) may be required for the use of a crane.

(45) Protection of public places - erection or demolition of building

- (a) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or involves the enclosure of a public place; a hoarding or fence must be erected between the work site and the public place.
- (b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (d) Any such hoarding, fence or awning is to be erected prior to works commencing and only with Council approval in accordance with SafeWork requirements. The temporary structures are to be removed when the work has been completed.

(46) Site fencing/security

The site must be appropriately secured and fenced to the satisfaction of Council during demolition, excavation and construction work to ensure there are no unacceptable impacts on the amenity of adjoining properties. Permits for hoardings and or scaffolding on Council land must be obtained and clearly displayed on site.

(47) Dilapidation Reports

A Dilapidation Report on the current structural condition of the existing buildings at No. 6 Murrell Street, Ashfield and No. 1 Brown Street, Ashfield must be prepared by a practicing structural engineer. The Dilapidation Report must be completed and submitted to the owner of the subject property and to Council prior to the commencement of any demolition, excavation or construction works. At the completion of the works, a second Dilapidation Report recording the structural condition must be prepared. That Report must be submitted to the owner of the subject property and to Council.

(48) Support for neighbouring buildings and notice to adjoining owners

- (a) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - i. Must preserve and protect the building from damage, and
 - ii. If necessary, must underpin and support the building in an approved manner, and
 - iii. Must 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.
- (b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Notes:

- (i) Details of underpinning works, prepared and certified by a practicing structural engineer shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works.
- (ii) allotment of land includes a public road and any other public place.

(49) Demolition work plan

Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

(50) Asbestos sheeting removal - EPA/SafeWork NSW

Asbestos removal is to be carried prior to principal works commencing in accordance with Environmental Protection Authority and SafeWork NSW requirements. Proper procedures shall be employed in the handling and removal of asbestos and products containing asbestos so as to minimise the risk to personnel and the escape of asbestos particles in the atmosphere. Work is only to be carried out with the prior consent of the SafeWork NSW.

Note: There are substantial penalties for non-compliance with the above requirements.

(51) Asbestos and/or lead removal certification

The existing structures/land on the site potentially contain asbestos and/or lead. Following removal of any asbestos/lead located on site a clearance must be provided to the Principal Certifying Authority certifying that no such asbestos/lead remains on site from a suitably qualified person.

A copy of the clearance Certificate must be forwarded to Council before any other demolition work is commenced.

(52) Sydney Water approval

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre 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. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site: www.sydneywater.com.au, see Your Business then Building & Developing then Building & Renovating or telephone Sydney Water 13 20 92.

(53) Works zone application to Council - construction vehicles

The applicant is to apply to Council for a "works zone" along the site frontages for construction vehicles prior to work commencing. Contact Council's One Stop Shop for details and the fee you need to pay, telephone 9392 5000.

Note: A minimum of 2 months notice to Council is required.

(54) Structural Engineering Details

Structural engineer's details prepared and certified by a practising structural engineer for all reinforced concrete and structural members is to be submitted to the Principal Certifying Authority for approval with the Construction Certificate.

D Conditions that must be complied with during construction or demolition**(55) Tree Protection Measures**

Tree protection measures must be erected around the trees to be retained in accordance with the Recommendation in Section 5 of the submitted Arboricultural Assessment/Impact report prepared by Tree and Landscape Consultants dated 29 August 2017.

(56) Footpath, kerb and gutter protection

The applicant shall take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Pedestrian access across this footpath shall be maintained in good order at all times during work. Any damage caused will be made good by Council at Council's restoration rates, at the applicant's expense.

(57) Road opening permit – Council controlled lands

A road opening permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Engineering Services for details.

This road opening permit covers the direct costs involved in the repair/replacement of works where the public or Council controlled lands are specifically damaged/saw cut etc for the construction of services, stormwater pipes, kerb works, bitumen works, footpath works etc. It is separate from a Damage Deposit as listed elsewhere in these Conditions of Consent.

(58) Building materials and equipment - storage/placement on footpath/roadway - Council approval

All building materials and equipment shall be stored wholly within the property boundaries and shall not be placed on the footpath, grass verge or roadway without prior written approval of Council.

Bulk refuse bins shall not be placed on the grass verge, footpath or roadway without Council permission. Application forms and details of applicable fees are available from Council.

(59) Site vehicles – mud/debris

You are to ensure that all vehicles leaving the site are free of mud and debris. Loads are to be fully covered and vehicles/wheels washed down to ensure that no nuisance occurs.

(60) Road and footpath – safety and access requirements

The contractor is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Heavy vehicles entering and leaving the site must only cross the footpath where it is adequately timbered and strapped. Pedestrian access across this footpath must be maintained in good order at all times during the work. Any damage caused must be made good by Council at Council's restoration rates, at the applicant's or builder's expense.

(61) Underground services and electrical sub-station

All electrical and telephone services to the subject property must be placed underground. If an electrical sub-station is required, it must be situated within the boundaries of the subject

property and suitably screened. Details of the sub-station is to be submitted into Council for approval.

(62) Plans to be available on site

The Council stamped approved plans, Development Consent and Construction Certificate shall be held on site to be produced unobliterated to Council's officer at any time when required.

(63) Building construction - check survey

A check survey is to be submitted to the Principal Certifying Authority for perusal at an early stage of construction indicating excavated levels, boundary distances, site coverage and building alignment to ensure compliance with the approved plans.

(64) Locate structures within boundaries

The proposed structure(s) to be erected must stand wholly within the boundaries of the allotment.

(65) Storage of building materials

Building materials and spoil are to be located wholly on site and not placed in a position that may result in materials being washed onto the roadway or into the stormwater system.

(66) Roof water, surface and subsoil drainage

Roofwater, surface and subsoil drainage shall be piped to the street gutter or to an easement – absorption pits are not acceptable and are not approved.

(67) Signs to be erected on building and demolition sites

- (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name and address of the contractor for the building work and the person in charge of the work site and a telephone number at which the person may be contacted outside working hours; and
 - (c) showing the name, address and telephone number of the Principal Certifying Authority appointed for the building works.
- (2) Any-sign shall be maintained and not removed until work has been finished.

(68) Waste Management Plan – compliance

- (a) All requirements of the approved Waste Management Plan must be implemented during the demolition and/or excavation and construction period of the development. Adequate measures need to be in place to ensure the ongoing waste management of the site.
- (b) Keep receipts of where waste will be taken to be treated or disposed. The receipts must be presented to the Principal Certifying Authority prior to issue of the occupation certificate.

(69) Demolition/excavation/construction - hours of work

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

- (a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- (b) 8:00 am to 1:00 pm 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 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 shall be limited to:

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

The Proponent shall not undertake such activities for more than three continuous hours and shall 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.

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.

(70) Demolition/excavation/construction - noise - Protection of the Environment Operations Act 1997

Noise arising from demolition/excavation/construction works shall be controlled in accordance with the requirements of *Protection of the Environment Operations Act 1997* and guidelines currently contained in the *NSW EPA Environmental Noise Control Manual*.

(71) Demolition requirements/standards

Demolition of existing building and structures is to be carried out in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the SafeWork NSW.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.

- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the Work Cover Authority.
- (e) All other materials and debris is to be removed from the site and disposed of to approved outlets.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:
- (g) Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- (h) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.
- (i) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory Protective Devices and shall adopt work practices in accordance with SafeWork NSW Requirements (in particular the SafeWork NSW standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).
- (j) Any existing accumulations of dust (eg; ceiling voids and wall cavities must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.
- (k) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not be allowed to enter the street gutter and stormwater systems.
- (l) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.
- (m) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (n) Construction and demolition waste, particularly timber, bricks and tiles, concrete and other materials need not be disposed of- they can be recycled and resold if segregated properly from any hazardous waste contamination.
- (o) Following demolition activities, soil must be tested by a person with suitable expertise to ensure the soil lead levels are below acceptable health criteria for residential areas. Full certification is to be provided for approval by the Principal Certifying Authority.

(72) Road and footpath – safety and access requirements

The contractor is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Heavy vehicles entering and leaving the site must only cross the footpath where it is adequately timbered and strapped. Pedestrian access across this footpath must be

maintained in good order at all times during the work. Any damage caused must be made good by Council at Council's restoration rates, at the applicant's or builder's expense.

(73) Redundant vehicle crossings – removal and replacement

All redundant vehicular crossings shall be removed and replaced with concrete footpath, sandstone kerb and concrete gutter at no cost to Council at the applicant's expense.

(74) Road opening permit – Council controlled lands

A road opening permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Engineering Services for details.

This road opening permit covers the direct costs involved in the repair/replacement of works where the public or Council controlled lands are specifically damaged/saw cut etc for the construction of services, stormwater pipes, kerb works, bitumen works, footpath works etc. It is separate from a Damage Deposit as listed elsewhere in these Conditions of Consent.

(75) Surface run-off

Allowance shall be made for surface run-off from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other properties.

(76) Advertisements on hoardings prohibited

No advertisements of any kind shall be affixed to the hoarding except a board which may show the builder's or architect's name or any particulars regarding the subject building.

E Conditions that must be complied with prior to installation of services

F Conditions that must be complied with before the building is occupied

(77) Approval to use/occupy building

The building or any part thereof must not be used or occupied until an Occupation Certificate has been obtained from the Principal Certifying Authority.

Note: If Council is chosen as the Principal Certifying Authority a fee is applicable prior to the release of the Construction Certificate.

(78) Final Site Inspection

Prior the issue of the Occupation Certificate, a final site inspection relating to the public area shall be arranged by the applicant, and shall be undertaken by the applicant's supervising engineer and Council's authorised officer. The purpose of the inspection is to ensure that notwithstanding the submission of any certifications required by an approval that all impacts within the public area from the development have been satisfactorily addressed. A fee is payable for this inspection.

(79) Acoustic Certification

A certificate shall be submitted to Council prior to occupation confirming that the building has been constructed in accordance with the recommendations outlined in the acoustic report prepared by Acoustic Noise & Vibration Solutions P/L dated 9/8/2017.

(80) Sydney Water - Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then follow the "e-Developer" icon or telephone Sydney Water 13 20 92 for assistance.

Following application, a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of an occupation certificate.

(81) Stormwater detention storage facility

- (a) The system as detailed on the submitted Plans D00 (Issue B), D01 (Issue B), D02 (Issue B), D03 (Issue B), D04 (Issue C), D05 (Issue B), and D06 (Issue B), are acceptable but any variations shall be in accordance with Council's Stormwater Management Code.
- (b) The grates in the proposed OSD pit shall be placed at a level so that any surcharge, flows to the street gutter and NOT into the Basement.
- (c) The proposed discharge pipe within Murrell Street shall be constructed at the applicants full cost and be subject to the following conditions:
 - i. The proposed pits in the gutter of Murrell Street shall be constructed as per Council Standard Plan but with a standard hot dipped galvanised grate within the gutter and layback (Butterfly grate).
 - ii. The proposed stormwater pipe along Murrell Street, shall be laid clear of the existing gutter and the road restored in accordance with Council Standard Plan D7 (Flexible Pavement).
 - iii. This work shall be satisfactorily completed prior to the release of the Occupation Certificate,
 - iv. On completion of the development construction and prior to prior to the release of the Occupation Certificate, a CCTV survey and report shall be submitted to the Council Development Engineer to ascertain the condition of this pipeline. Any damage shall be repaired by the applicant to Council's requirements and satisfaction. Once any damage has been repaired to Council requirements, a further CCTV survey and report shall be submitted to Council for further consideration.

(82) Requirement for a Compliance certificate

A Compliance Certificate must be issued prior to the issue of an Occupation Certificate certifying that the development has been built and completed in accordance with the development consent and that all the conditions of development consent have been satisfied.

(83) Positive Covenant – stormwater detention/surface flow paths - occupation certificate

A Positive Covenant under Section 88E of the Conveyancing Act shall be created on the title of the property providing that during the lifetime of the building constructed pursuant to this consent:

- (a) the stormwater detention facility as described in the approved plan and the conditions of consent shall not be altered or removed in whole or in part without the written approval of Inner West Council;
- (b) the registered proprietor at its expense is to maintain, renew and repair the stormwater detention facility so that it functions in a safe and efficient manner and keep it clean and free of silt, rubbish and debris;
- (c) Inner West Council employees are to be entitled upon reasonable notice to access the land to inspect the facility;
- (d) the registered proprietor is to comply with any notices issued by Inner West Council regarding maintenance, renewal and repair of works (and, in default of same, Council and/or its authorised agents may enter and carry out the specified work and recover the costs from the registered proprietor);
- (e) the registered proprietor shall not modify or permit modification of finished ground and/or pavement levels within the flow path in whole or in part without the written approval of Inner West Council; and
- (f) the registered proprietor shall ensure that at all times the stormwater surface flow path is kept unobstructed by fences or any physical structures or barriers.

The wording in the Instrument shall be submitted to and approved by Inner West Council prior to lodgement at the Department of Lands (Land and Property Information) and prior to the release of the Occupation Certificate. The Instrument shall be registered prior to the completion of development.

In order to ensure that the on-site detention system is properly maintained the owner of the site shall each year provide Council with a Certificate from a practicing civil engineer stating that the on-site detention system is functioning correctly and has not been compromised in any manner.

(84) Engineering conditions to be satisfied prior to issue of occupation certificate

When the on-site building works are completed there are three (3) conditions that must be satisfied before Council's Engineering Department will recommend that an Occupation Certificate be issued:

They are:

(a) *Work-As-Executed Plans*

A "Work-as-Executed" plan prepared and signed by a registered surveyor is to be submitted to Council's Engineering Department at the completion of the works showing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its connection to Council's drainage system, is to be shown together with the following information:

- location
- pipe diameter
- gradient
- pipe material ie. PVC or EW etc
- orifice size (if used)
- trash screen at orifice

(b) *Engineer's Certificate*

A qualified practising Civil Engineer shall certify on the completion of drainage works in respect of:

- * the soundness of the storage structure;
- * capacity of the detention storage;
- * the emergency overflow system being in place;
- * works being constructed in accordance with the Council approved plans; and
- * the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's *Stormwater Management Code*.

(c) *Restriction-As-To-User*

Prior to the release of the strata or subdivision plan for a development a "Restriction-as-to-User" is to be placed on the title of the subject property to indicate the location and dimensions of the detention area. This is to ensure that any works which could affect the function of the stormwater detention system shall not be carried out without the prior consent in writing of the Council.

Such restrictions shall not be released, varied or modified without the consent of the Council.

(85) Driveways, parking and service areas - PCA

A qualified practicing Civil or Structural engineer shall certify to the Principal Certifying Authority that driveways, parking and services areas have been constructed in accordance with approved specifications. Such certification shall be submitted prior to occupation of the building.

(86) Sign posting/line-marking - access/car parking

The direction of traffic flow and off-street car parking spaces are to be signposted/line-marked on site prior to occupation of the building.

(87) Parking area surfacing - PCA approval

The parking areas are to be constructed in a suitable all-weather surface and drained to the requirements of the Principal Certifying Authority. Such work to be carried out prior to occupation.

Full details in this regard are to be incorporated in the submitted plans.

(88) Landscaping completion

All site works and landscaping are to be carried out in accordance with the approved landscaping plans prior to the issue of the occupation certificate.

(89) Road Alignment Levels

The existing levels of the footpath at the fence/lot boundary shall be maintained.

(90) Reconstruction of kerb and gutter

The existing kerb and gutter for the full frontage of the development shall be reconstructed, at the applicant's full cost, with 150mm kerb height, concrete kerb and gutter to Councils Standard Plan R1 (Integral kerb and gutter), with the lip of gutter matching the existing road surface, and a smooth longitudinal profile. Any redundant laybacks shall be replaced with kerb and gutter.

Detailed design plans shall be prepared by an experienced road designer and submitted to Council's Development Engineer for review and ultimate approval.

This work shall be carried out prior to the release of the Occupation Certificate.

(91) Vehicle crossings

- (a) At the proposed vehicle entry off Murrell Street, a full width reinforced concrete vehicular footpath crossing (6.1m wide plus wings and 150mm thick) shall be constructed, at the applicant's full cost, in accordance with Council Standard Plan R2, with the layback and vehicle crossing being integral. This work shall be carried out prior to the release of the Occupation Certificate.
- (b) The existing vehicle crossing and layback/gutter to the adjoining Lane shall be reconstructed with a full width reinforced concrete vehicular footpath crossing (150mm thick) at the applicant's full cost, in accordance with Council Standard Plan R2, with the layback and vehicle crossing being integral. This work shall be carried out prior to the release of the Occupation Certificate.

(92) Reconstruction of adjoining lane

The road pavement of the Lane over the full length of development shall be reconstructed, at the applicants full cost, to the following standard:-

- (a) 220mm full depth asphaltic concrete, consisting of 30mm- AC10 (surface course), 50mm AC20, and 150mm AC40 (base layer, laid by grader, NOT by a paver). No road base under the asphaltic concrete is required. Existing level shall be matched.
- (b) This work shall be carried out in accordance with Council's Specification and shall be completed after the major building construction works are completed (ie when the building is undergoing fit out and any site crane has been removed).
- (c) This work shall be carried out prior to the release of the Occupation Certificate.

(93) Street Numbering

All units are to be numbered consecutively commencing at No.1. The strata plan lot number is to coincide with the unit number, e.g Unit 1 = Lot 1. The allocated of unit numbering must be authorised by Council prior to the numbering of each units in the development. The authorised numbers are required to be displayed in a clear manner at or near the main entrance to each premise.

(94) Affordable housing Restriction

Before the date of the issue of the 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:

For 10 years from the date of the issue of the occupation certificate:

- (a) Units 101, 102, 104, 202, 204 and 304 must be used for the purposes of affordable housing, and
- (b) those units are to be managed by a registered community housing provider.

(95) Carparking

- (a) All car spaces shall be allocated and marked according to this requirement.
- (b) If the development is to be strata subdivided, the car park layout must reflect the above allocation and thereafter be regarded as part of the entitlement of that strata lot.
- (c) Under no circumstances shall parking spaces be sold, let or otherwise disposed of for use other than in accordance with this condition.
- (d) Each car parking space shall have minimum dimensions in accordance with the relevant Australian Standard and be provided on-site in accordance with the approved plans.
- (e) The parking bays shall be delineated by line marking.
- (f) Visitor spaces shall be clearly line marked and/or signposted and shall only be used by persons visiting residents of the property or commercial/business/retail premises located within the development. Visitor spaces shall not be allocated as permanent residential parking spaces. Access to visitor parking spaces shall not be restricted without development approval and a sign shall be erected at the vehicular entrance indicating the availability of visitor parking.
- (g) The following traffic control measures shall be implemented on site:-
 - i. Signage indicating 'Entry Only' shall be prominently displayed at the entrance to the development.
 - ii. Signage indicating 'Exit Only' shall be prominently displayed at the exit to the development.
 - iii. One-Way directional arrows shall be painted on the driveway pavement to indicate the required vehicular directional movement through the car parking area.

Details demonstrating compliance with this condition shall be submitted to and approved by the Principal Certifying Authority, prior to the issue of an Occupation Certificate.

(96) Ordering of garbage/recycling bins

All required garbage bins and recycling bins for the residents of the development must be ordered from Council at least 3 months prior to the issue of an occupation certificate.

G Conditions that are ongoing requirements of development consents**(97) Garbage bin storage/placement for collection - strata title plan**

All garbage/recycling bins are to be kept in the garbage bin storage area. Bins are to be individually wheeled in and wheeled out on the day of garbage collection and are to be returned to the storage area immediately after collection. Bins are not to be located on the street at any time unattended. This requirement is to be incorporated into the Strata Title of the property.

(98) Landscape Maintenance

The landscaping approved as part of this application is to be maintained to the satisfaction of Council.

(99) Air conditioners

To preserve the streetscape, air conditioners or any plant equipment shall not be placed along the street façade or any place/part of the building that is visible from the public domain.

(100) Private Power Poles

Private power poles are not to be erected on the subject site without Council's Consent.

(101) Waste management

The waste management on site must be in accordance with the following requirements:

- (a) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, ensuring the chute system and related devices are maintained in effective and efficient working order, managing the communal composting area, managing the bulky item storage area, arranging the prompt removal of dumped rubbish, ensuring the loading bay is kept clear of parked cars, and ensuring all residents are informed of the use of the waste management system. The site caretaker must be employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.
- (b) The approved on-going waste management practise for the site must not be amended without consent from Council.

(102) Car parking and road safety

- (a) All car parking must be constructed and operated in accordance with Australian Standard AS/NZS 2890.1:2004 – Off-street car parking and Australian Standard AS 2890.2:2002 – Off-street commercial vehicle facilities.
 - i) All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted;
 - ii) Car parking, loading and manoeuvring areas to be used solely for nominated purposes;
 - iii) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
 - iv) All vehicular entry on to the site and egress from the site shall be made in a forward direction.
- (b) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.
- (c) Residential parking spaces are to be secure spaces with access controlled by card or numeric pad.
- (d) Visitors must be able to access the visitor parking spaces in the basement car park at all times.
- (e) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities.
- (f) Bicycle parking spaces are to be designed in accordance with AS 2890.3-1993 Bicycle parking facilities
- (g) Motorcycle parking spaces are to be designed in accordance with AS/NZS 2890.1:2004 Figure 2.7.

H Advisory Notes**(1) Application for a Construction Certificate**

The required application for a Construction Certificate may be lodged with Council. Alternatively, you may apply to an accredited private certifier for a Construction Certificate.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the Environmental Planning & Assessment Act 1979. It is also a criminal offence which attracts substantial penalties and may also result action in the Land and Environment Court and orders for demolition.

(2) Compliance with the Disability Discrimination Act - liability

This decision does not ensure compliance with the Disability Discrimination Act. The owner, lessee, operator and/or manager of the premises is advised that under the *Disability Discrimination Act 1992*, it is illegal to discriminate against a person with a disability by means of restricting access to or within the building. If access is restricted the owner, lessee, operator and/or manager of the premises may be liable for prosecution and/or a successful appeal to the Human Rights and Equal Opportunities Commission. You should therefore investigate your liability under that Act. Australian Standard 1428 - Design for Access and Mobility, Parts 2, 3 and 4 may assist in determining compliance with the *Disability Discrimination Act 1992*.

(3) Tree preservation

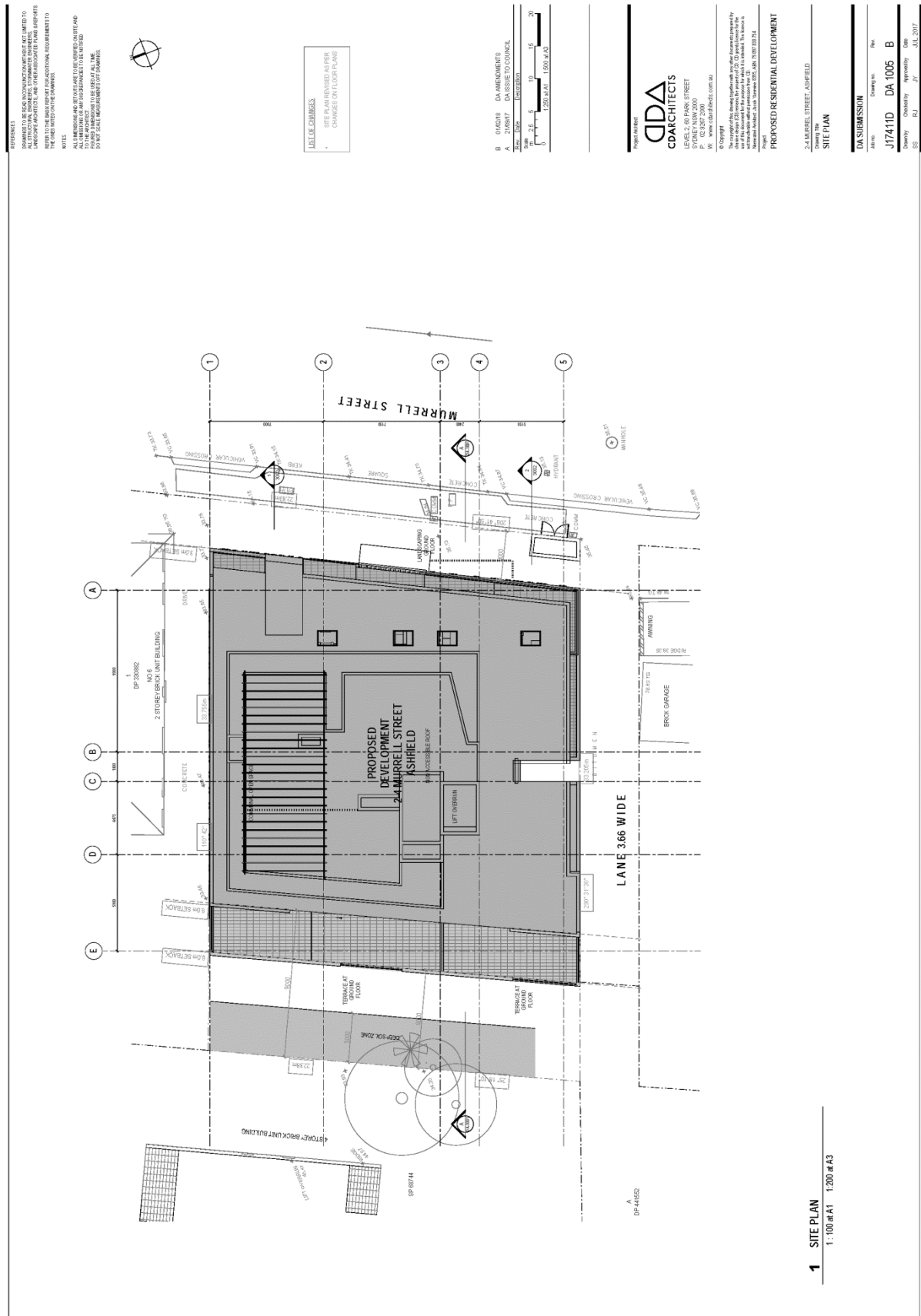
Where tree removal or work has not been approved by this Development Consent, the developer is notified that a general Tree Preservation Order applies to all trees (with the exception of certain species) in the Municipality of Ashfield with a height greater than five (5) metres. This order prohibits the ringbarking, cutting down, topping, lopping*, pruning, transplanting, injuring or wilful destruction of such trees except with the prior approval of the Council. Written consent from Council for such tree works must be in the form of a "Tree Preservation Order Permit for Pruning or Removal of Protected Trees" to be obtained from Council.

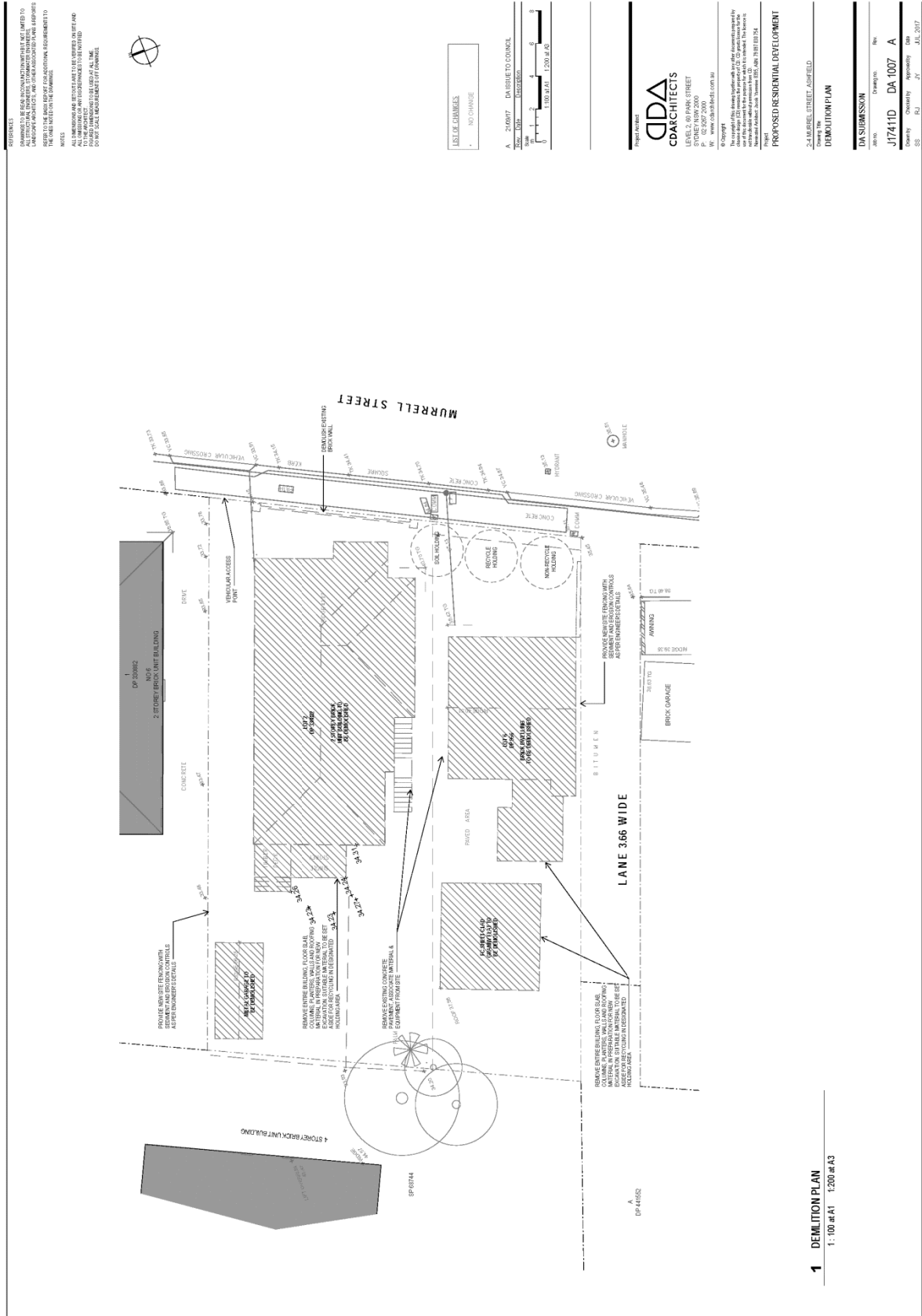
- * Lopping may be carried out without consent only to maintain a minimum clearance of 500mm from power lines, pruning to remove dead wood/branches and minor pruning of branches overhanging buildings to a height of 2 metres only with the agreement of the owner of the tree. Contact Council's One Stop Shop - telephone 9716 1800, for details of the Tree Preservation Order.

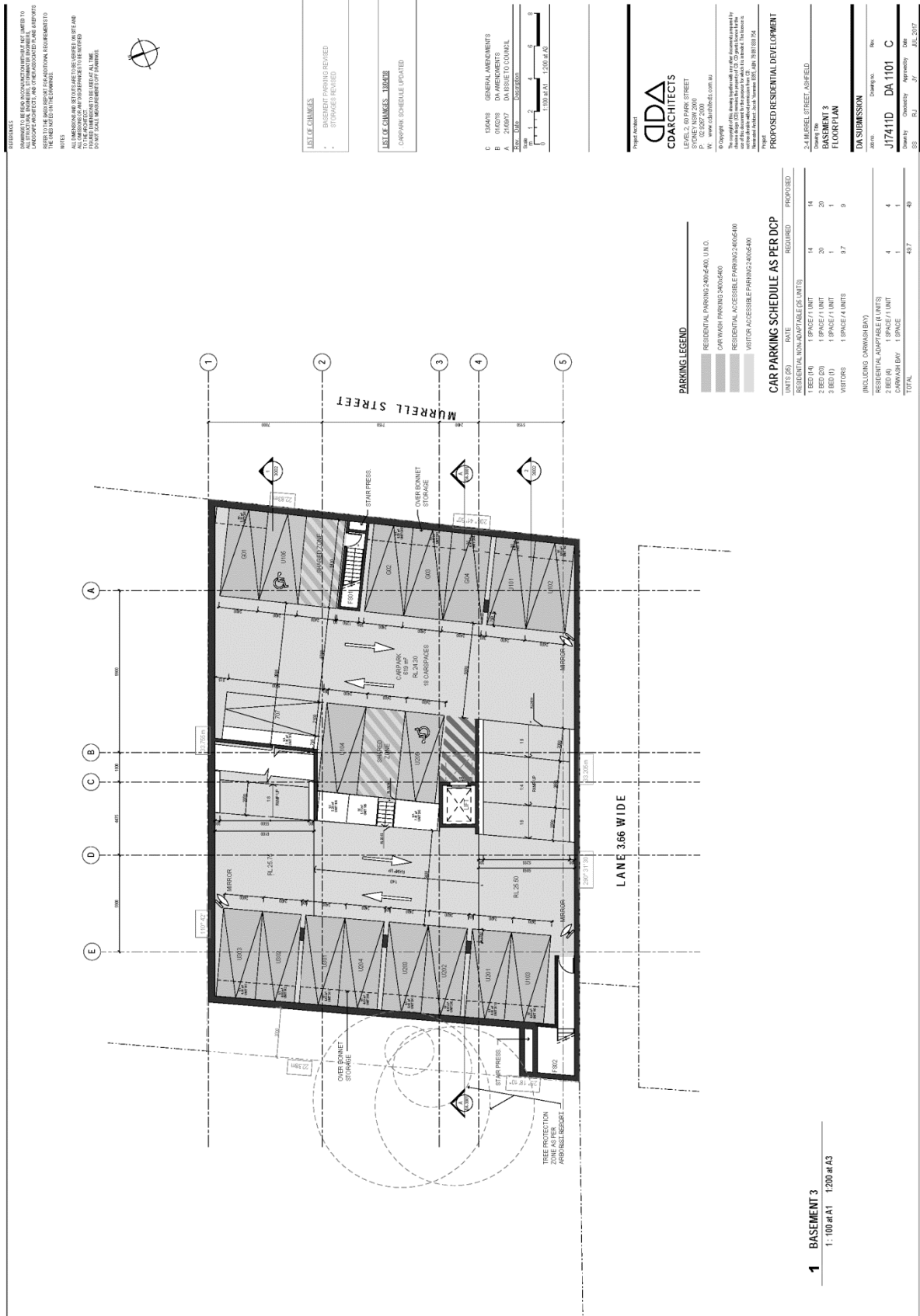
(4) Relocation of stormwater drainage

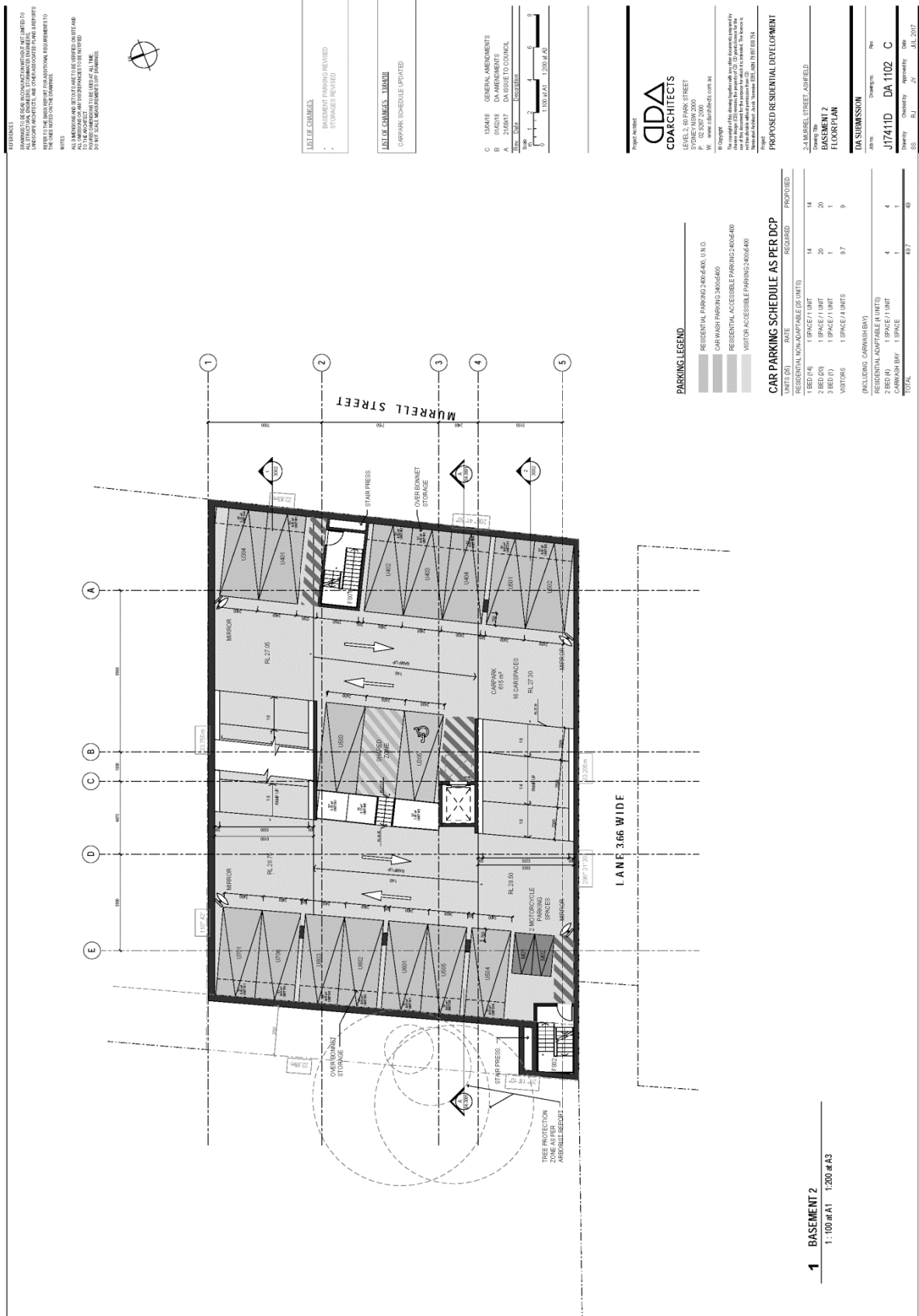
Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

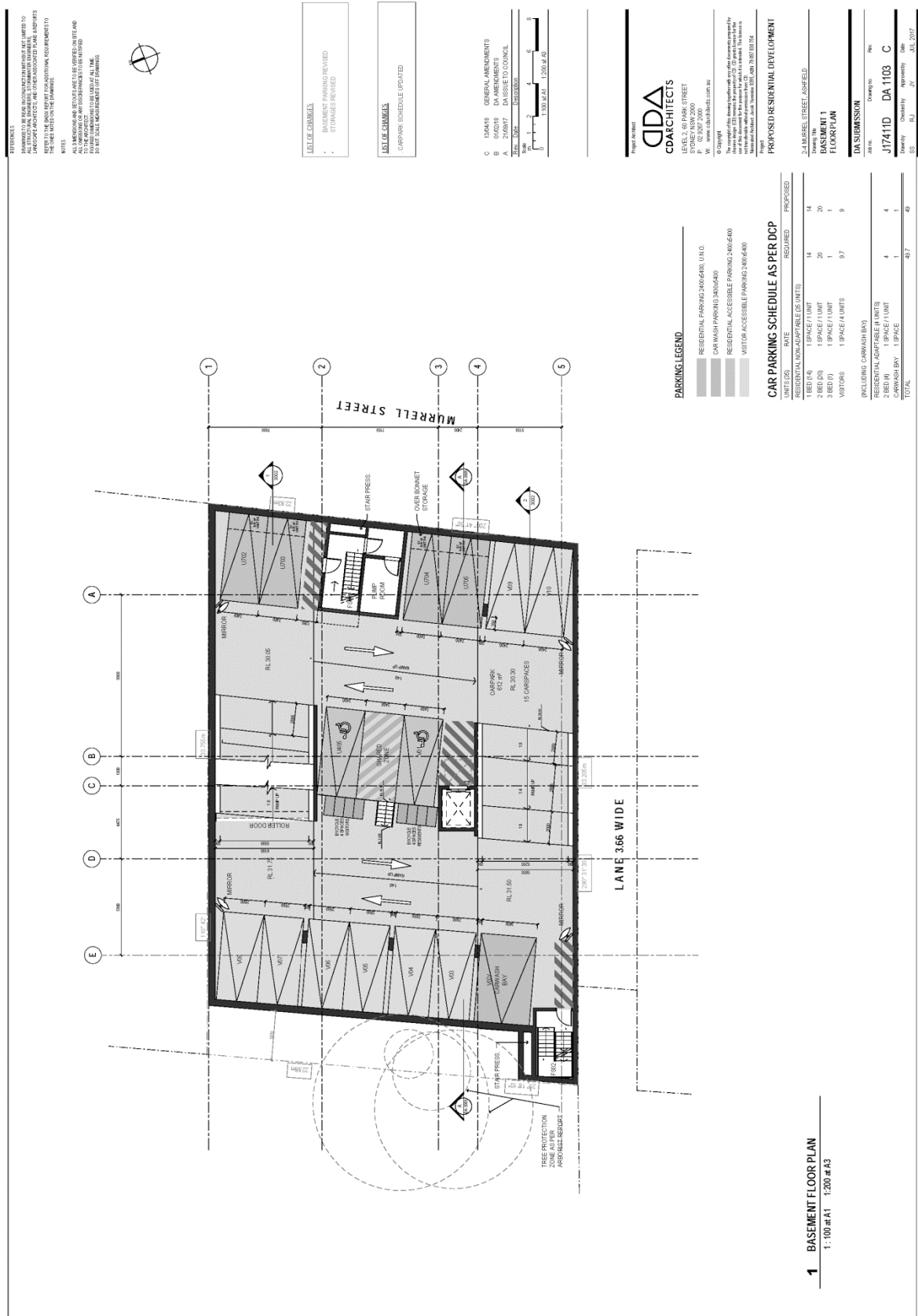
Attachment B – Plans of proposed development

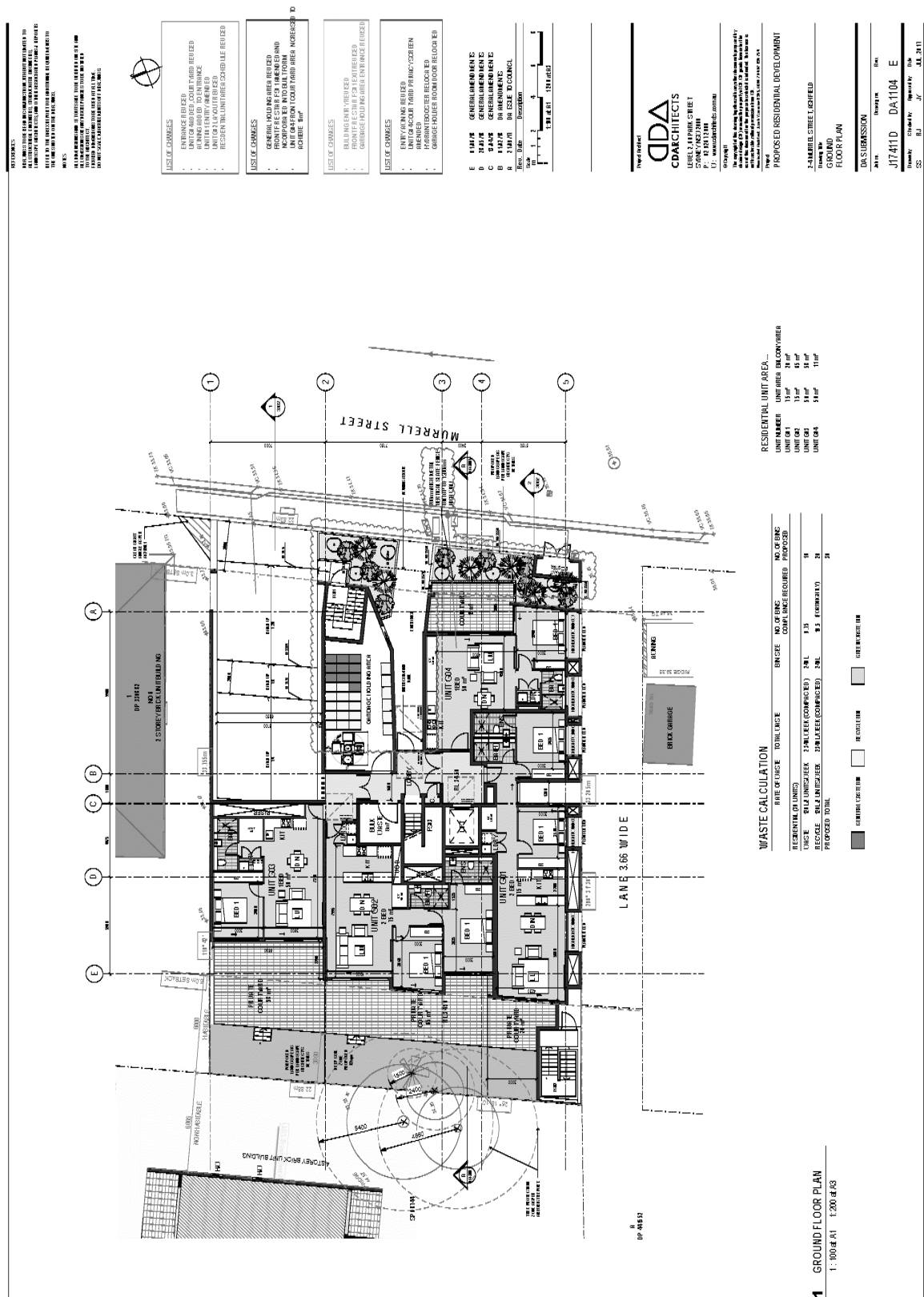




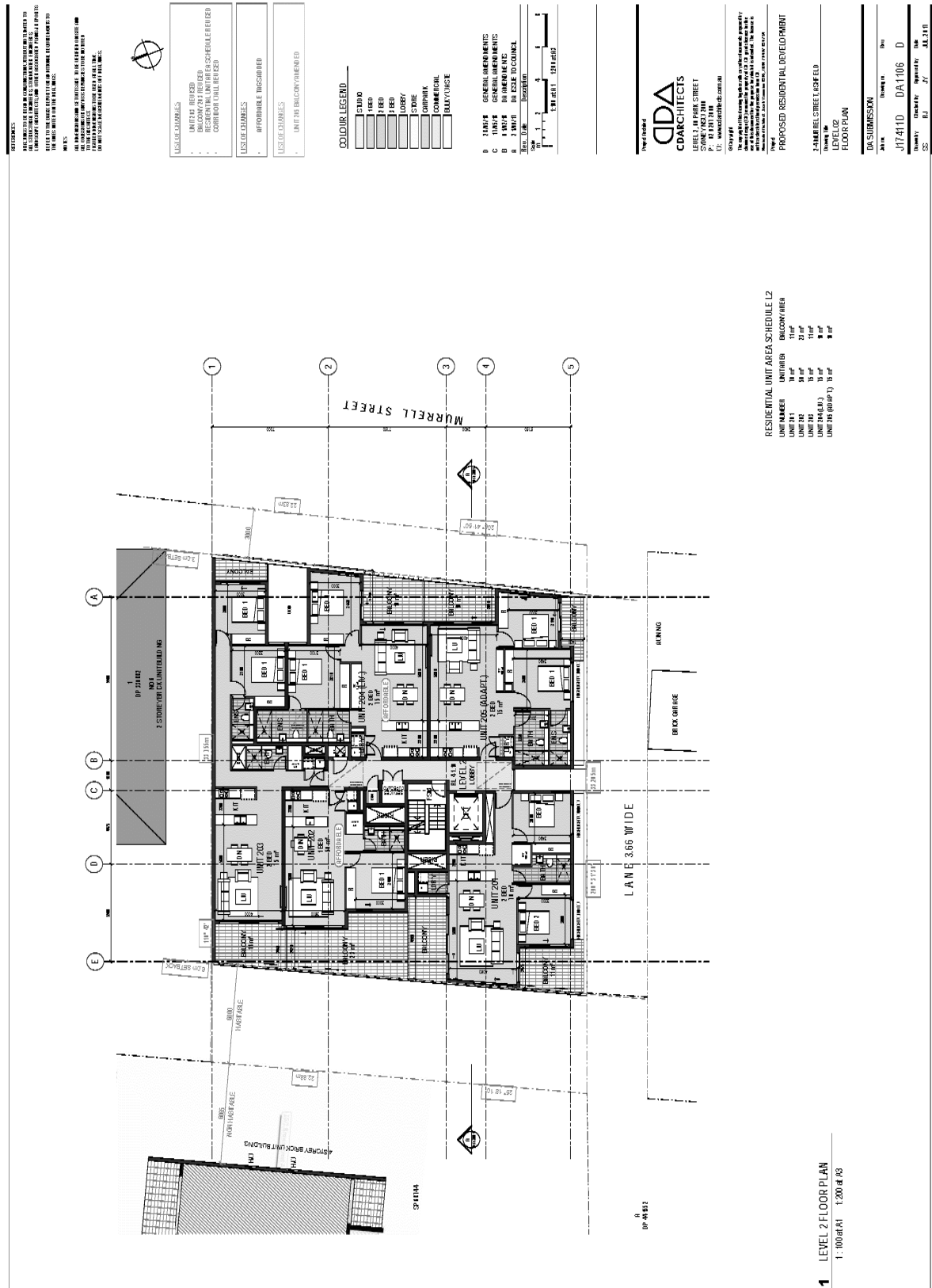


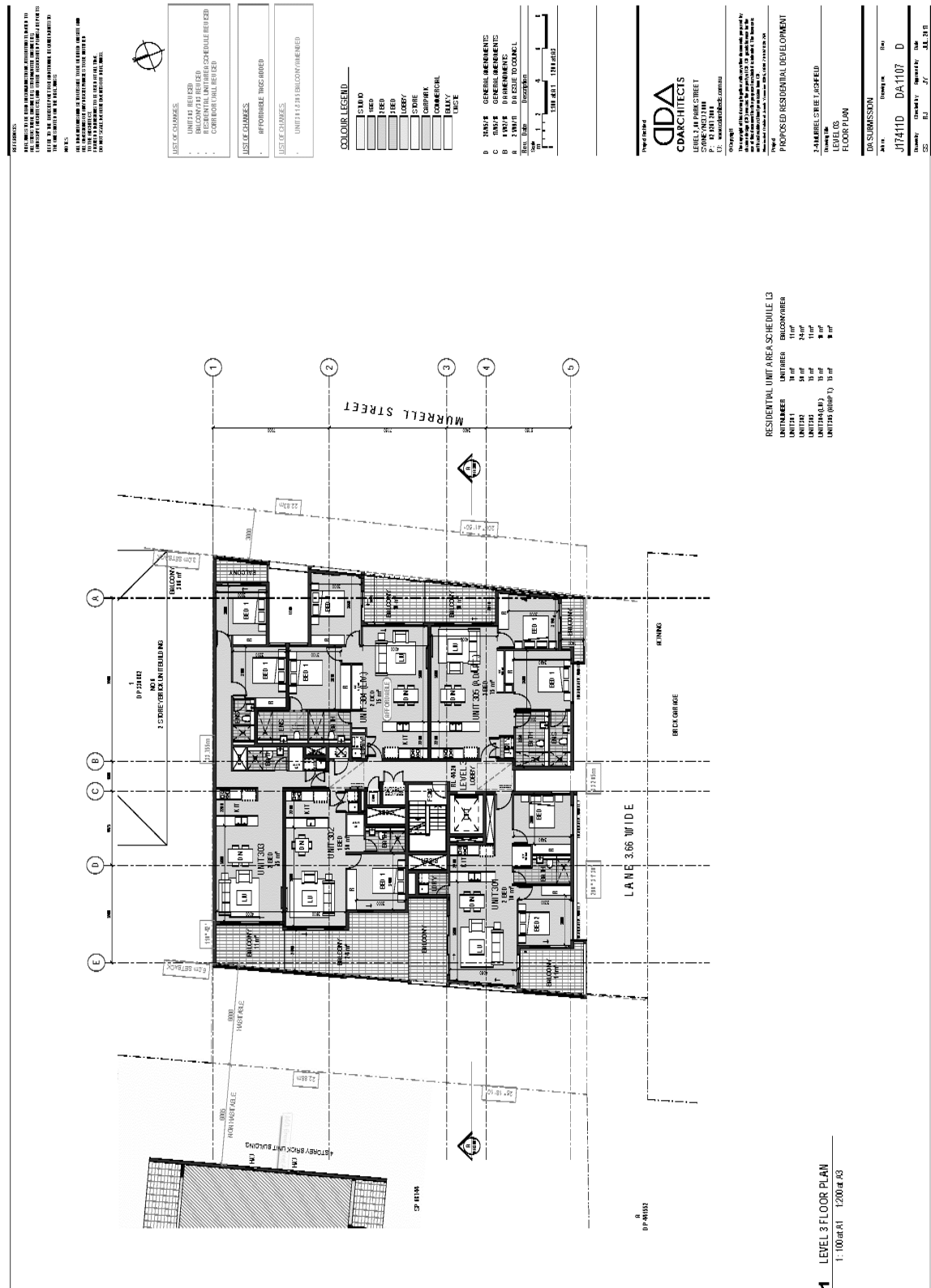


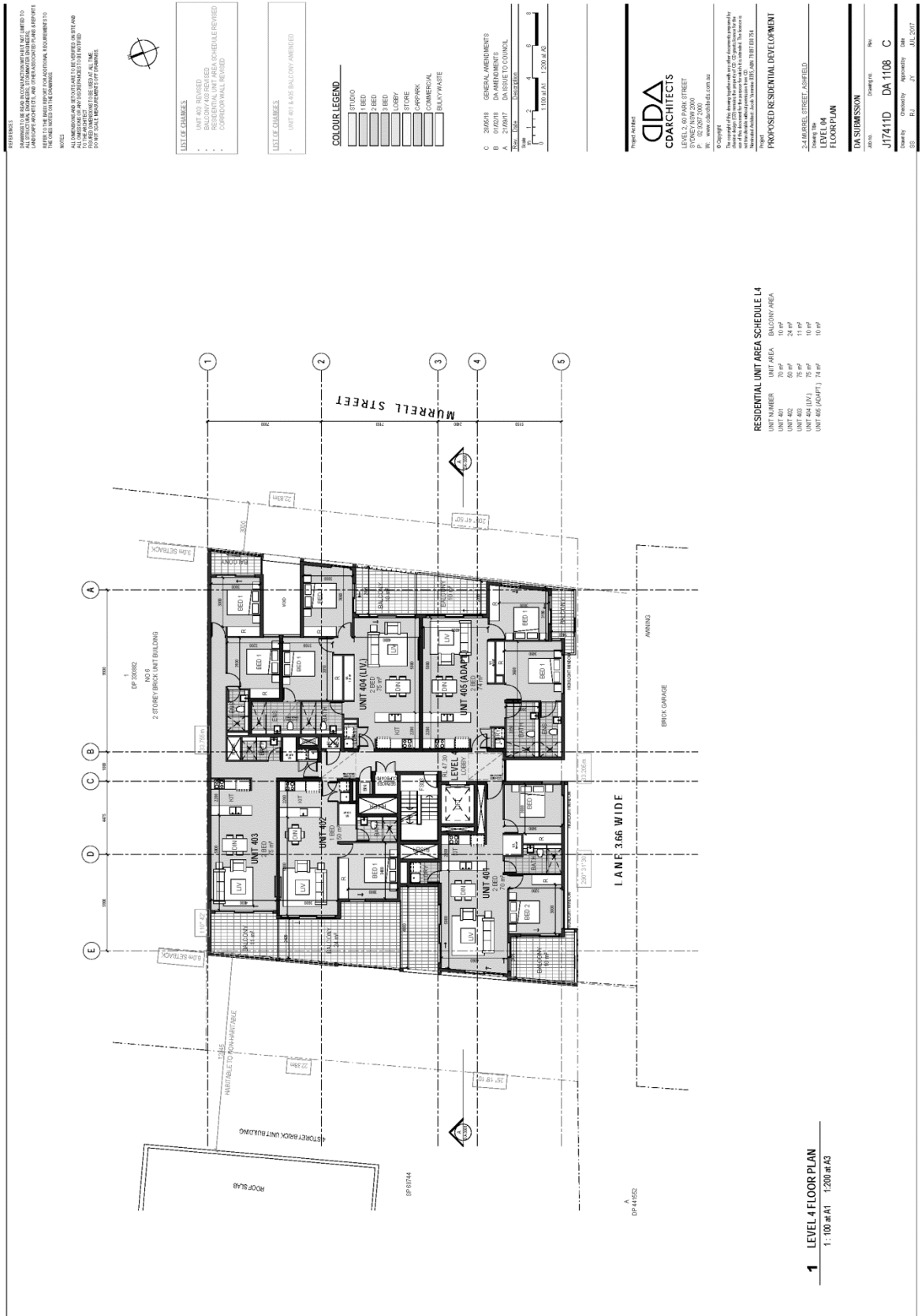


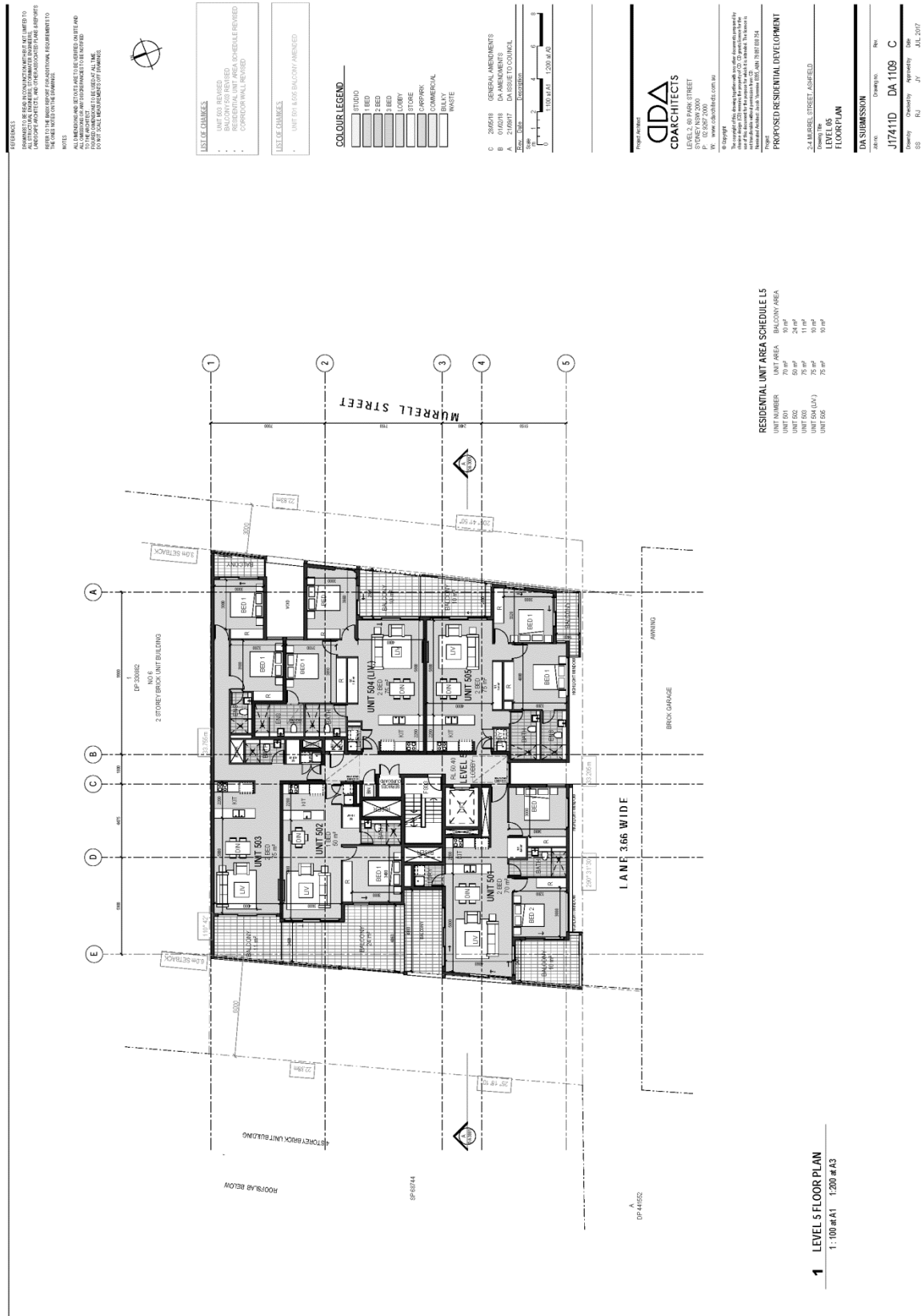


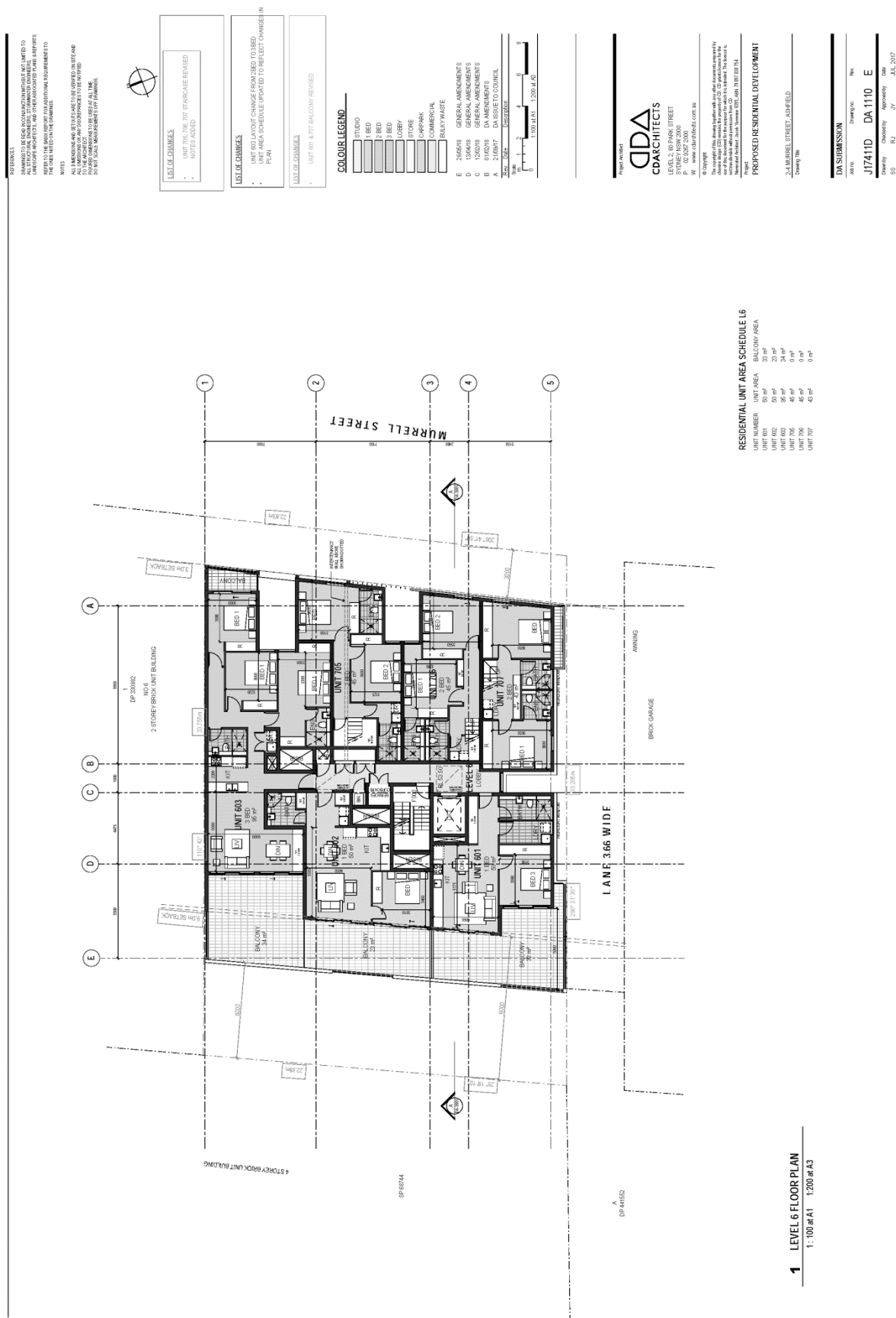












REFERENCES
 DRAFTING TO BE DONE IN ACCORDANCE WITH THE LIMITS TO
 LANDSCAPE ARCHITECTURE AND OTHER ASSOCIATED PRACTICES
 REPORT TO THE BOARD OF THE LOCAL PLANNING PANEL
 REPORT TO THE BOARD OF THE LOCAL PLANNING PANEL
 REPORT TO THE BOARD OF THE LOCAL PLANNING PANEL

NOTES
 ALL DIMENSIONS AND DISTANCES ARE TO BE VERIFIED ON SITE AND
 TO THE NEAREST CENTIMETER. DIMENSIONS TO THE NEAREST
 CENTIMETER SHALL BE USED FOR ALL DIMENSIONS.



LIST OF CHANGES

UNIT 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

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UNIT 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

LIST OF CHANGES

UNIT 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

COLOUR LEGEND

- STUDIO
- BED
- BATH
- KITCHEN
- LOBBY
- STORE
- CARPARK
- COMMERCIAL
- BULKY WASTE

E 20/02/18 GENERAL AMENDMENTS
 D 13/04/18 GENERAL AMENDMENTS
 C 13/04/18 GENERAL AMENDMENTS
 B 04/02/18 GENERAL AMENDMENTS
 A 21/04/17 DRAFT TO COUNCIL



CDIA
 CDARCHITECTS
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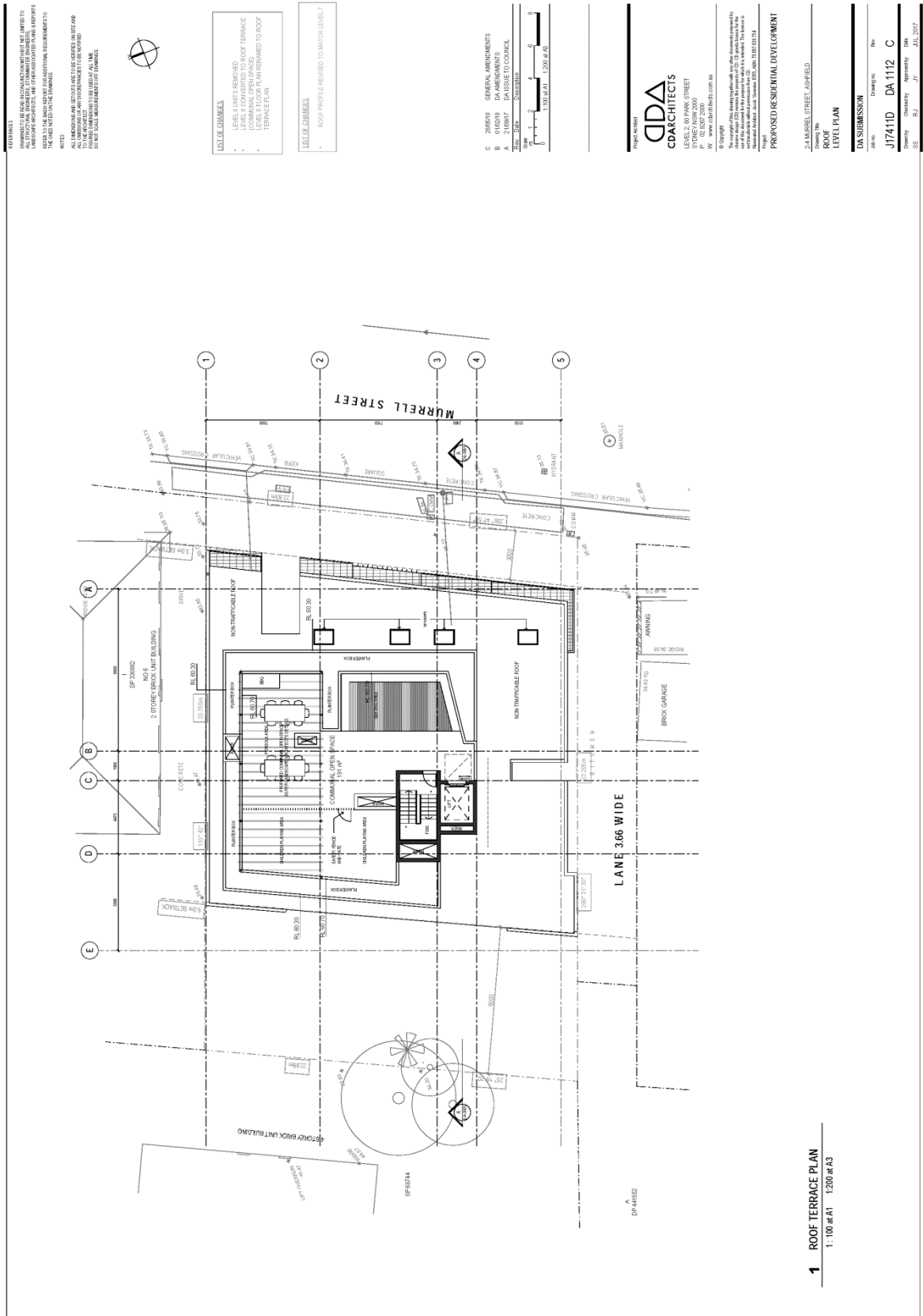
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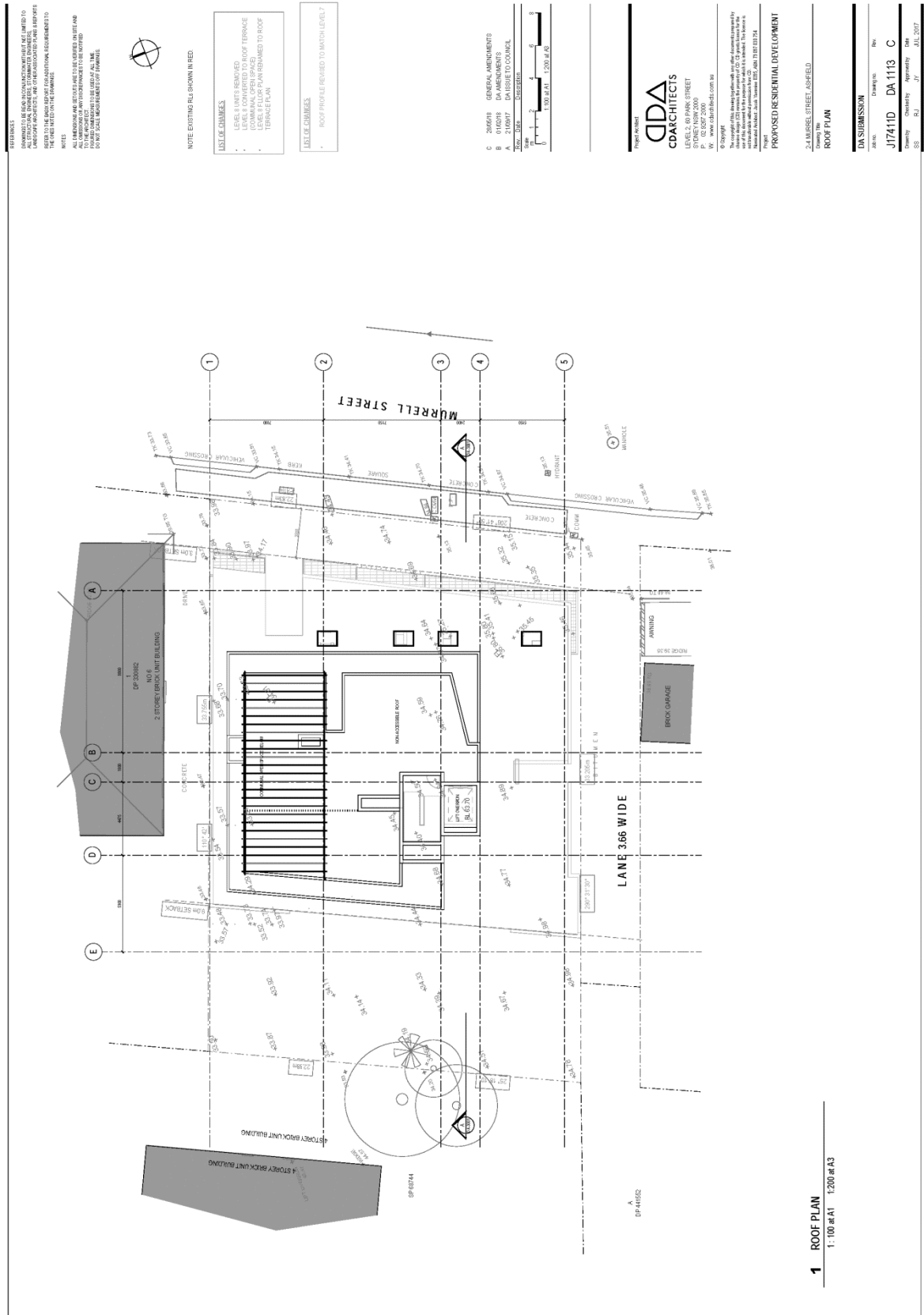
2-4 MURRELL STREET, ASHFIELD
 Drawing Title

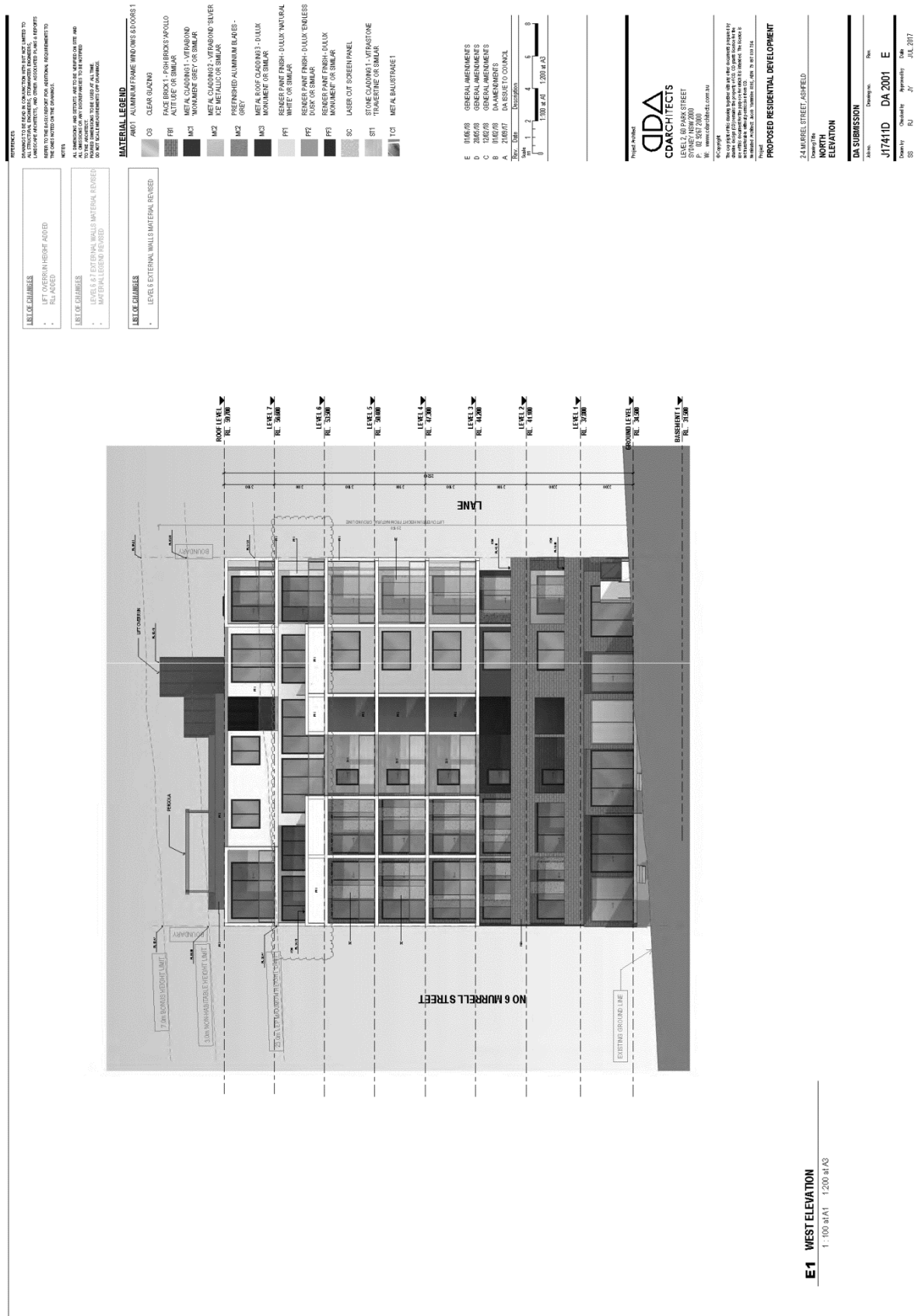
DA SUBMISSION
 J174110 DA 1111 E
 Date: 21/04/17

UNIT NUMBER	UNIT AREA	BALCONY AREA
UNIT 701	50 m ²	9 m ²
UNIT 702	50 m ²	7 m ²
UNIT 703	50 m ²	7 m ²
UNIT 704	50 m ²	7 m ²
UNIT 705	50 m ²	7 m ²
UNIT 706	50 m ²	7 m ²
UNIT 707	50 m ²	7 m ²
UNIT 708	50 m ²	7 m ²
UNIT 709	50 m ²	7 m ²
UNIT 710	50 m ²	7 m ²
UNIT 711	50 m ²	7 m ²
UNIT 712	50 m ²	7 m ²
UNIT 713	50 m ²	7 m ²
UNIT 714	50 m ²	7 m ²
UNIT 715	50 m ²	7 m ²
UNIT 716	50 m ²	7 m ²
UNIT 717	50 m ²	7 m ²
UNIT 718	50 m ²	7 m ²
UNIT 719	50 m ²	7 m ²
UNIT 720	50 m ²	7 m ²
UNIT 721	50 m ²	7 m ²
UNIT 722	50 m ²	7 m ²
UNIT 723	50 m ²	7 m ²
UNIT 724	50 m ²	7 m ²
UNIT 725	50 m ²	7 m ²
UNIT 726	50 m ²	7 m ²
UNIT 727	50 m ²	7 m ²
UNIT 728	50 m ²	7 m ²
UNIT 729	50 m ²	7 m ²
UNIT 730	50 m ²	7 m ²
UNIT 731	50 m ²	7 m ²
UNIT 732	50 m ²	7 m ²
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UNIT 768	50 m ²	7 m ²
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UNIT 799	50 m ²	7 m ²
UNIT 800	50 m ²	7 m ²

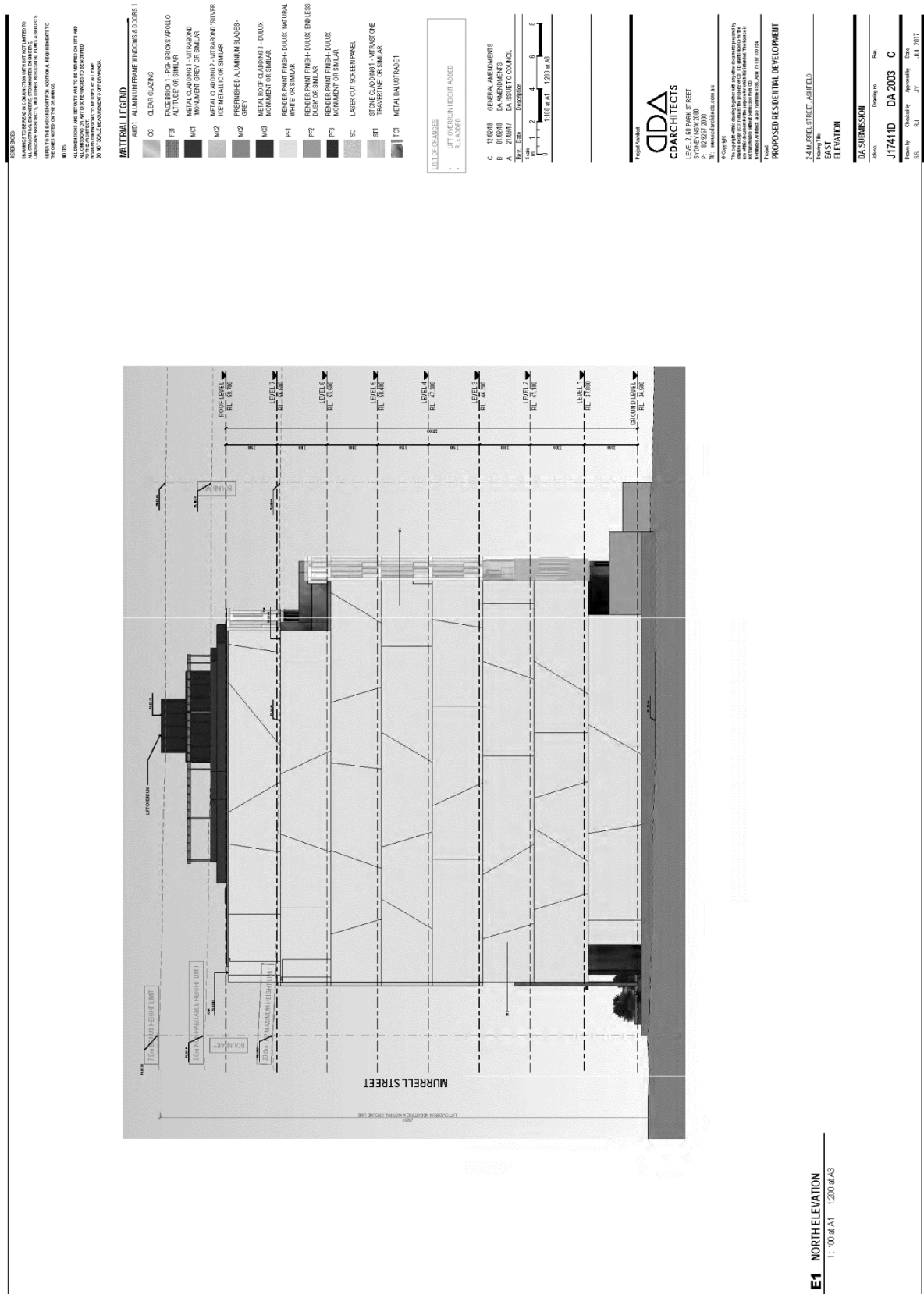
1 LEVEL 7 FLOOR PLAN
 1:100 at A1 1:200 at A3



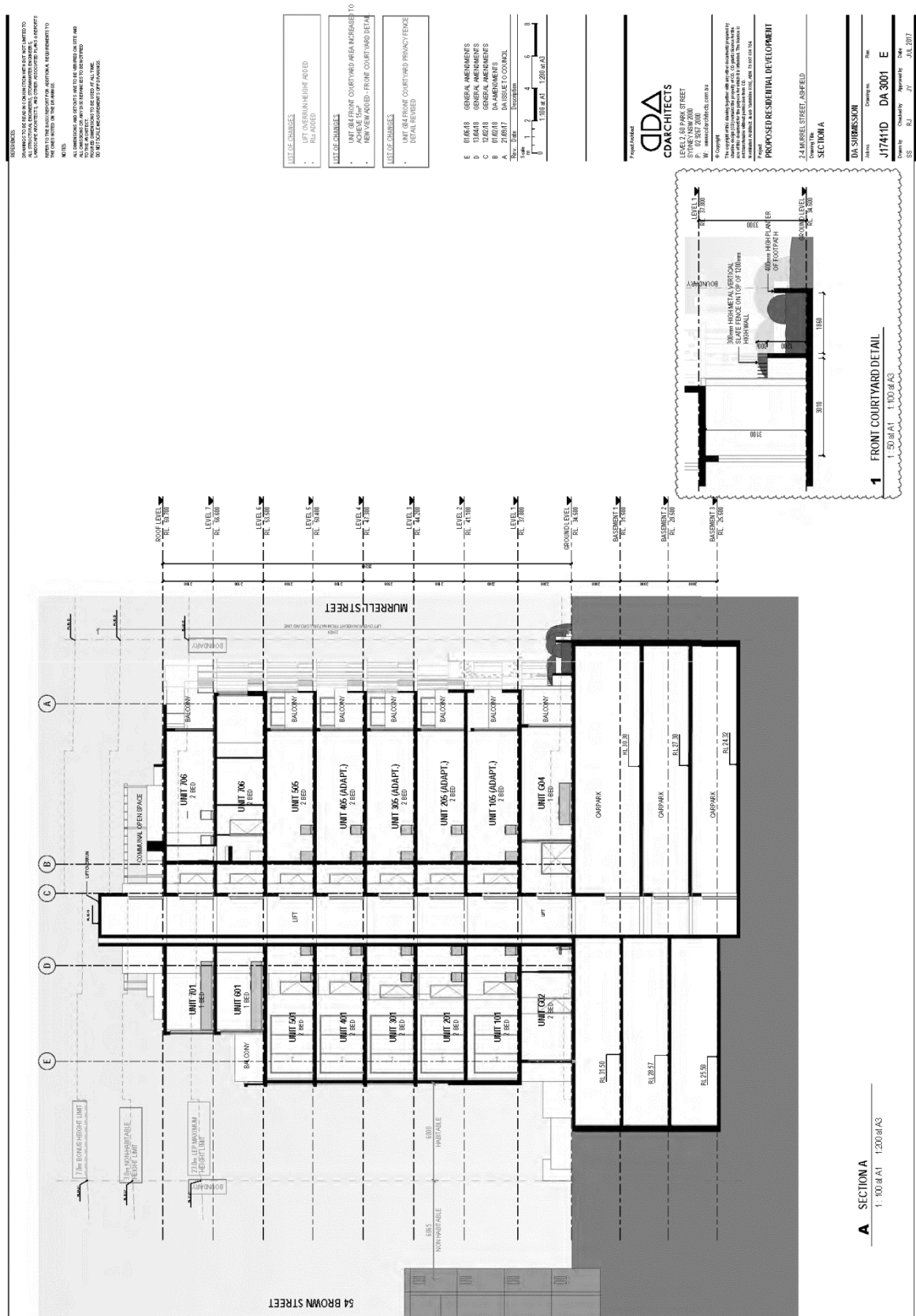


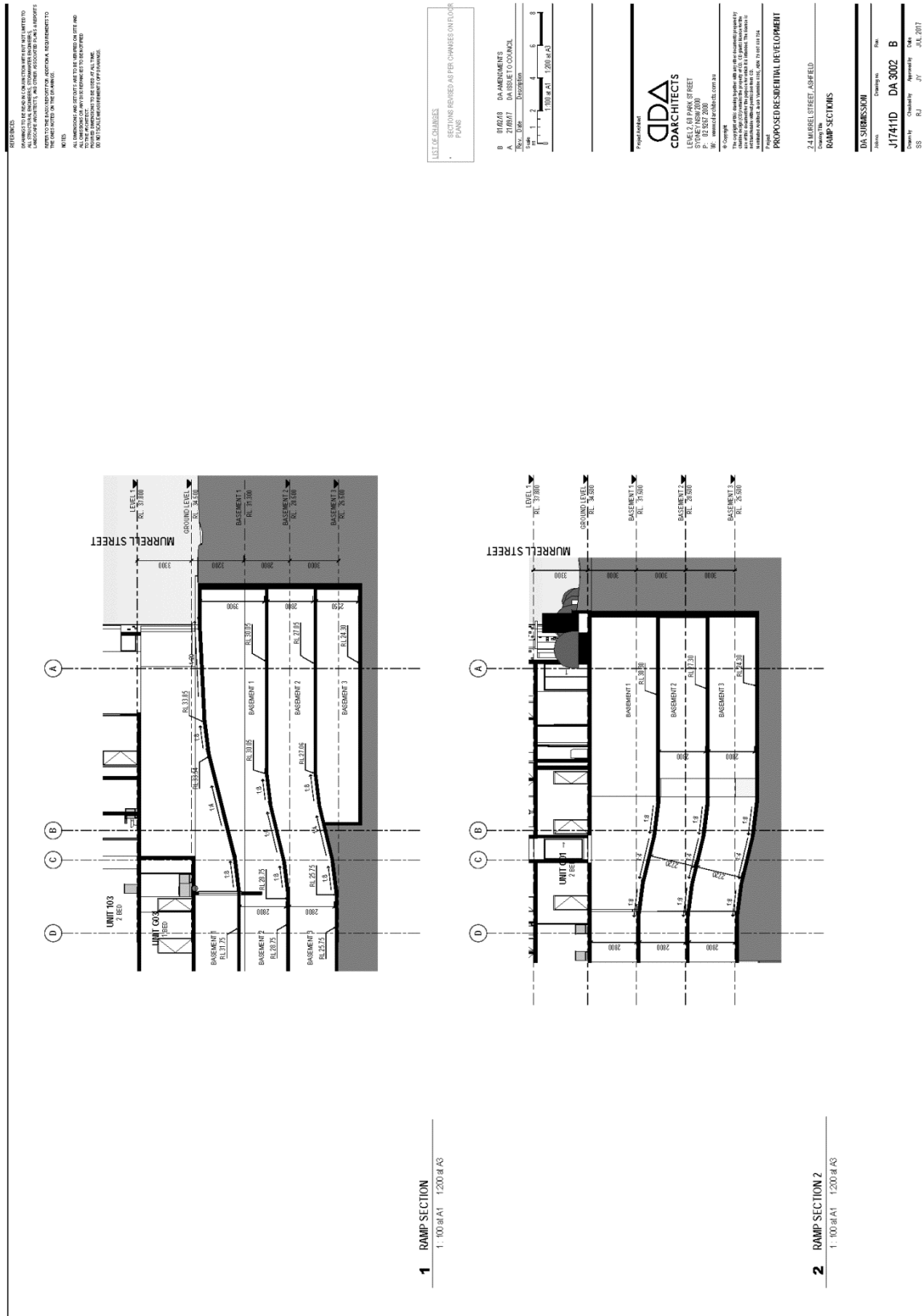


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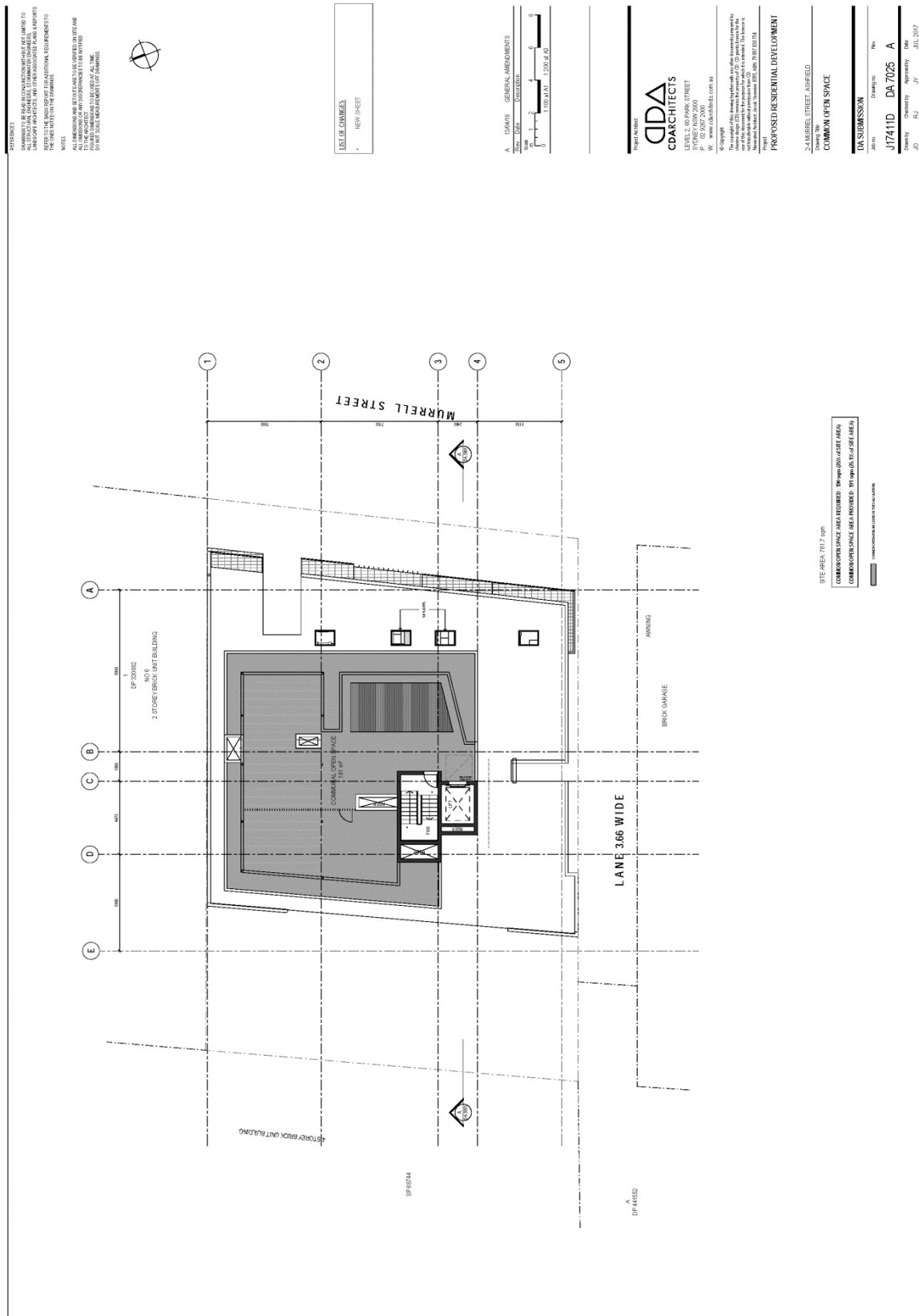








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STORMWATER DRAWINGS
FOR
2 - 4 MURRELL STREET,
ASHFIELD

SYMBOLS

PL	PIT SURFACE LEVEL
IL	INVERT LEVEL
TK	TOP OF KESB
ST	STORMWATER DRAINAGE
DM	DOWNPIPE TO RAINWATER
OP	OVERFLOW PIPE FROM
40	#40 SLOPE PIPE
150	FLOOR WASTE 150/150
50	RAINWATER OUTLET 50
DN	DRAIN PIPE
10	INSPECTION OPENING
DN	VERTICAL DRAIN
10	VERTICAL RISER
40	CONCRETE COVER LAMP
DN	GRAVEL INLET PIT
DN	WIDE GRAVEL DRAIN

NOTES

- [illegible]

LEGEND

LEGEND

REFER TO AS 3500 PART 3, TABLE 7.2

P1 = 100# UPVC PIPE AT 1.0% MIN. GRADE

P2 = 150# UPVC PIPE AT 1.0% MIN. GRADE

P3 = 225# UPVC PIPE AT 0.5% MIN. GRADE

P4 = 300# UPVC PIPE AT 0.4% MIN. GRADE

P5 = 375# UPVC PIPE AT 0.4% MIN. GRADE



DRAWING SCHEDULE

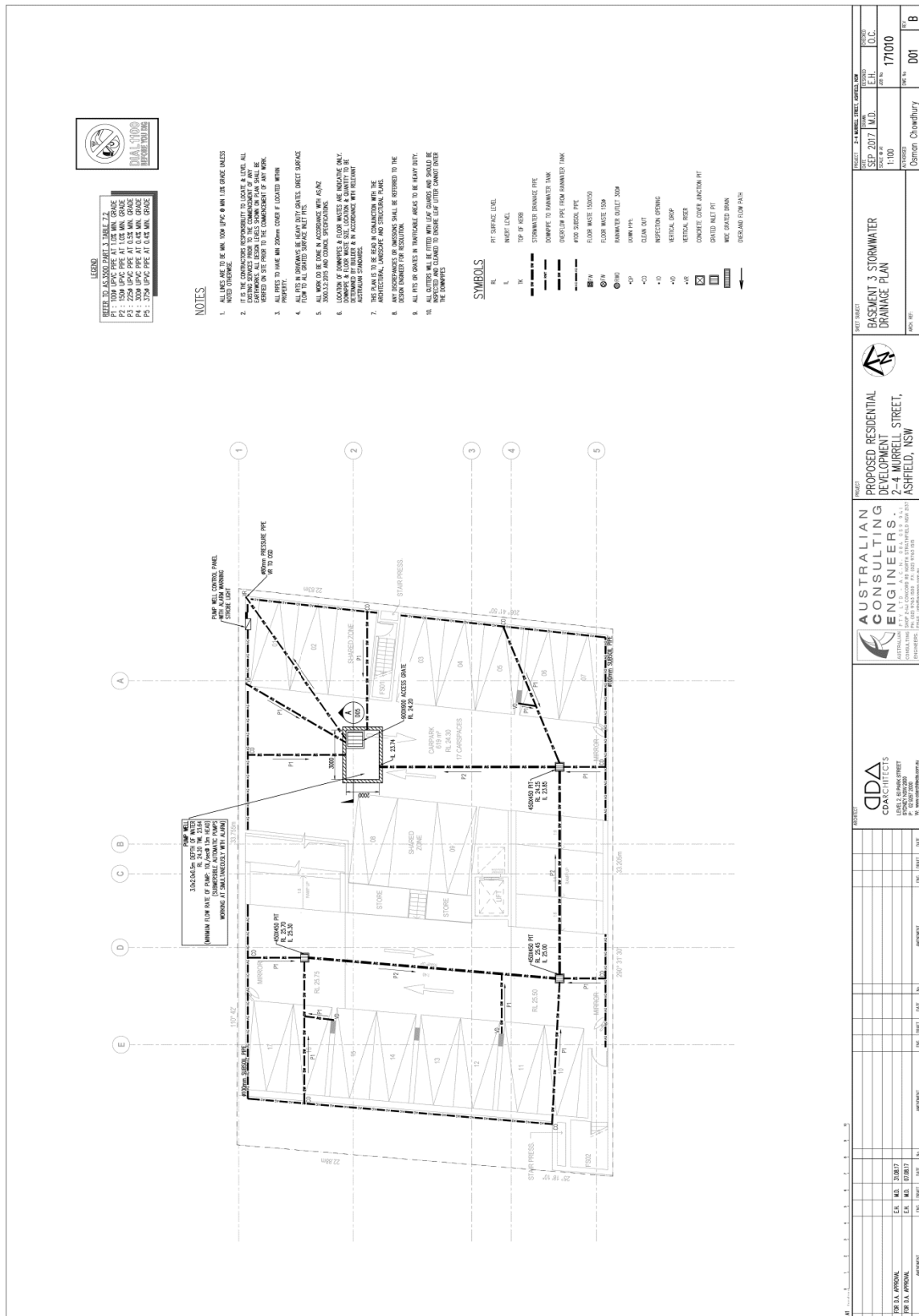
DRAWING No.	DRAWING TITLE
D00	COVER SHEET, LEGEND & DRAWING SCHEDULE
D01	FOUNDATION & RETAINMENT DRAINAGE PLAN
D02	FOUNDATION & RETAINMENT DRAINAGE PLAN
D03	FOUNDATION & RETAINMENT DRAINAGE PLAN
D04	FOUNDATION & RETAINMENT DRAINAGE PLAN
D05	FOUNDATION & RETAINMENT DRAINAGE PLAN
D06	FOUNDATION & RETAINMENT DRAINAGE PLAN
D07	FOUNDATION & RETAINMENT DRAINAGE PLAN

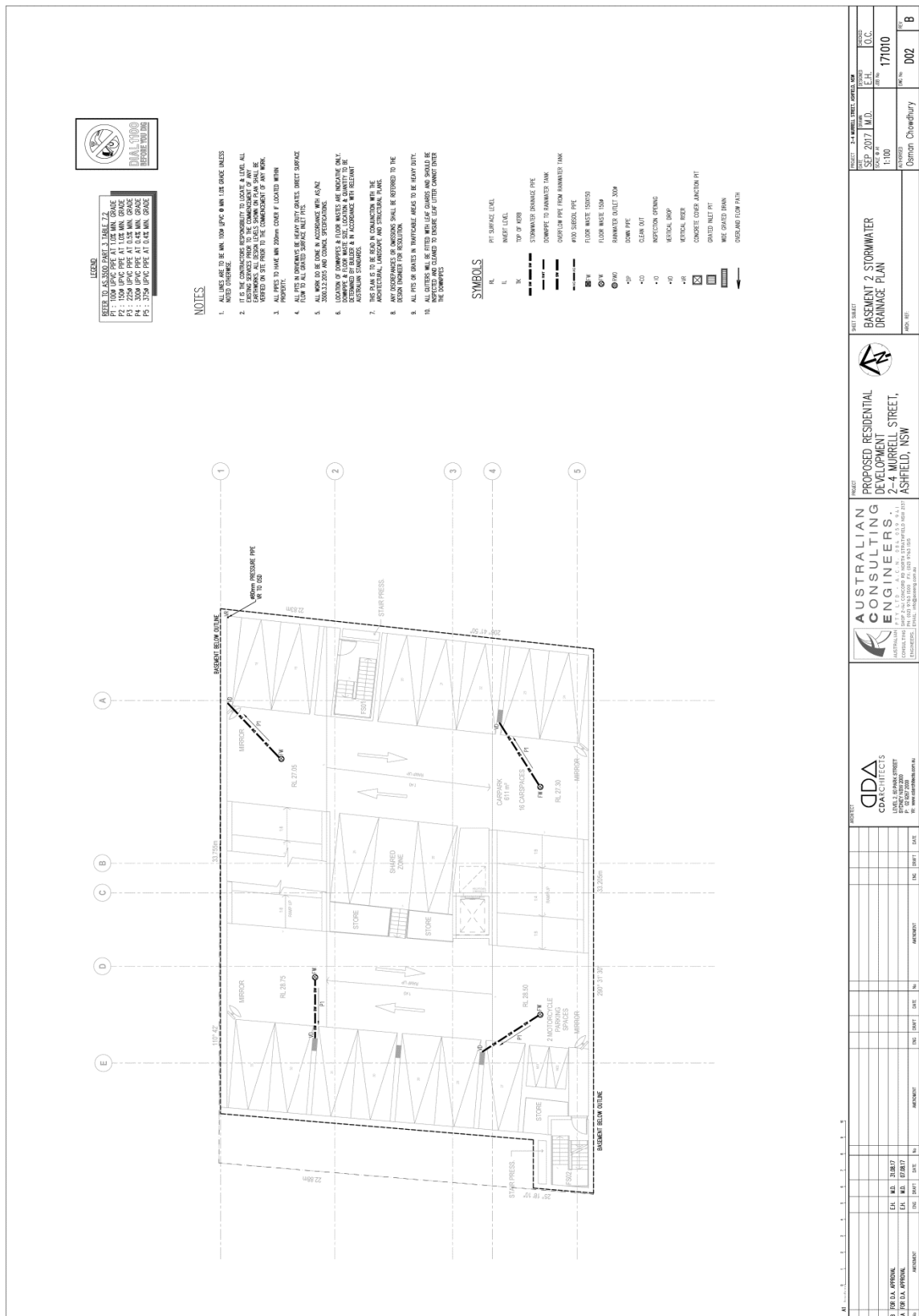
DEPTH OF INVERT OF OUTLET	RECTANGULAR		LENGTH	CIRCULAR DIAMETER
	WIDTH	HEIGHT		
≤500	450	450	450	600
>600 ≤900	600	600	600	900
>900 ≤1700	600	600	900	1000

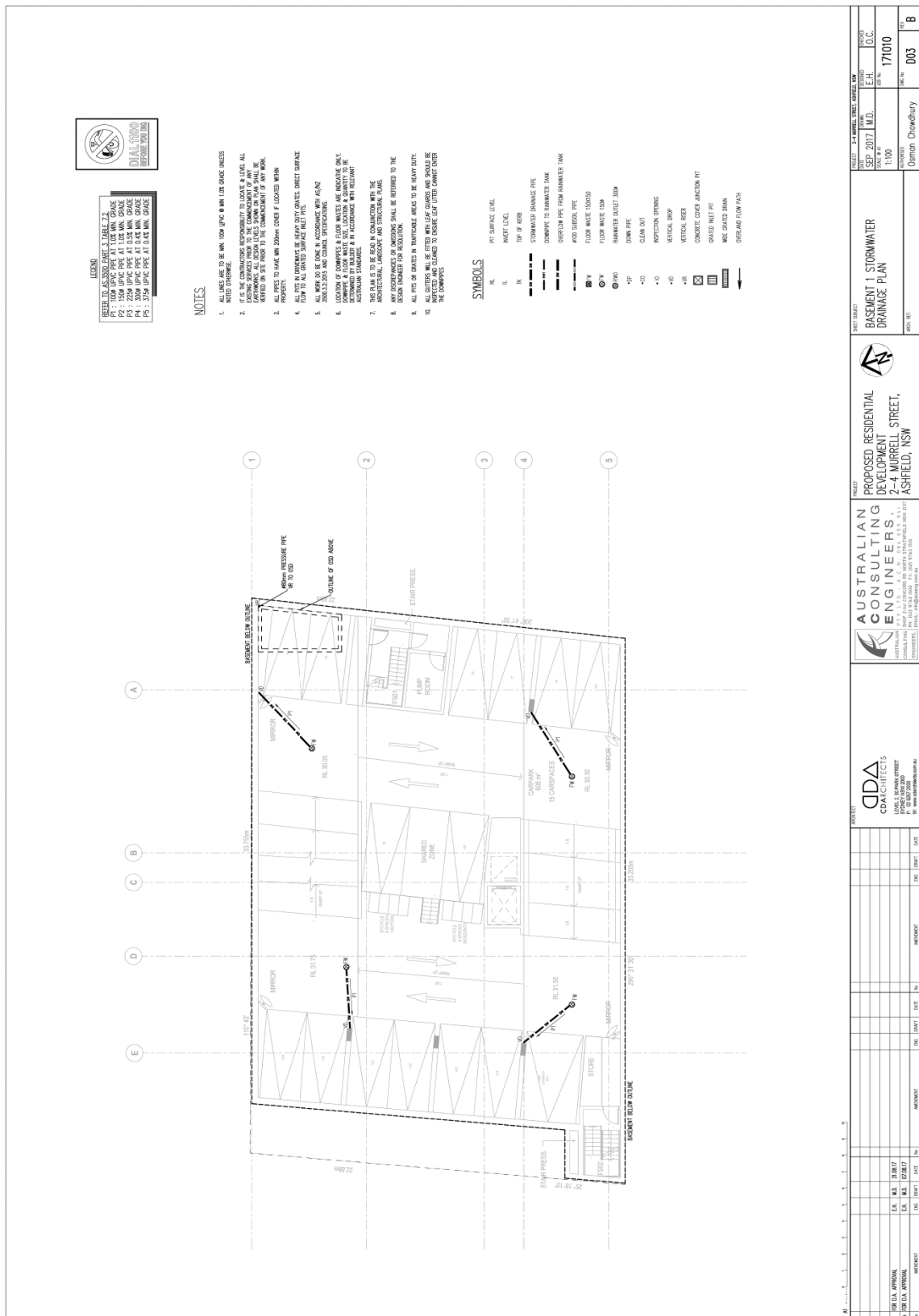
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AUSTRALIAN CONSULTING ENGINEERS.
 AUSTRALIAN CONSULTING ENGINEERS
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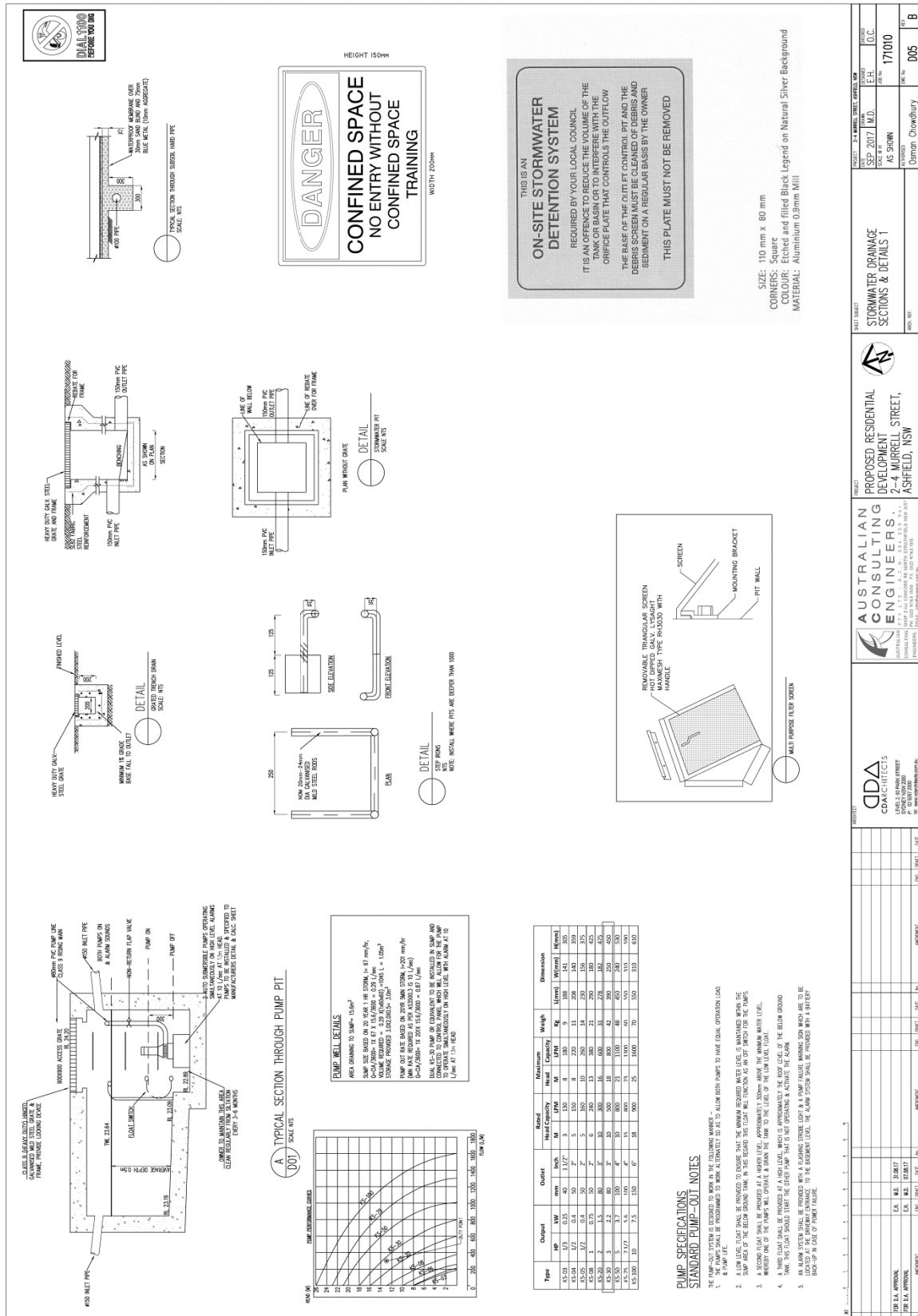
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	DATE: 09/01/2017	BY: JCH	DATE: 09/01/2017	BY: JCH
COVER SHEET, LEGEND & DRAWING SCHEDULE		SHEET 0002		
SHEET 0002		SHEET 0002		

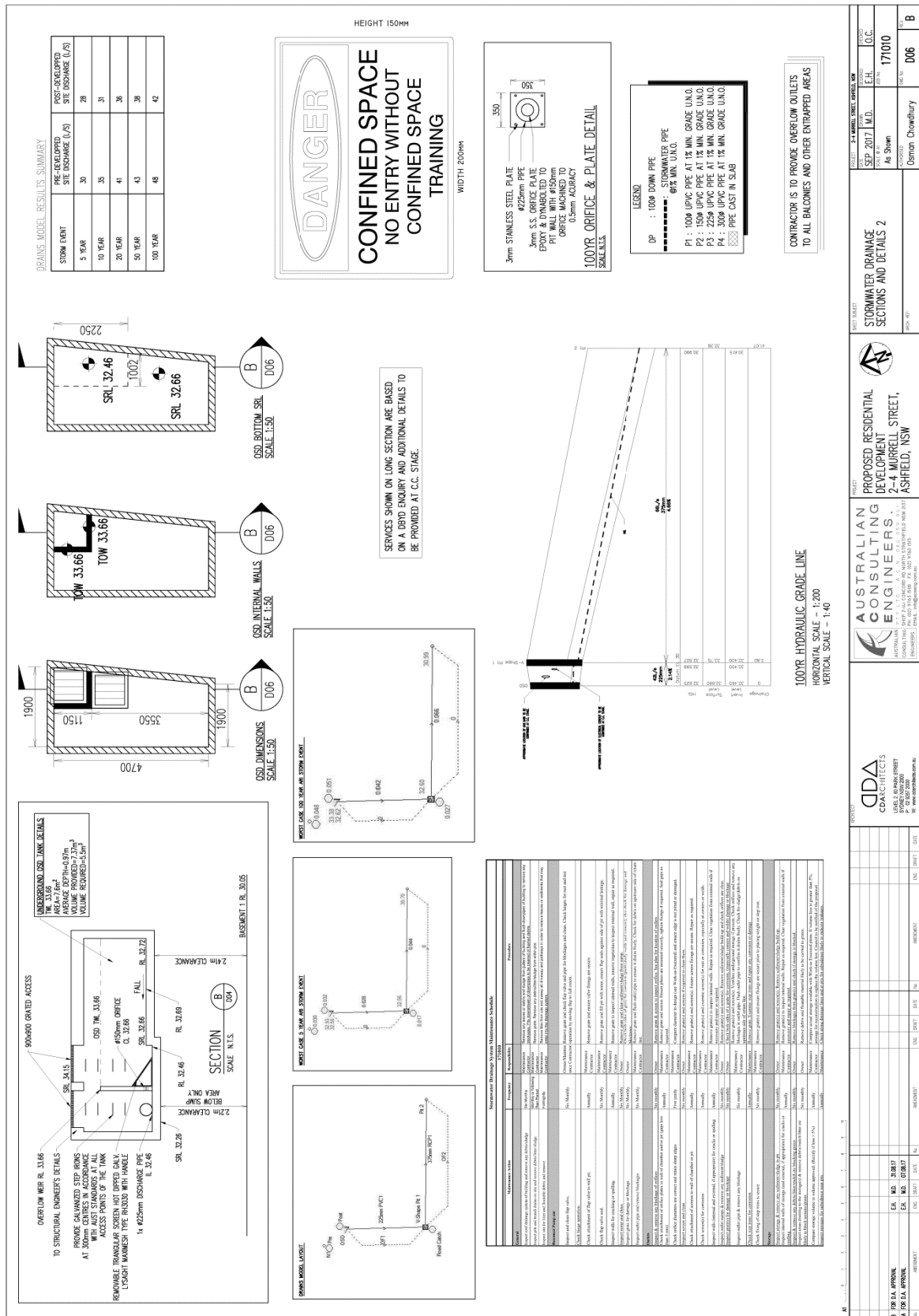


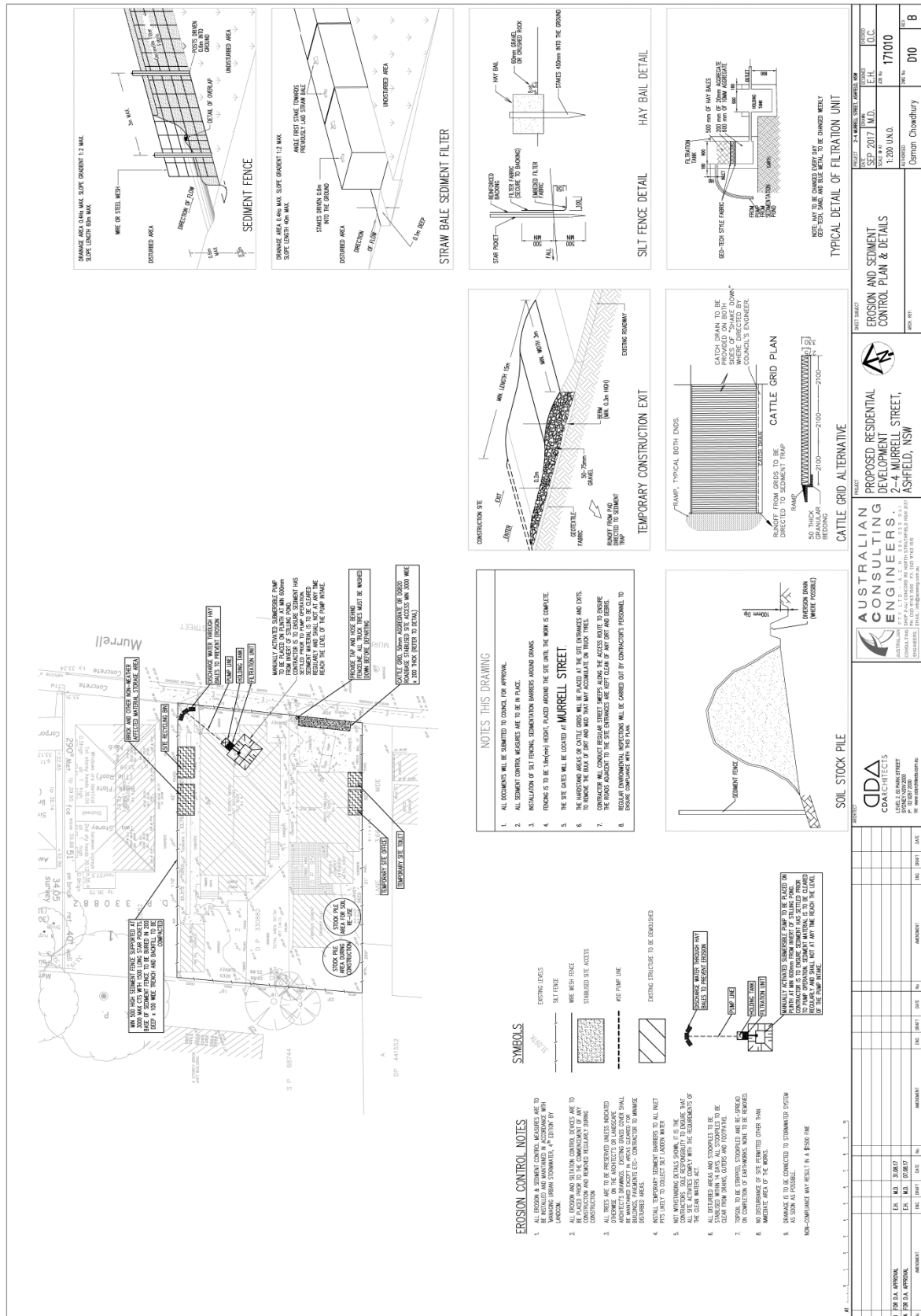


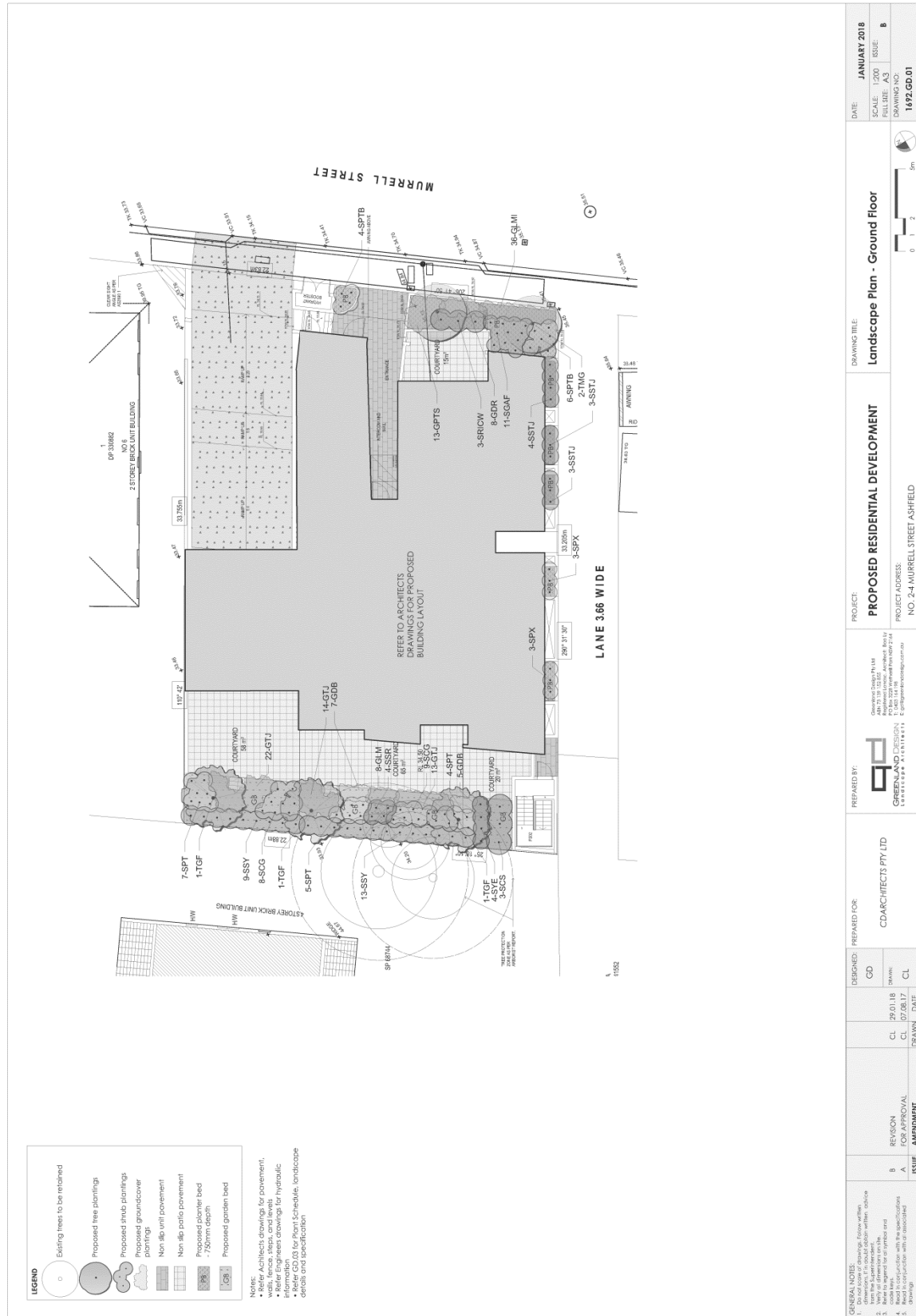


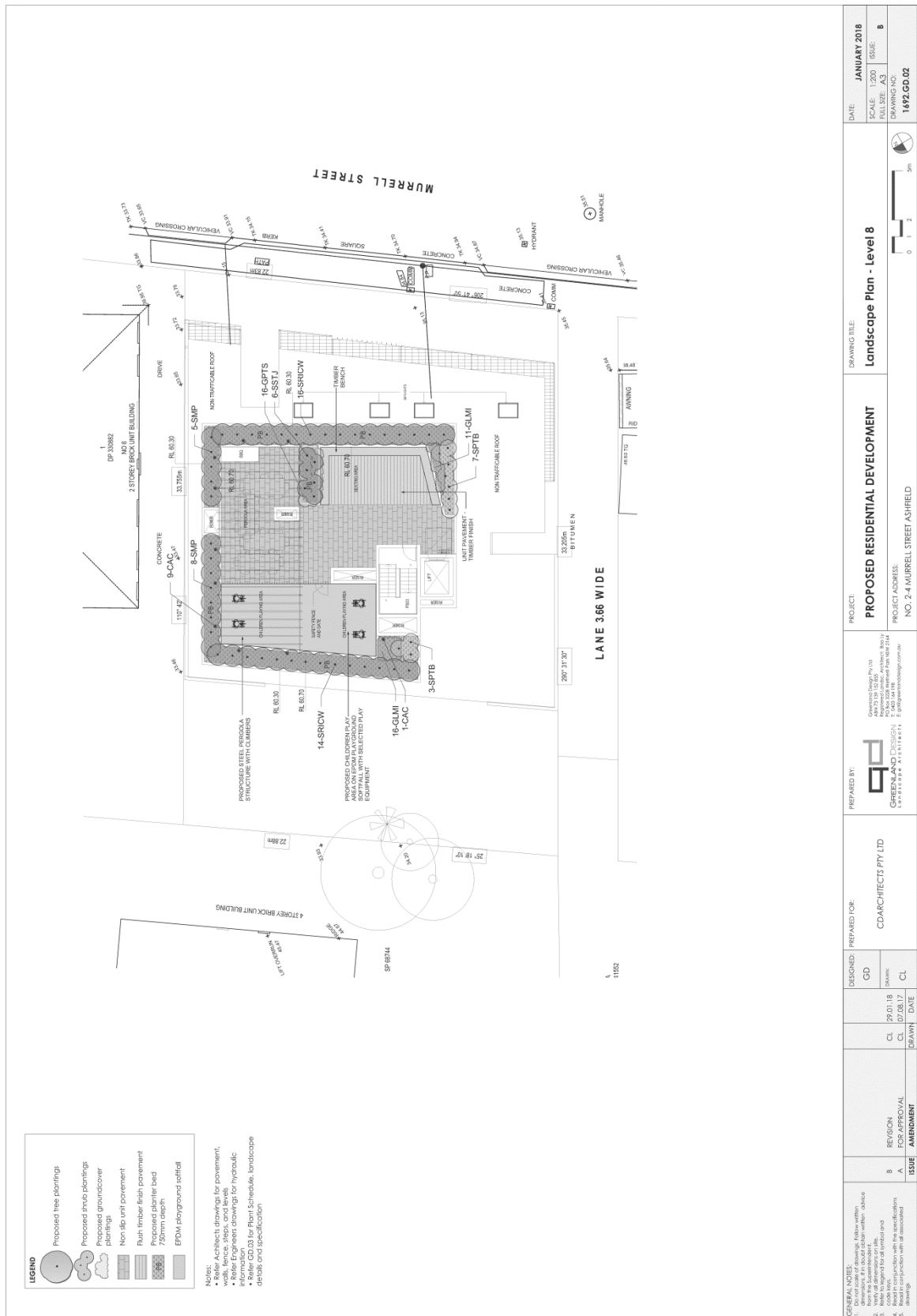


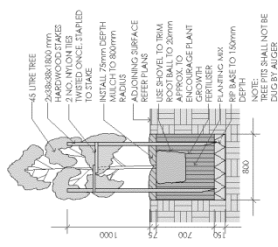












ANDREASENS GREEN
WHOLESALE NURSERIES
Contact Doreen 021 8777 471


SPECIFICATION NOTES
PLANTING MATERIALS

Planting Mix:
Planting mix for tree pits
50% Black Soil

- 30% Coarse Sand
30% Organic Matter,
as available from Australia
equivalent. Samples shall
delivery to site. Any material
shall be removed by the
oil planting bed areas is
Planter Mix:
Planter mix shall be Peat
Phy Ltd [ph 02] 9450 1441
Planter Drainage Cell
Planter drainage cell shall
9648 2073 or approved
Mulch:
Mulch to garden beds:
Mulch shall mean hard
Pinet, Willow, Poplar, Co
25mm grade shall be re
be supplied by Australia
approved equivalent.
Mulch to planter beds:
Mulch to planter beds at
from this end or follow

shall be repaired before the

- must remain upright
 - of the required depth
 - sloped towards the stem
- Place after the preparation
- Plant Material:**
All plant material must be
plants shall be free of fungi,
shaped, not soft or forced.

GENERAL NOTES: 1. Do not scale of drawings below within this drawing. 2. Dimensions are given in millimeters unless stated otherwise. 3. From the bottom, bottom, bottom, bottom to the top of the drawing. 4. Do not scale of drawings below within this drawing. 5. Do not scale of drawings below within this drawing.	8	REVISION	CL	25.01.18	DRAWN	CD	CDARCHITECTS PTY LTD	 GREENLAND DESIGN 11/11/18 11/11/18 11/11/18 11/11/18	PREPARED BY:	PROPOSED RESIDENTIAL DEVELOPMENT	PROJECT:	DRAWING FILE: Landscape Details & Specification	DATE: JANUARY 2018	
													SCALE: 1:100	
													RULLAGE: A3	
													PROJECT ADDRESS: NO. 2-4 MURRELL STREET ASHFIELD	
													DRAWING NO: 1492 GD 03	

Attachment C – Clause 4.6 – Exceptions to Development Standards



CLAUSE 4.6 VARIATION (V2)
CLAUSE 4.4 - FLOOR SPACE RATIO
ASHFIELD LEP 2013



Proposed Residential Flat Building,
2 - 4 Murrell Street, Ashfield
19 May, 2018

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1. INTRODUCTION

This report has been prepared to support the assessment of a Development Application (DA) currently before the Inner West Council. The proposal seeks approval for a residential flat building at 2 - 4 Murrell Street, Ashfield.

In detail the application proposes to demolish the existing buildings and other structures on the site and construct a new multi level building containing, basement car parking, ground and eight upper residential levels containing 39 units.

Under *Clause 4.4* of the *LEP* the site is subject to a maximum floor space ratio (FSR) of 3.0:1. The current proposal incorporates 2652 square metres (m²) of gross floor area (GFA), which exceeds the control by 396.51m² and results in a total floor space ratio (FSR) of 3.48:1, which is 17.6% above the *LEP* standard. The increase in FSR is a direct result of the inclusion within the development of the bonus height permissible under *Clause 4.3A* of the *LEP*. That height increase seeks to provide affordable housing within the Town Centre.

Accordingly, a request to vary the FSR standard under *clause 4.6* of the *LEP* needs to be prepared. That is the purpose of this report.

2. SITE AND LOCATION

The site that is the subject of this report comprises Lot 6 in DP 956, and Lot 2 in DP 330882 and is known as 2 - 4 Murrell Street, Ashfield. The land has a total area of 761.7m .

The site is rectangular in shape (see survey in *Figure 1* below) with an east / west orientation. It has a frontage to Murrell Street of 22.88 metres (m) and the same width to the rear (western boundary). The northern boundary is 33.755m (Survey) in length, while the southern boundary is 33.205m. One single storey dwelling with a Granny Flat and a two-storey block of flats, with associated paved areas, landscaping and outbuildings, occupy the site.

Figure 1 – Site Survey

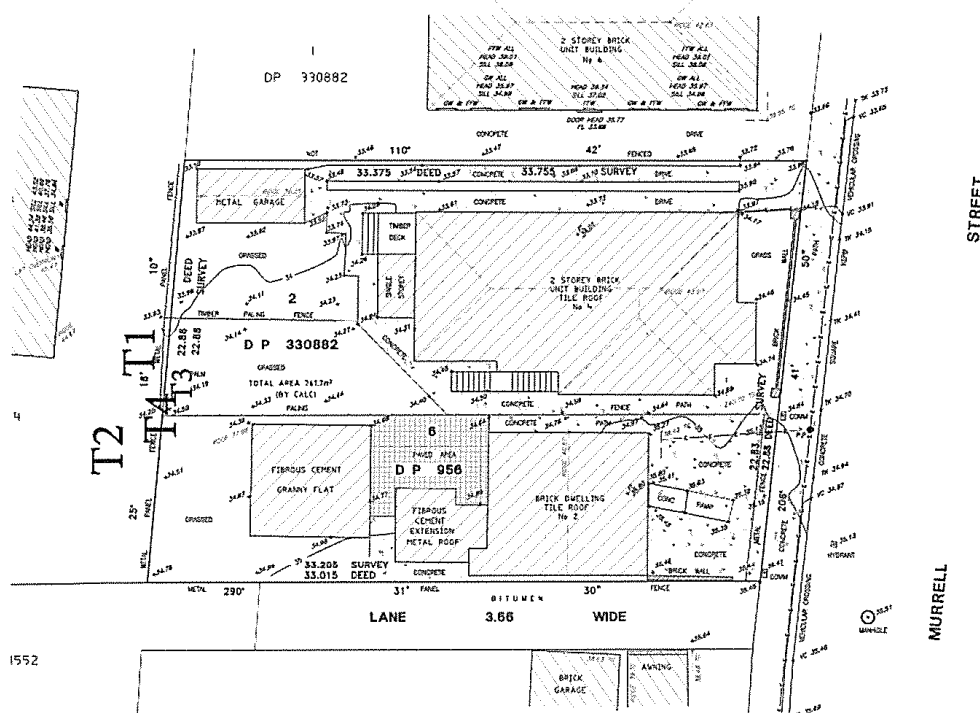


Figure 12 on the following page provides a photo of the existing buildings on the site.

Figure 2 – Existing Buildings

The property is located on the western side of Murrell Street, which is at the eastern end of the Ashfield Commercial Centre. Ashfield Boys High School occupies the whole eastern side of Murrell Street. The surrounding area is quite eclectic in land use terms being spread between retail, commercial activities, residential of various densities and some mixed uses.

The nearby building stock incorporates a mix of building styles, forms sizes and densities. The commercial centre of Ashfield continues to the west of the site and is located directly south of the adjoining Laneway. The centre provides bus and train services to the City, nearby and local areas as well as comprehensive retail / business and civic facilities.

The proposal is designed to enhance the ongoing re development and vitality of the surrounding area by the provision of a modern medium density residential development providing enhanced accommodation in a well serviced locale and includes a component of affordable (key worker) housing.

The general location of the site and the surrounding built form are shown on *figures 3 and 4* on the following page.

Figure 3 – Location Map

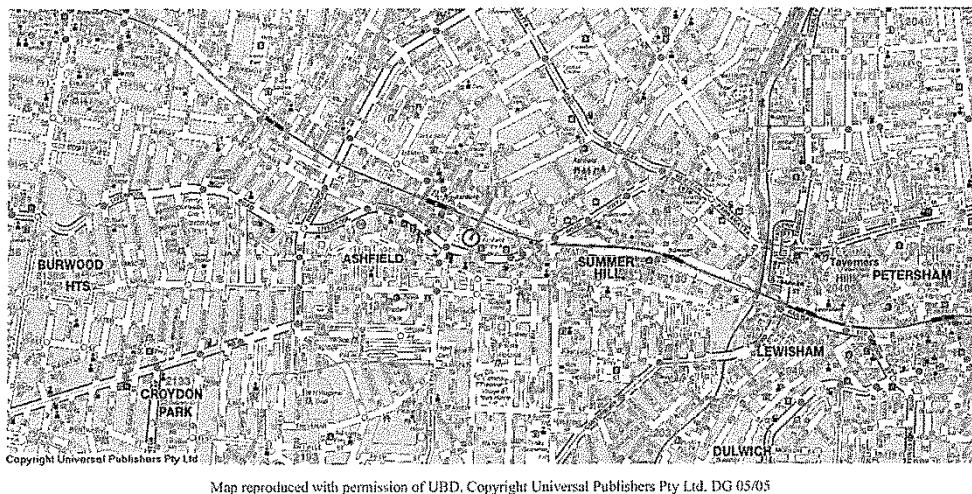


Figure 4 – Aerial Photo



3. CLAUSE 4.6 VARIATION

Clause 4.6 of the LEP outlines the matters to be considered by Council where a proposal seeks to vary a numerical standard contained within the LEP. The subject development seeks to vary the FSR standard currently contained within *clause 4.4* of the LEP and therefore an assessment under *clause 4.6* is required. The FSR is increased by the “lower floors, which are excavated beyond the existing ground level.

4. THE TERMS OF CLAUSE 4.6

Development consent may still be granted to the proposed development (despite the non-compliance with the maximum FSR) if a variation to the relevant control is approved under *clause 4.6* of the LEP. *Clause 4.6* states as follows:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. ...

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

- (4) Development consent must not be granted for development that contravenes a development standard unless:*
- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Secretary has been obtained.*
- (5) In deciding whether to grant concurrence, the Secretary must consider:*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence. ...*
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3). (some bold added) ...*

This document provides a written request from the applicant seeking to justify the contravention of the FSR standard in accordance with *clause 4.6*.

Clause 4.6 continues to be an appropriate and frequently applied mechanism to ensure that planning rules have appropriate levels of flexibility, when the circumstances warrant it. Some recent examples of the application of clause 4.6 by the Land and Environment Court are as follows:

- In *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386 the Land and Environment Court approved a residential flat building in Randwick with a 55 per cent exceedance of the height limit (at its highest point) and a 20 per cent exceedance of the floor space ratio control.

The Court was satisfied that the clause 4.6 request by the applicant's town planner was comprehensive and had addressed all of the prerequisites. The Court was also persuaded that the site was 'unusual in terms of its location at the low point of the locality, its proximity to larger RFBs that would not comply with the building height development standard and its flood affectation'. Those features, when taken together with other benefits of the proposal such as its design excellence and internal amenity, provided sufficient environmental planning grounds to justify approval via clause 4.6.

- In *Moskovich v Waverley Council* [2016] NSWLEC 1015 the Land and Environment Court approved a residential flat building in Bondi with a floor space ratio of 1.5:1. The development standard was 0.9:1. The exceedance was around 65 per cent. The Court's decision set out a detailed analysis of the decision of the Court in *Four2Five v Ashfield Council*, which concluded that the large numerical exceedance of the FSR control could be supported.
- In *Baker Kavanagh Architects v Sydney City Council* [2014] NSWLEC 1003 the Court granted a development consent for a three-storey shop top housing development in Woolloomooloo. In this decision, the Court, approved a floor space ratio variation of 187 per cent.

5. FLOOR SPACE RATIO (FSR) VARIATION

The LEP also sets floor space ratio (FSR) limitations for buildings throughout the former Leichhardt Council area. *Clause 4.4* states relevantly in part as follows

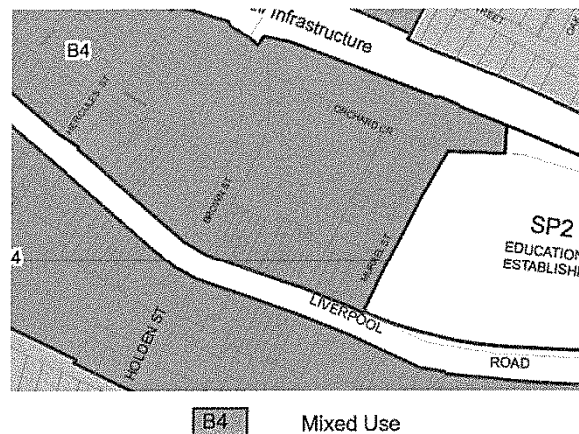
4.4 Floor space ratio

(1) The objectives of this clause are as follows:.....

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

Figure 5 on the following page indicates the relevant extract from the LEP FSR map

Figure 5 – FSR Map



Source: Ashfield LEP 2013 – Zoning Map

The current proposal incorporates 2652m² of gross floor area (GFA), which exceeds the maximum of 3.0:1 under the LEP by 396.51m² and results in a total floor space ratio (FSR) of 3.48:1, which is 17.6% above the LEP standard. The increase in FSR is a direct result of the inclusion within the development of the bonus height permissible in under *Clause 4.3A* of the *LEP*. The provision of additional height is based on at least 25% of the space created being used for affordable housing.

Accordingly, a request to vary the differing standards applicable within the site is considered to be necessary and discussed further in this section of the report.

5(a) - Environmental Planning Grounds

There are sufficient environmental planning grounds to justify contravening the FSR standard.

The LEP has a number of clauses that seek to regulate bulk and scale by way of height and FSR controls. However, as a collective they are contradictory. The FSR control is clearly set at 3.0:1 with a matching height of building control of 23m, although a subsequent clause (4.3A) permits an additional 7m of height provided that 25% of the additional FSR is used for affordable housing. In that regard Clause 4.3A states as follows:

4.3A Exception to maximum height of buildings in Ashfield town centre

- (1) The objective of this clause is to increase the supply of affordable rental housing by providing height incentives for the development of certain types of affordable rental housing.*
- (2) This clause applies to development for the following purposes on land identified as "Area 1" on the Height of Buildings Map:*
- (a) residential flat buildings,*
 - (b) shop top housing that forms part of a mixed use development.*
- (3) Despite clause 4.3 (2), development consent may be granted to development to which this clause applies that exceeds the maximum height shown for the land on the Height of Buildings Map (the maximum height) by no more than 7 metres if:*
- (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.*
- (4) In this clause, affordable rental housing has the same meaning as in State Environmental Planning Policy (Affordable Rental Housing) 2009.*

By nature, any increase in height as per the bonus clause will generate additional gross floor area (GFA), immediately increasing the FSR of such a building. The controls of building height

are automatically in contest with the control of FSR, as clearly you cannot allow an increase in one without a corresponding increase in the other.

Accordingly, compliance with the base FSR standard would be unreasonable when exercising the bonus height opportunity in *clause 4.3A*. This is particularly the case as the opportunity for additional height is not restricted by any further control to ensure that the relevant FSR standard is maintained.

In *North Shore Gas Company v North Sydney Municipal Council* (Land and Environment, New South Wales, 15 September 1986, unreported) Stein J similarly held that compliance with a development standard was not required where the standard has been virtually abandoned or destroyed by Council's own action.

In 2014 Council considered a DA for the redevelopment of 270 Liverpool Road, which sought to invoke the bonus height clause and provide the 25% of the additional floor area as affordable housing. Similar DA's have subsequently been approved by Council, including at 8 – 12 Murrell Street (DA 2016 / 127). In agreeing to these proposals Council acknowledged the mismatch in the controls and the obvious need to increase the FSR to achieve the additional height. While not necessarily abandoning its FSR control, Council has clearly accepted that it will have to be varied at the very least, if the bonus height provision is to work.

In the circumstances of this proposal a better outcome is also achieved by varying the relevant FSR standard through:

- The re invigoration of older residential buildings with a new vibrant modern building, that although marginally greater in height, respects its surroundings and reduces its impact on nearby residential properties.
- The opportunity to increase the availability of affordable housing, in the area as envisaged within the LEP.

In this context if the FSR variation is not approved:

- The orderly and economic use of the land (as promoted by the objects of the EP&A Act, 1979) would be suboptimal; and

- The site's capacity to provide residential variety and opportunities within the locality would be not be fully utilised.

These facts, taken together, constitute environmental planning grounds sufficient to justify contravening the development standard. If approved, the proposal (when built) will not be out of place with, nor detrimental to the amenity of its surroundings. It is also considered that the continued revitalisation and improvement of the locality can only benefit the community.

5(b) - Consistency with the Standard & Zone Objectives

The proposed development will be in the public interest because it is consistent with the objectives of both the FSR standard and relevant land use zone. The reasons why are set out in this section.

Clause 4.4(1) of the LEP contains objectives that clearly indicate the purpose of the FSR control, with those that are relevant to the proposal listed as follows.

(a) to establish standards for development density and intensity of land use,

Comment: This is an administrative matter setting out why the FSR control is within the LEP.

(b) to provide consistency in the bulk and scale of new development with existing development,

Comment: The proposal will be consistent with other recently approved developments both within the Town Centre and Murrell Street, which have sought to exercise the affordable housing bonus.

(c) to minimise adverse environmental impacts on heritage conservation areas and heritage items,

Comment: This matter has been discussed in the SEE, with the acknowledgement that the proposal will have no detrimental impact on the nearby heritage items fronting Liverpool Road.

(d) to protect the use or enjoyment of adjoining properties and the public domain,

Comment: The proposal will not reduce the enjoyment of adjoining properties nor will it negatively impact on the public domain, as it is compliant with the built form opportunities allowed for within the LEP and DCP.

(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.

Comment: The subject site is located wholly within the Town Centre, with adjoining and nearby properties subject to the same LEP and DCP provisions.

The Land Use table in the LEP sets out the zone objectives the following relevant to the proposed development:

- *To provide a mixture of compatible land uses.*
- *To enhance the viability, vitality and amenity of Ashfield town centre as the primary business activity, employment and civic centre of Ashfield.*
- *To encourage the orderly and efficient development of land through the consolidation of lots.*

The proposal satisfies these objectives in a number of aspects:

- The proposed residential land use is compatible with the similar residential uses around it and the wider commercial / retail activities within the Ashfield Town Centre.
- The proposal includes residential accommodation in close proximity to the transport hub of the Town Centre and Railway Station to promote public transport, cycling and walking.
- The overall site is made up of two smaller lots that are to be consolidated promoting a much more efficient and orderly development of the site.

5(c) - Compliance Unreasonable Or Unnecessary

Compliance with the development standard is unreasonable or unnecessary in the circumstances of this case. There are three reasons why this is so.

Firstly, there are no adverse consequences attributable to the proposed non-compliant aspect of the development. To ensure absolute compliance with the FSR standard would result in the loss of the affordable housing component of the proposal, seriously impacting on the intent of the planning framework.

The burden placed on the landowner via such a requirement would be disproportionate to any adverse consequences attributable to the proposed non-compliant development (relying on comments made in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 [15]).

Secondly, requiring strict compliance (and refusing the development application) will *thwart* achievement of the objectives of the FSR standard as discussed earlier in this report, particularly in the context of a built form that is compliant under the LEP and similar in bulk and scale to adjoining and nearby approved buildings.

Finally, requiring strict compliance (and reducing the FSR of the proposal) will undermine achievement of the zone objectives as discussed in section 5(b) above.

The proposed development achieves a balanced development outcome between an acceptable built form within the *B4* zone and the surrounding mixed density neighbourhood. The built form outcome will be one of quality, with care taken in the design phase to ensure that any adverse impacts to surrounding properties are minimised.

In view of all of the above, compliance with the numerical LEP FSR standard is considered to be unreasonable and unnecessary in the circumstances. If approved, the proposal (when built) will not be out of place with, nor detrimental to the amenity of its surroundings and will fit within the desired future character of the area as envisaged in the relevant planning framework.

The proposed development represents a good fit with the aims of the LEP, the objectives of the FSR standard and the objectives of the zone.

Approval of a proposal that provides renewed residential opportunities within a bulk and scale appropriate for its surroundings, is an acceptable merit based development outcome for the precinct, that will meet the relevant desired future character intent of Council.

6. CONCURRENCE OF THE SECRETARY

In accordance with the recent Planning Circular (PS 18 – 003) dated 21 February, 2018 the concurrence of the Secretary (of Department of Planning and Environment) can now be assumed for the proposed height variation. This Circular is a notice under *Clause 64(1)* of the *Environmental Planning and Assessment Regulation 2000*.

A consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

7. CONCLUSION

An assessment undertaken against the relevant planning framework indicates that the proposal is an acceptable one. It will not impact negatively on the amenity of nearby residents. The variation to the FSR standard contained within the LEP is a matter that any reasonable Authority properly exercising its planning powers could agree to.

David Furlong - Director

BTP, MPLA