



 DEVELOPMENT ASSESSMENT REPORT	
<b>Application No.</b>	DA/2020/0491
<b>Address</b>	21-21A Edwin Street South CROYDON NSW 2132
<b>Proposal</b>	Alterations and additions to existing dwelling and Torrens title subdivision
<b>Date of Lodgement</b>	30 June 2020
<b>Applicant</b>	Monument Design Partnership
<b>Owner</b>	Mr John L Percy Mr James B Willis
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$65,000
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds 10%
<b>Main Issues</b>	Subdivision lot size Neighbouring privacy
<b>Recommendation</b>	Approval with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards



**LOCALITY MAP**

Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing dwelling and Torrens title subdivision at 21-21A Edwin Street South, Croydon.

The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Subdivision lot size, specifically the proposed street frontage; and
- Neighbouring privacy.

These concerns are acceptable subject to conditions and for the reasons discussed within this report and therefore the application is recommended for approval.

## 2. Proposal

The proposal involves the Torrens title subdivision of the existing dual occupancy and associated works.

The two new lots are proposed to be known as No. 21 and No. 21A Edwin Street respectively. The proposed subdivision includes a party wall covenant.

Both Nos. 21 and 21A have proposed site areas of 232.2sqm and frontages of 5.44m.

No building works are proposed at No. 21A Edwin Street with the exception of a new blade wall (see below). The following building works are proposed at No. 21 Edwin Street:

- Partial demolition of internal and external walls and front fence;
- Internal reconfiguration and renovation;
- A rear deck connected to the open plan living area by external stairs;
- A new blade wall adjacent to the new deck between the two proposed subject sites;
- Changes to existing openings and new openings;
- Two new skylights;
- A new hardstand car space and driveway within the front setback; and
- Landscaping works.

## 3. Site Description

The site is rectangular in shape with an area of approximately 464.4sqm. It has a primary street frontage to Edwin Street.

Currently the site is occupied by a single storey dual occupancy in a 'side by side' attached configuration. The site is adjoined by a near-identical dual occupancy to the north (No. 17-17A) and a single storey semi-detached dwelling house to the south (No. 19A). The subject (eastern) side of Edwin Street is characterised by single storey detached dwelling houses for its northern half, and dual occupancies or semi-detached dwellings for its southern (subject) half. Nos. 15-27A are all current or historic inter-war dual occupancies which appear to have been built at around the same time. The opposite (western) side of Edwin Street is largely characterised by single storey detached dwelling houses.

The site is not identified as containing a heritage item and is not located within a heritage conservation area. It is noted that the opposite (western) side of Edwin Street is located within the Gads Hill Conservation Area (C29).

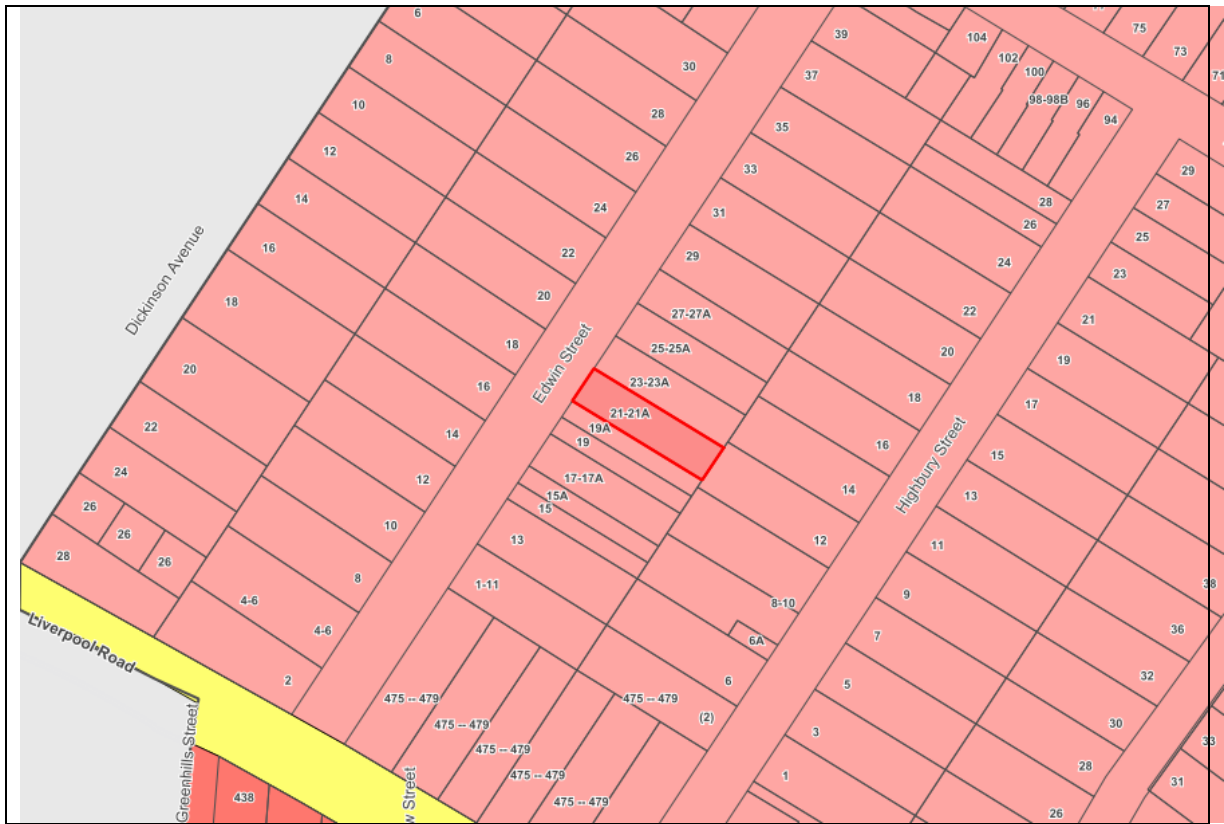


Figure 1: Zoning map.



Figure 2: Aerial image showing site and surrounding context.





Figure 3: Subject site viewed from Edwin Street. No. 23-23A can be seen to the left of frame and No. 19A can be seen to the right of frame.



Figure 4: Looking south-east from in front of subject site towards the neighbouring dual occupancies / semi-detached dwellings at Nos. 19A, 19, 17-17A, 15A and 15 Edwin Street (from left to right of frame).

## 4. Background

### 4(a) Site history

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

## Subject Site

Nil.

## Surrounding properties

### 19A Edwin Street

- On 4 January 2016, development consent (2016.242.1) was granted for construction of a vehicular crossing and a hard stand area within the front setback. The works have since been completed.

## 4(b) Application history

The following outlines the relevant history of the subject application.

- On 21 August 2020, Council planners sent a letter identifying a number of concerns with the proposal largely in relation to changes to the front façade, privacy, subdivision and fire separation.
- On 28 August 2020, the applicant provided amended drawings which adequately addressed the concerns raised in Council's letter.

## 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 (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Ashfield Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

#### 5(a)(i) *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

A BASIX Certificate was submitted with the application.

#### 5(a)(ii) *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

An assessment has been made of the matters set out in Division 2 Matters for Consideration 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 relevant matters for consideration 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)(iii) State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)*

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

The application seeks the removal of vegetation from within the site and on Council land. The application was referred to Council’s Tree Management Officer who raised no objection subject to the imposition of conditions of consent.

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

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

The application was assessed against the relevant clauses of the *Ashfield Local Environmental Plan 2011*.

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

The site is zoned R2 – Low density residential under the *ALEP 2013*. The *ALEP 2013* defines the development as:

*semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling.*

The development is permitted with consent within the zone and is consistent with the objectives of the zone.

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

Standard	Proposal	Non-compliance	Complies
<b>Minimum subdivision lot size</b> 200sqm, 7m street frontage	232.2sqm, 5.44m street frontage	Street frontage - 1.56m (25%)	<b>No</b> (see discussion below)
<b>Height of Building</b> Maximum permissible: 8.5m	6.2m	N/A	Yes
<b>Floor Space Ratio</b> Maximum permissible: 0.7:1 or 162.5m <sup>2</sup> (on each proposed lot)	No. 21: 0.34:1 (78.5sqm) No. 21A: 0.32:1 (75sqm)	N/A	Yes

Clause 4.1A - Exceptions to minimum subdivision lot size for certain residential development

The site is located within ‘Area 1’ on the minimum subdivision lot size map within the LEP. Clause 4.1A of the LEP states:

(2) Despite clause 4.1 (3), development consent may be granted to the subdivision of land identified as “Area 1” on the Lot Size Map that is not land on which a heritage item is located or within a heritage conservation area if—

- (a) each lot resulting from the subdivision will be at least 200 square metres, and
- (b) a semi-detached dwelling is or will be located on each lot, and
- (c) each lot will have a minimum street frontage of 7 metres.

In accordance with this Clause, each lot has a proposed area of 232.2sqm and will contain a semi-detached dwelling. Each lot has a proposed street frontage of 5.44m which does not comply with the 7m requirement. See discussion below.

#### Clause 4.6 Exceptions to Development Standards

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

- Clause 4.1A - Exceptions to minimum subdivision lot size for certain residential development

The applicant seeks a variation to the ‘Exceptions to minimum subdivision lot size for certain residential development’ development standard under Clause 4.1A of the Ashfield LEP by 25% (1.56m).

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

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

A written request has been submitted to Council in accordance with Clause 4.6(3) of the Ashfield LEP justifying the proposed contravention of the development standard which is summarised as follows:

- The proposal complies with the objectives of the Clauses 4.1 and 4.1A and the objectives of the R2 – Low density residential zone.

The applicant’s written rationale adequately demonstrates compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R2 – Low density residential, in accordance with Clause 4.6(4)(a)(ii) of the Ashfield LEP for the following reasons:

- *To provide for the housing needs of the community within a low density residential environment.*
  - The proposal retains the existing semi-detached dual occupancy.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  - Not applicable, the proposal relates wholly to a residential use.

It is considered the development is in the public interest because it is consistent with the objectives of Clause 4.1 and 4.1A 'Exceptions to minimum subdivision lot size for certain residential development' development standard, in accordance with Clause 4.6(4)(a)(ii) of the Ashfield LEP for the following reasons:

#### 4.1 Minimum subdivision lot size

- (a) *to maintain the existing pattern of subdivision within heritage conservation areas in terms of lot size and lot dimensions,*
- Not applicable, the site is not located within a heritage conservation area.
- (b) *to provide opportunities for infill small lot subdivision in areas close to transport and amenities in a manner that does not adversely impact on the streetscape or amenity of residential areas,*
- Not applicable as the proposal relates to existing housing stock and does not involve infill development.
- (c) *to provide for small lot subdivision in certain areas close to public transport as an alternative to redevelopment for the purpose of multi dwelling housing in order to retain the scale and character of the area,*
- The site is located in close proximity to Croydon Train Station (~320m). As such it is located within 'Area 1' on the minimum subdivision lot size map of the LEP which permits small lot subdivision, being 200sqm and a 7m street frontage.

It is noted that a number of older-stock dual occupancies on the eastern (subject) side of Edwin Street have been Torrens title subdivided including Nos. 15, 15A, 19 and 19A Edwin Street. These sites have similar lot sizes and street frontages to that proposed in the subject application (see table and figure below).

<b>Site</b>	<b>Lot size</b>	<b>Street frontage</b>
15 Edwin Street	231sqm	5.18m
15A Edwin Street	234sqm	5.48m
19 Edwin Street	223sqm	5.25m
19A Edwin Street	230sqm	5.37m
<i>21 Edwin Street (proposed)</i>	<i>232.2sqm</i>	<i>5.2m</i>
<i>21A Edwin Street (proposed)</i>	<i>232.2sqm</i>	<i>5.2m</i>

Table 1: Lot sizes and street frontages.





Figure 5: Subject site and subdivision pattern.

As shown by the table and figure above, the proposed subdivision is not inconsistent with an established existing subdivision pattern for the historic dual occupancies on the south-eastern section of Edwin Street.

As discussed elsewhere, the proposal retains the existing dual occupancy structure and only involves minor external works to No. 21, largely confined to the rear. The existing building appears to be the original housing stock of the subject subdivision, which is consistent with the prevalent wider character of the street.

It is not unlikely that the balance of the sites that contain dual occupancies on this side of Edwin Street may also undergo Torrens title subdivision in the future.

The proposal will retain the existing scale and character of the area.

*(d) to ensure that lot sizes allow development to be sited to protect and enhance riparian land.*

- The proposed subdivision will not adversely affect riparian land.

#### 4.1AA Minimum subdivision lot size for community title schemes

*(1) The objective of this clause is to encourage housing diversity without adversely affecting residential amenity*

- The proposal contributes to housing diversity in the area by providing two semi-detached dwellings. The proposal maintains the same number of dwellings and only involves associated minor internal and external works.

Given that the current configuration, built fabric and intensity of the site is largely unchanged, the proposed subdivision and associated works will have little impact on the residential amenity of the subject and neighbouring sites. As discussed elsewhere in this report, subject to the imposition of

recommended conditions of consent, the proposal will maintain good neighbouring solar access and privacy.

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Ashfield LEP. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Clause 4.1A and it is recommended the Clause 4.6 exception be granted.

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

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

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

### 5(d) Development Control Plans

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

<b>Part 9 – Subdivision, Chapter A</b>			
<b>Control</b>	<b>Standard</b>	<b>Proposed</b>	<b>Compliance</b>
General	development of buildings and structures that have an internal area and dimensions that are useable for their intended purpose provision of setbacks, landscaped open space and vehicle access, parking and manoeuvring in accordance with the relevant parts of this DCP buildings to address and activate the street adverse impacts of the amenity of adjoining land is be minimised	The proposed size and configuration of the existing dual occupancy is suitable for their intended purpose. The proposal maintains existing setbacks, ample landscaped area and provides a new car space for No. 21. No external changes to the front facade of the building are proposed other than a planter box. As discussed elsewhere in this report adequate neighbouring amenity is maintained.	Yes
Density	Lots are consistent with the prevailing lot pattern and streetscape character in the local area, including size, dimensions, configuration and pattern, including provision of front and rear gardens	The proposal maintains the existing density of the site, being two (2) dwellings.	Yes

Small lot Torrents subdivision	ensures adjoining lots have adequate access to sunlight, daylight, air circulation, acoustic and visual privacy does not result in overbearing development for neighbouring properties in terms of closeness, scale or bulk includes an appropriate balance of built form and open space	As discussed, the proposal retains adequate amenity for the subject and neighbouring sites. Minimal change to the building envelope is proposed, and adequate open space is maintained.	Yes
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<b>Part 1 - Dwelling houses and Dual Occupancy, Chapter F</b>			
<b>Control</b>	<b>Standard</b>	<b>Proposed</b>	<b>Compliance</b>
Wall height	Maximum external wall height of 6 m	3.3m (no change).	Yes
Setbacks	To comply with BCA, generally 900mm	No change to existing setbacks are proposed.	Yes
Minimum Landscaped area %	201-300sqm – 25% of site area	No. 21: 66.8sqm (28.7%) No. 21A: 100sqm (43%)	Yes
Maximum site coverage	201-300sqm – 65% of site area	No. 21: 93.6sqm (40%) No. 21A: 88sqm (38%).	Yes
Principle private open space	Directly accessible from and at the same level as ground floor living area Has a minimum area of 20sqm Has a minimum dimension of 3.5m Has as an appropriate level of solar access, natural ventilation and privacy	The rear living area is directly connected to the proposed rear deck and rear yard, which has a combined area of 45sqm. This area will receive ample sunlight and amenity.	Yes
Front gardens	Have an area and dimensions that provide sufficient soil area for ground cover, vegetation and trees Hard paved areas are minimised, and driveways have a maximum width of 3 metres.	Approximately 50% of the front setback is retained as landscaped area, retaining sufficient space for vegetation. The proposed hardstand car space is 2.4m in width. It is noted that the recently approved and constructed hardstand car space at the neighbouring property (No. 19A) retained a similar amount of front landscaped area.	Yes
Solar access	Maintain adequate neighbouring solar access.	The proposal largely utilises the envelope of the existing building. The minor works at the rear which include infilling the north-east corner and a new blade wall will have a	Yes

		negligible impact on neighbouring solar access.	
Visual Privacy	Windows to side elevations located above the ground floor to be minimised.	See discussion below table.	Yes
Tree preservation	Significant trees that make a contribution to the landscape character, amenity or environmental performance of the site are retained	Council's tree specialist has reviewed the application has no objection to the proposal subject to the imposition of recommended conditions of consent.	Yes
Stormwater Disposal	Stormwater from roofs is discharged by gravity to street gutter system	Conditioned to Engineer's requirements	Yes

The following provides a detailed discussion of the key controls above:

**Visual Privacy**

Only one new window is proposed on the southern (side) elevation, which is a high-level window relating to the kitchen at the rear of the house.

The external staircase structure connecting the living area and the proposed rear deck includes large landings to its southern half. Given its raised nature and proximity to the southern (side) boundary (1.367m), these landings, which do not serve any immediate purpose, may create opportunities for overlooking of the neighbouring property (No. 19A) (see Figure 4 below).



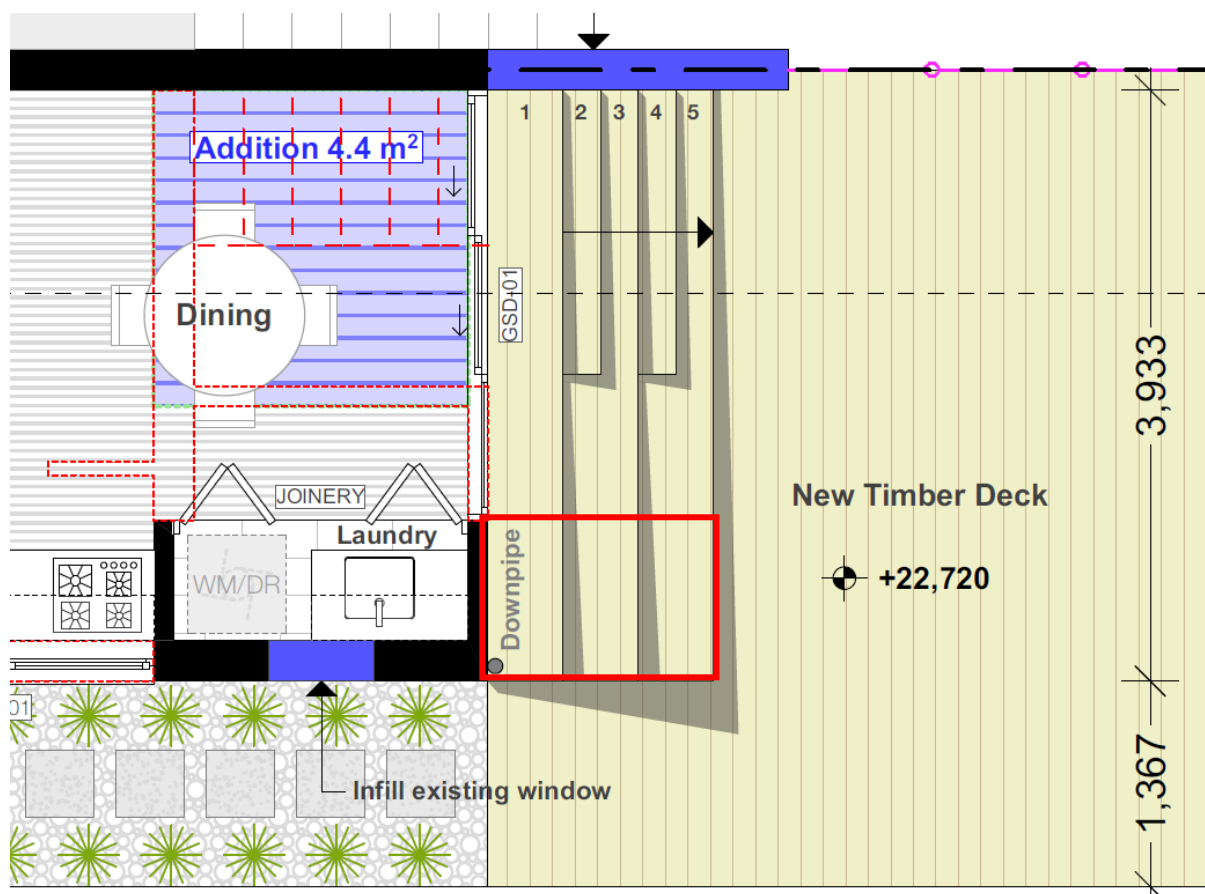


Figure 6: External stairs and landing structure. Red box denotes the area to be deleted. As such, it is a recommended condition of consent that the stairs be setback from southern (side) boundary to be in line with the laundry stacking doors in order to reduce opportunities for overlooking of the neighbouring property.

A brick blade wall is proposed adjacent to the external stairs and deck between Nos. 21 and 21A, providing effective screening between the two properties.

The en-suite located in the front portion of the house has internal shutters, ensuring the internal privacy of the space can be managed by the future residents. The front-most window on the southern (side) elevation relating to the bathroom has frosted glazing, ensuring the internal privacy of this space is maintained.

### 5(e) The Likely Impacts

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

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

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(g) Any submissions

The application was notified in accordance with Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill for a period of 21 days to surrounding properties.

No submissions were received in response to the initial notification.

### 5(h) The Public Interest

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

The proposal is 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.

- Engineers – no objections subject to the imposition of recommended conditions of consent.
- Urban forest - no objections to proposal subject to protection of 1 street tree and canopy replenishment planting of one (1) new tree. Conditions of consent to this effect have been recommended.
- Building certification – no objections.

### 6(b) External

Nil.

## 7. Section 7.11 Contributions / Section 7.12 Levy

Section 7.11 contributions are not payable as the proposal relates to an existing dual occupancy and does not increase the intensity of use of the site or result in an increase demand on facilities.

Section 7.12 levy does not apply in this instance as the proposed cost of works is below \$100,000.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Ashfield Local Environmental Plan 2013* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The development will not result in any significant impacts on the amenity of the neighbouring properties and the streetscape and is considered to be in the public interest.

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

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 to vary Clauses 4.1 and 4.1A of the *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstances of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2020/0491 for Alterations and additions to existing dwelling and Torrens title Subdivision at 21-21A Edwin Street South, Croydon subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### CONDITIONS OF CONSENT

#### DOCUMENTS RELATED TO THE CONSENT

##### 1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA.03 'B'	Demolition Plan	25 August 2020	Monument Design Partnership
DA.04 'B'	Subdivision Plan	25 August 2020	Monument Design Partnership
DA.05 'B'	Site Plan / Roof Plan	25 August 2020	Monument Design Partnership
DA.04 'B'	Floor Plan	25 August 2020	Monument Design Partnership
DA.08 'B'	Elevations	25 August 2020	Monument Design Partnership
DA.09 'B'	Elevations & Sections	25 August 2020	Monument Design Partnership
DA.11 'B'	Landscape Plan	25 August 2020	Monument Design Partnership

As amended by the conditions of consent.

#### DESIGN CHANGE

##### 2. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. The external stairs and associated landing structure which connects the dining area with the rear deck must be setback from the southern (side) boundary to be in-line with the laundry stacking doors in order to reduce opportunities for overlooking of the neighbouring property.



**FEES**

**3. Security Deposit - Custom**

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

<b>Security Deposit:</b>	\$2,152.50
<b>Inspection Fee:</b>	\$230.65

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

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

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

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

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

**4. Long Service Levy**

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

**GENERAL CONDITIONS**

**5. Tree Protection**

No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council’s Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

Any public tree within five (5) metres of the development must be protected in accordance with Council’s *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council’s Tree Management Controls at any time.

The trees identified below are to be retained and protected in accordance with the conditions of consent throughout the development.

Tree No.	Botanical/Common Name	Location
1	<i>Tristaniopsis laurina</i> (Water Gum)	Edwin Street

Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:

- a. Green for trees to be retained

**6. Boundary Alignment Levels**

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

**7. Waste Management Plan**

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

**8. Erosion and Sediment Control**

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

**9. Works Outside the Property Boundary**

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

**PRIOR TO ANY DEMOLITION****10. Hoardings**

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

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

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

**11. Advising Neighbors Prior to Excavation**

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

**12. Construction Fencing**

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

**PRIOR TO CONSTRUCTION CERTIFICATE****13. Dilapidation Report – Pre-Development – Minor**

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

**14. Stormwater Drainage System – Minor Developments (OSD is not required)**

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

- a. Separate stormwater drainage shall be provided for the lots;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank, by gravity to the kerb and gutter of a public road; Minor roof and paved areas at the rear of the property that cannot reasonably be drained by gravity to the

street may drained to an on-site dispersal system such as an absorption system or otherwise, subject to the roof areas being drained via a suitably sized rainwater tank, no nuisance or concentration of flows to other properties and the feasibility and design of the on-site dispersal system being certified by a suitably qualified and experienced practising Civil and/or Geotechnical Engineer;

- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm. Major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm;
- e. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tank;
- f. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- g. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- h. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- i. The design must make provision for the natural flow of stormwater runoff from adjacent properties;
- j. No nuisance or concentration of flows to other properties;
- k. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- l. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- m. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- n. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- o. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;and
- p. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;

#### **15. Public Domain Works – Prior to Construction Certificate**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The construction of light duty vehicular crossing;



- b. New concrete footpath and any damaged kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determined by the Council Engineer;
- c. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary; and
- d. Installation of a stormwater outlet to the kerb and gutter.

All works must be completed prior to the issue of an Occupation Certificate.

#### 16. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

#### 17. Sydney Water – Tap In

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

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

### **DURING DEMOLITION AND CONSTRUCTION**

#### 18. Tree Protection Zone

To protect the following tree/s, no work must commence until its/their Protection Zone is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area in accordance with Council's *Development Fact Sheet—Trees on Development Sites*. The fence/s must be maintained intact until the completion of all demolition/building work on site.

Tree No.	Botanical/Common Name	Radius in metres
1	<i>Tristaniopsis laurina</i> (WaterGum)	2.5 metres north to south enclosing grass verge.

#### 19. Construction Hours – Class 1 and 10

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

**PRIOR TO OCCUPATION CERTIFICATE****20. Certification of Tree Planting**

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:

A minimum of one (1) x 75 litre size *Magnolia grandiflora* "Little Gem" tree/s, has been planted in a suitable location within the property at a minimum of 1.5 metres from any boundary or structure and allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape use*.

and The conditioned Tree Protection Measures have been complied.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

**21. Public Domain Works**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. Light duty concrete vehicle crossing at the vehicular access location;
- b. The existing concrete footpath across the frontage of the site must be reconstructed;  
and
- c. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

**22. No Encroachments**

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

**23. Protect Sandstone Kerb**

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

**ON-GOING****24. Maintenance of tree plantings**

The tree/s planted as part of this consent is/are to be maintained in a healthy and vigorous condition for 12 months from the issue of an Occupation Certificate. If any of the tree/s is/are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate it/they must be replaced with the same species within one (1) month (up to 3 occurrences).

**ADVISORY NOTES****Consent of Adjoining property owners**

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

**Tree Protection Works**

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and *AS4970—Protection of trees on development sites*.

**Permits**

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

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

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

**Insurances**

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

**Prescribed Conditions**

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

**Notification of commencement of works**

At least 7 days before any demolition work commences:

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

**Storage of Materials on public property**

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

**Toilet Facilities**

The following facilities must be provided on the site:

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

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

**Infrastructure**

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

**Other Approvals may be needed**

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

**Failure to comply with conditions**

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

**Other works**

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

**Obtaining Relevant Certification**

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

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

**Disability Discrimination Access to Premises Code**

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

**National Construction Code (Building Code of Australia)**

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

**Notification of commencement of works**

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

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

**Dividing Fences Act**

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

**Permits from Council under Other Acts**

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

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

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

**Noise**

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

**Amenity Impacts General**

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges

from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

**Construction of Vehicular Crossing**

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

**Lead-based Paint**

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

**Dial before you dig**

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

**Useful Contacts**

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm
	<a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20
	<a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a>
	Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100
	<a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660
	To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441
	<a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>



NSW Food Authority	1300 552 406	<a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government		<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diysafe.nsw.gov.au">www.diysafe.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555	<a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92	<a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	1300 651 116	<a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)		<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	13 10 50	<a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> Enquiries relating to work safety and asbestos removal and disposal.

**Street Numbering**

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

Attachment B – Plans of proposed development

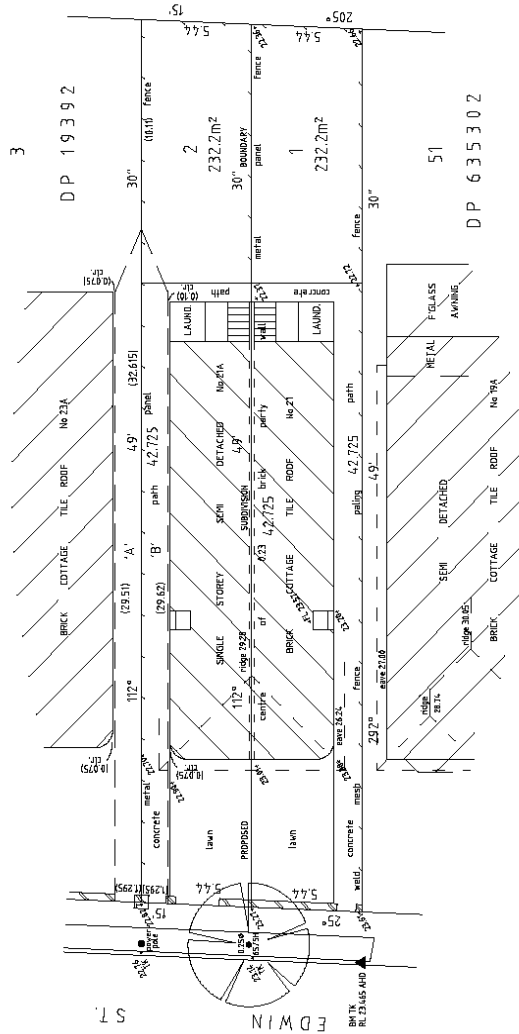
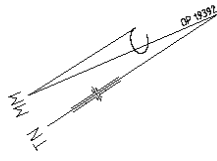
Sheet Index

Layout ID	Layout Name	Scale	Issue
DA.00	Cover Sheet	NTS	B
DA.01	Survey	1:200	B
DA.02	Site Management Plan	1:200	B
DA.03	Demolition Plan	1:200	B
DA.04	Subdivision Plan	1:200	B
DA.05	Floor Plan	1:100	B
DA.06	Site Plan / Roof Plan	1:200	B
DA.07	Site Computations	1:200	B
DA.08	Elevations	1:100	B
DA.09	Elevations & Sections	1:100	B
DA.10	BASIX Commitments	NTS	B
DA.11	Landscape Plan	1:200	B

2121a

Project address  
 21 & 21a Evelyn Street S, Croydon, NSW  
 Description  
 LGA  
 Client  
 Inner West Council  
 Drawing title  
 DA.00 | Cover page  
 Revision  
 B



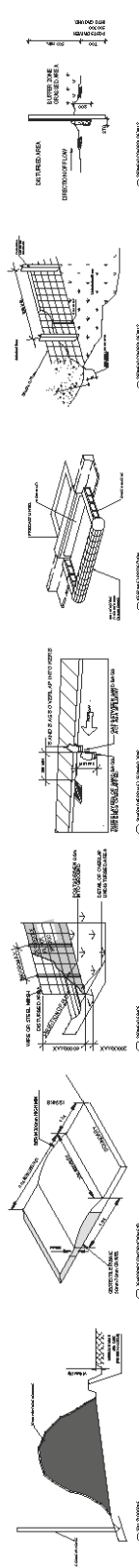
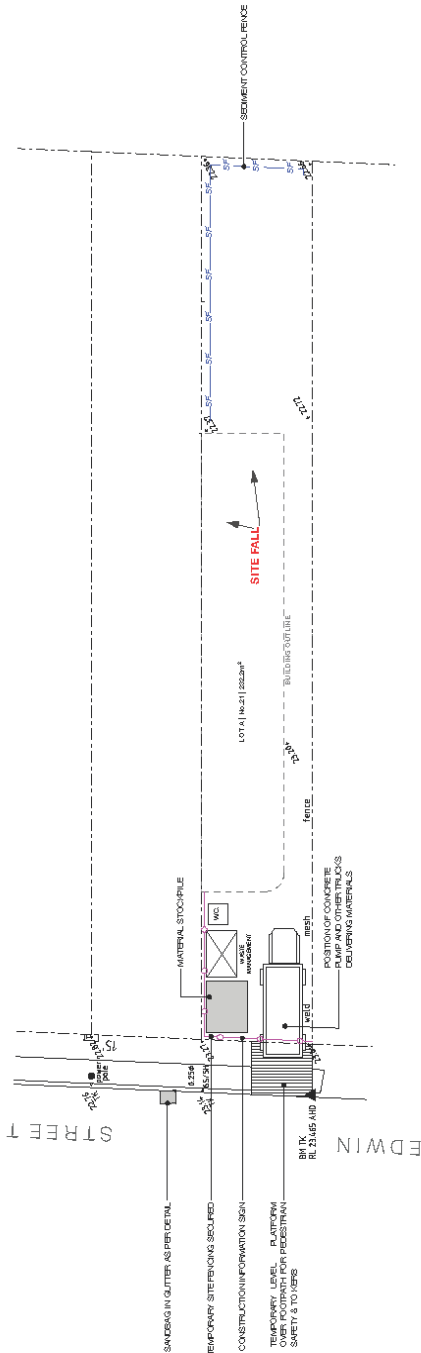


- NOTES
1. - RIGHT OF WAY 1255 WIDE VIDE 672618
  2. - RIGHT OF WAY 1255 WIDE VIDE 672618
  1. - BARRIERS HAVE NOT BEEN SURVEYED
  2. TITLE DEED BOUNDARY DIMENSIONS SHOWN (LOT 4, DP 19392)
  3. EXISTING FENCING AND OCCUPATIONS ADAPTED FOR APPROXIMATE LOCATION OF DETAIL AND LEVELS.
  3. ORIGIN OF LEVELS SSH 108395 RL 27.43 AND

JIM ALVIR SURVEYING		PLAN PROPOSED SUBDIVISION	
360 BEALEY ROAD, BEALEY NORTH N.S.W. 2207		SITE DETAIL SURVEY	
T: 9572-4626 M: 0412-288-538		L: 0412-288-538	
www.alvir.com.au		L: 0412-288-538	
DATE	BY	DATE	BY
22/10/15	JA	22/10/15	JA

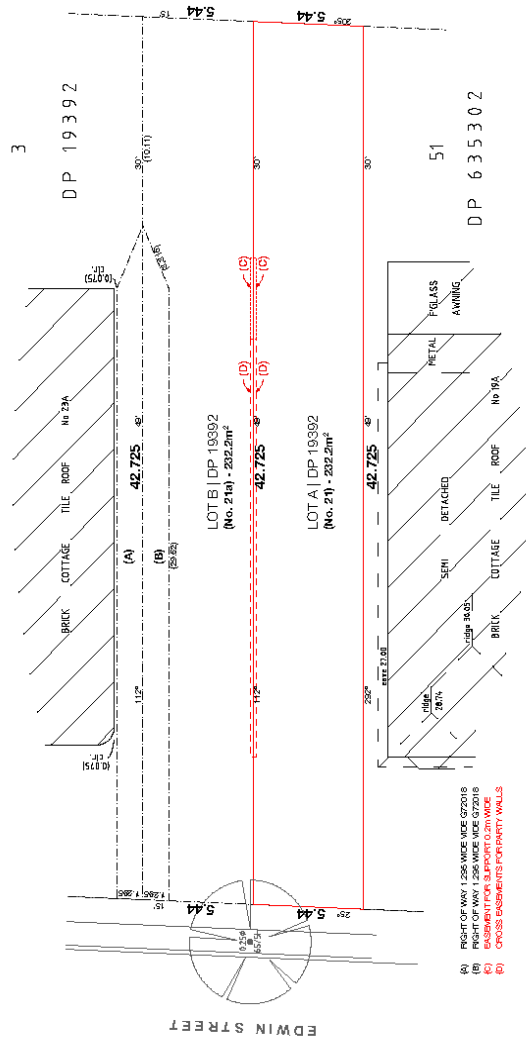
**EROSION AND SEDIMENTATION CONTROL NOTES:**

1. ALL OFFICIALS PROVIDING EROSION AND SEDIMENTATION CONTROL TO THE LAND DEVELOPER, TO BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD UNTIL THE SITE IS FULLY DEVELOPED AND STABILIZED.
2. THE EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT THE EROSION OF SOIL FROM THE CONSTRUCTION SITE AND TO PREVENT THE POLLUTION OF NEARBY WATERWAYS.
3. THE EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT THE EROSION OF SOIL FROM THE CONSTRUCTION SITE AND TO PREVENT THE POLLUTION OF NEARBY WATERWAYS.
4. THE EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT THE EROSION OF SOIL FROM THE CONSTRUCTION SITE AND TO PREVENT THE POLLUTION OF NEARBY WATERWAYS.



	Drawing title <b>Site Management Plan</b>	Drawing No. DA 02	Revision B
	Drawing title <b>Site Management Plan</b>	Drawing No. DA 02	Revision B
LCA Inner West Council	Project north 	Scale 1:200 @ A3	Drawn GMI CH
Site address 21 & 21a Edwin Street Croydon NSW Public Identifier Lot 4   19582	Project Type AHS & AOS	Project No. 1911	Project date January 2019
Area 464-40m <sup>2</sup>	Client Percy	Prepared by ANS & AOS	Checked by ANS & AOS
Prepared by ANS & AOS	Checked by ANS & AOS	Approved by ANS & AOS	Date 25.04.20
Revis B	Description Revisions as per Council correspondence 21.04.20	Date 25.04.20	Legend





- (A) FRONT OF WAY 1.205 WIDE WIDE G72016
- (B) FRONT OF WAY 1.205 WIDE WIDE G72016
- (C) CROSS BARRIERS FOR FRONT WALLS
- (D) CROSS BARRIERS FOR FRONT WALLS
- (E) CROSS BARRIERS FOR FRONT WALLS

NOTE: FOR DA PURPOSES ONLY & SUBJECT TO FINAL SUBDIVISION PLAN

Prepared by: **ms [M]**  
 453/2000  
 10/01/2019  
 10/01/2019

Scale: 1:200 @ A3  
 Drawn: GMI CH  
 Project No: 1911  
 Project Type: AHS & AOS  
 Project date: January 2019

Site address: 21 & 21a Edwin Street  
 Precinct: Croydon NSW  
 Public Identifier: Lot 4 | 19392  
 Client: Percy



LCA: Innerwest Council  
 Area: 464-40m<sup>2</sup>

Drawing title: Subdivision Plan  
 Drawing No: DA\_04  
 Revision: B

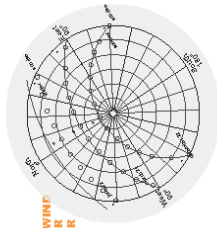
Legend

Date: 25/04/20

Revisions per Council correspondence 21.04.20

Rev: 5  
 Description: Revisions as per Council correspondence 21.04.20

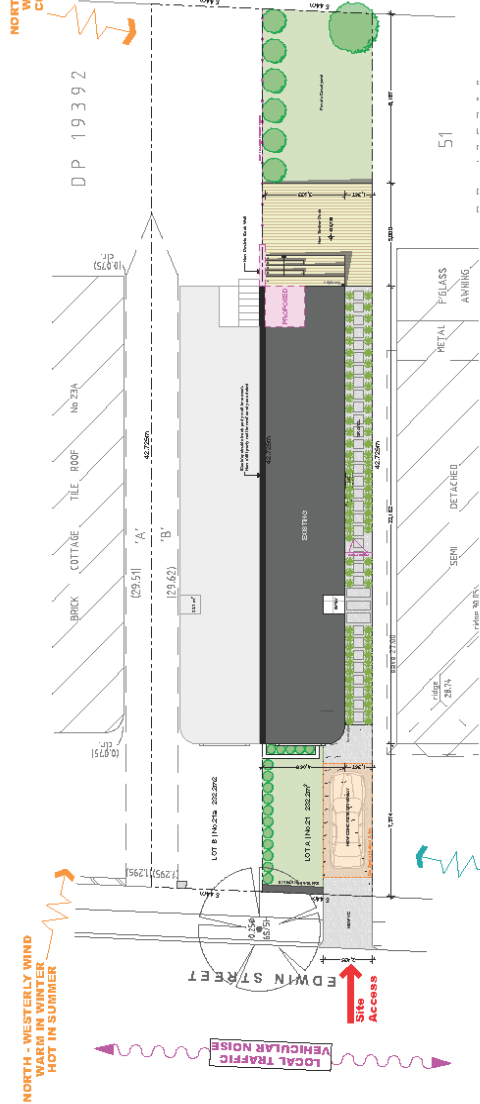




NORTH - EASTERLY WIND  
WARM IN WINTER  
COOL IN SUMMER

SOUTHERLY WIND  
COLD IN WINTER  
COOL IN SUMMER

1 | SITE PLAN



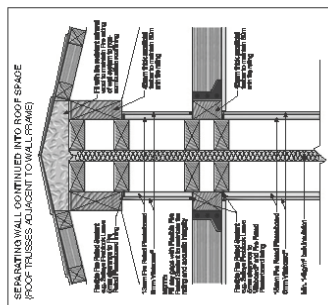
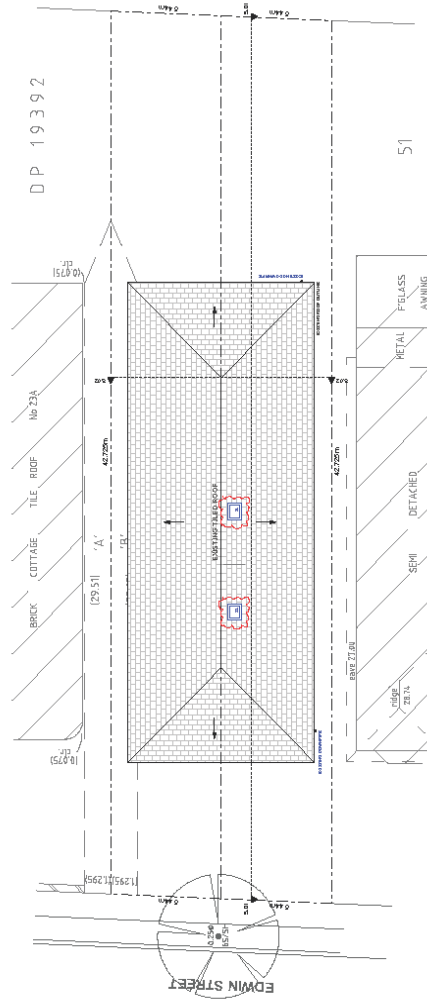
NORTH - WESTERLY WIND  
WARM IN WINTER  
HOT IN SUMMER

SOUTH - WESTERLY WIND  
COLD IN WINTER  
COOL IN SUMMER

DRAINAGE NOTES

- NO PROPOSED ALTERATIONS TO EXISTING FUNCTIONING STORMWATER SYSTEM
- CURRENT STORMWATER SYSTEM DRAINS TO EDWIN ST VIA DRAIN REELS.

2 | ROOF PLAN



Registration  
No. 1200 @ A3  
GMI CH  
Project No. 1911  
Project Type: AHS & AOS  
Project date: January 2019

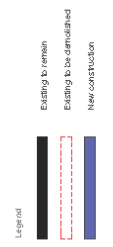
Scale: 1:200 @ A3  
Drawn: GMI CH  
Project No.: 1911  
Project Type: AHS & AOS  
Project date: January 2019

Site address: 21 & 21a Edwin Street  
Croydon NSW  
Public Identifier: Lot 4 | 19582  
Client: Pericy



LCA: Inner West Council  
Area: 464.40m<sup>2</sup>

Drawing title: Site Plan | Roof Plan  
Drawing No.: DA\_05  
Revision: B

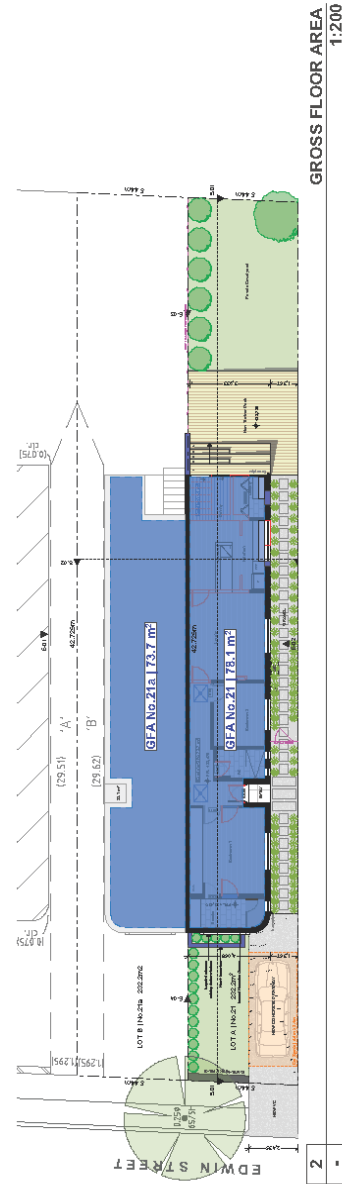
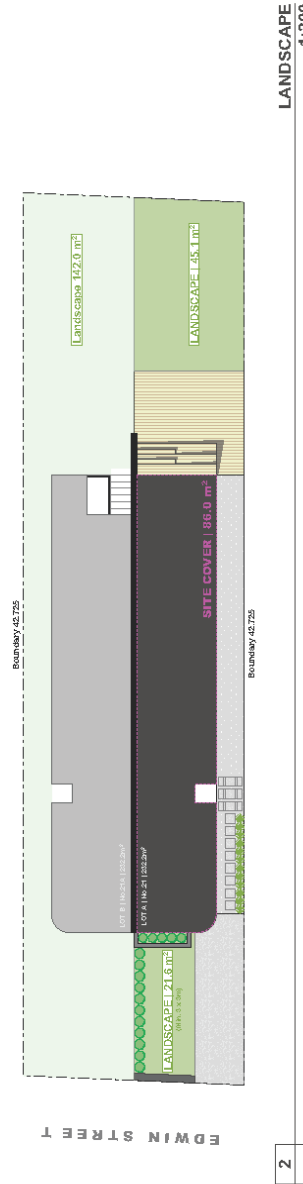
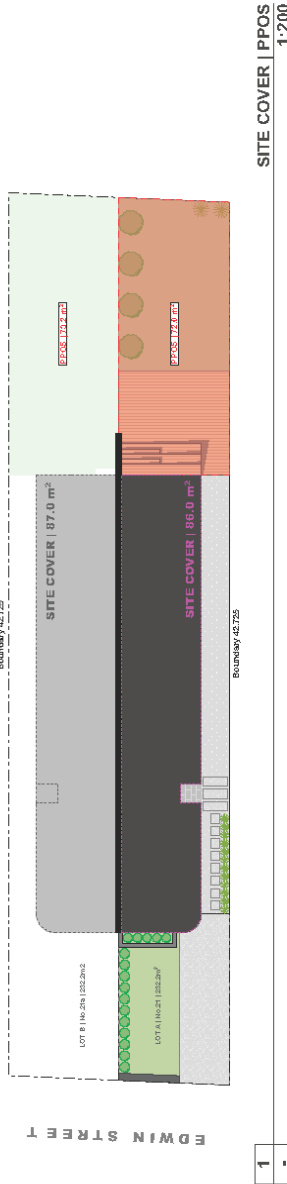


Date: 25/04/20

Rev	Description
B	Revisions as per Council correspondence 21.04.20







### Site Computations

**No. 21 Edwin Street S, Croydon Lot 1 | DP19392**

**Proposed site area: 232.20 m<sup>2</sup>**

Maximum FSR - Ashfield LEP 2013  
Control | Max. 0.71  
Proposed

Landscape Area  
Control | Min. 25% of site area  
Proposed

Site Coverage  
Control | Max. 65% of site area  
Proposed

Principle Private Open Space  
Control | Min. 25% of site area  
Proposed

Driveway  
Maximum width  
Proposed

Maximum FSR - Ashfield LEP 2013	232.20 m <sup>2</sup>
Control   Max. 0.71	182.54m <sup>2</sup>
Proposed	73.7m <sup>2</sup>
Landscape Area	58.05m <sup>2</sup>
Control   Min. 25% of site area	142.0m <sup>2</sup>
Proposed	73.7m <sup>2</sup>
Site Coverage	150.93m <sup>2</sup>
Control   Max. 65% of site area	87.0m <sup>2</sup>
Proposed	87.0m <sup>2</sup>
Principle Private Open Space	20.00m <sup>2</sup>
Control   Min. 25% of site area	73.20m <sup>2</sup>
Proposed	73.20m <sup>2</sup>
Driveway	N/A
Maximum width	N/A
Proposed	N/A

### Site Computations

**No. 21a Edwin Street S, Croydon Lot 2 | DP19392**

**Proposed site area: 232.20 m<sup>2</sup>**

Maximum FSR - Ashfield LEP 2013  
Control | Max. 0.71  
Proposed

Landscape Area  
Control | Min. 25% of site area  
Proposed

Site Coverage  
Control | Max. 65% of site area  
Proposed

Principle Private Open Space  
Control | Min. 25% of site area  
Proposed

Driveway  
Maximum width  
Proposed

Maximum FSR - Ashfield LEP 2013	232.20 m <sup>2</sup>
Control   Max. 0.71	182.54m <sup>2</sup>
Proposed	73.7m <sup>2</sup>
Landscape Area	58.05m <sup>2</sup>
Control   Min. 25% of site area	142.0m <sup>2</sup>
Proposed	73.7m <sup>2</sup>
Site Coverage	150.93m <sup>2</sup>
Control   Max. 65% of site area	87.0m <sup>2</sup>
Proposed	87.0m <sup>2</sup>
Principle Private Open Space	20.00m <sup>2</sup>
Control   Min. 25% of site area	73.20m <sup>2</sup>
Proposed	73.20m <sup>2</sup>
Driveway	N/A
Maximum width	N/A
Proposed	N/A

Scale: 1:200 @ A3  
Drawn: GMI CH  
Project No.: 1911  
Project Type: AHS & AOS  
Project date: January 2019

Registration  
No. 1911  
Project No. 1911  
Project Type: AHS & AOS  
Project date: January 2019

LCA  
Inner West  
Council  
Area  
464.40m<sup>2</sup>

Site address  
21 & 21a Edwin Street  
Croydon NSW  
Public Identifier  
Lot 4 | 19392  
Client  
Pericy

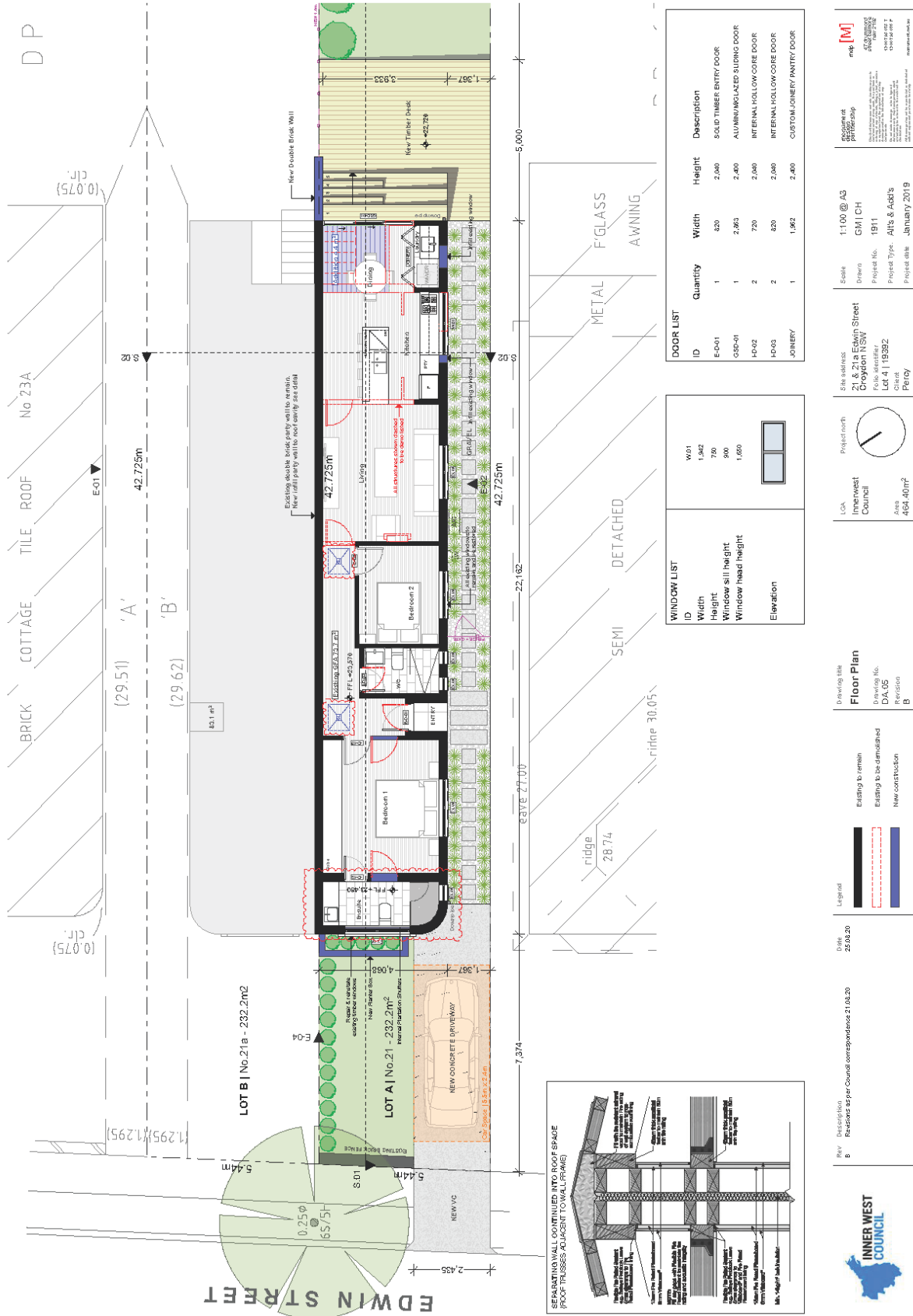
Drawing title  
**Site Computations**  
Drawing No.  
DA\_06  
Revision  
B

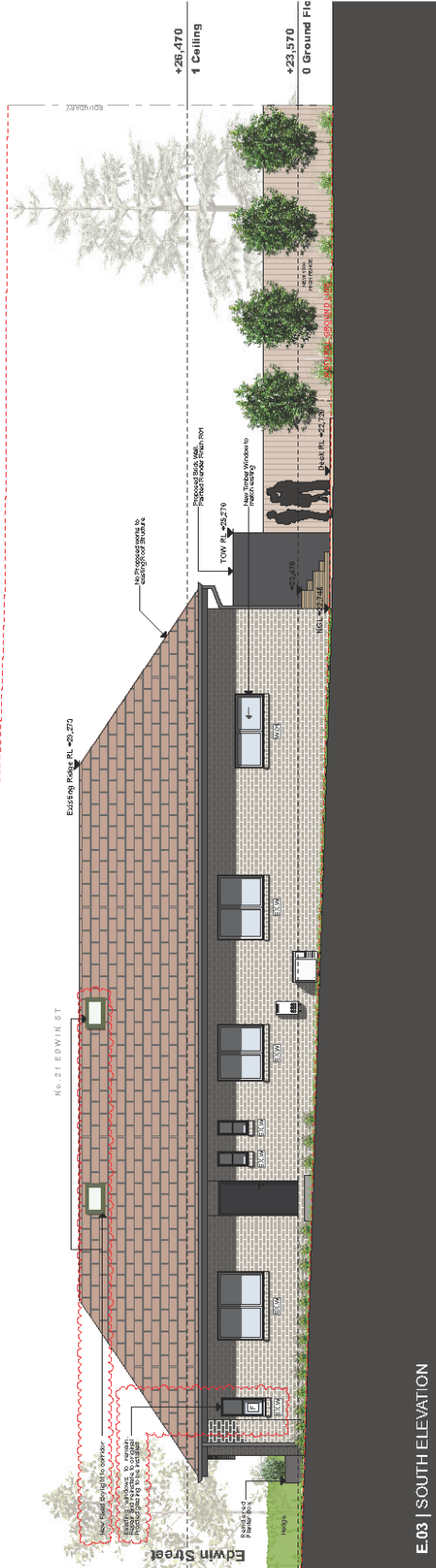
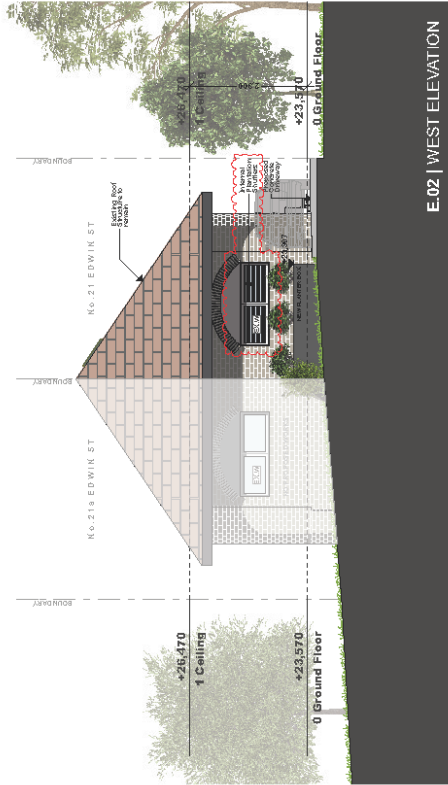
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Date:  
25/04/20

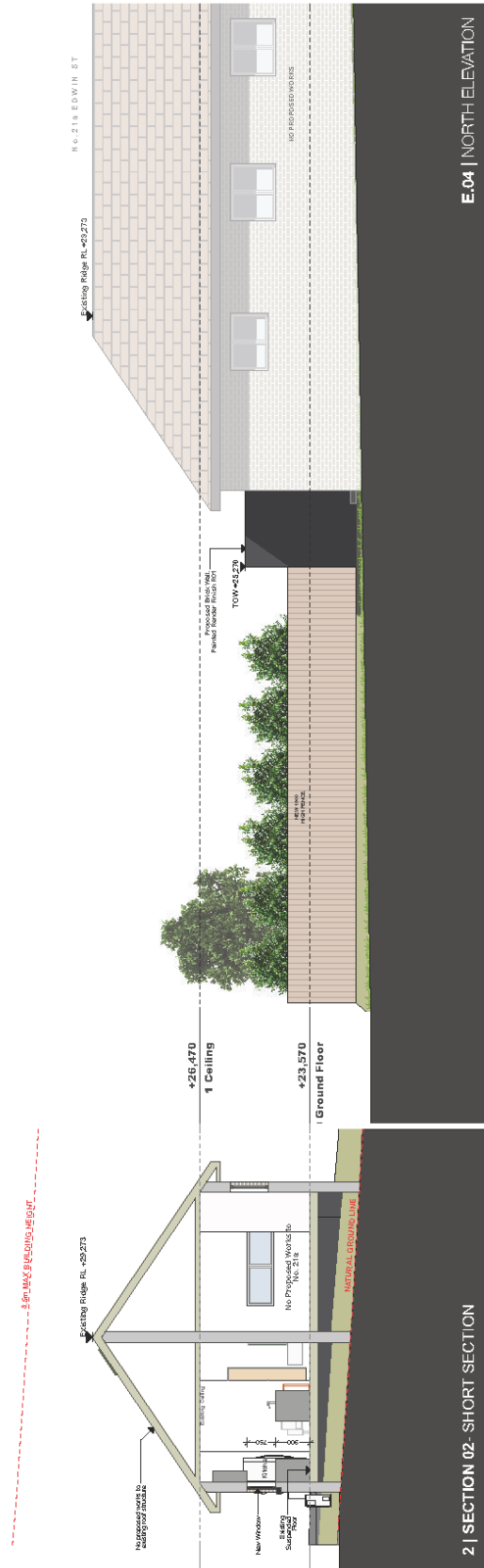
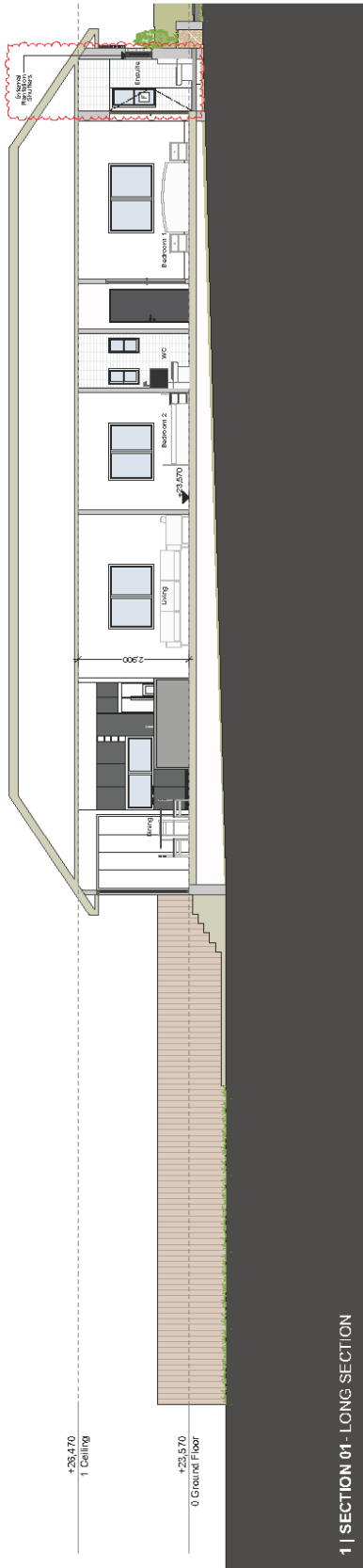
Rev Description  
B Revisions as per Council correspondence 21.04.20







	Rev. Description <b>B</b> Resubmitted as per Council correspondence 21.08.20	Date 23.08.20	Legend	Drawing title <b>Elevations</b>	LGA Innerwest Council	Project north 	Site address 21 & 218 Edwin Street Croydon NSW	Scale 1:100 @ A3	Prepared by GM   CH
	Drawing No. DA_08	Drawing No. DA_08	Drawing No. DA_08	Drawing No. DA_08	Drawing No. DA_08	Field identifier Lot 4   19392	Project No. 1811	Project No. 1811	Project No. 1811
Revision B	Revision B	Revision B	Revision B	Revision B	Client Pelsy	Project Type All's & Asht's	Project Type All's & Asht's	Project Type All's & Asht's	Project Type All's & Asht's
Area 484.40m <sup>2</sup>	Area 484.40m <sup>2</sup>	Area 484.40m <sup>2</sup>	Area 484.40m <sup>2</sup>	Area 484.40m <sup>2</sup>	Client Pelsy	Project date January 2019	Project date January 2019	Project date January 2019	Project date January 2019





Rev Description  
B Revised as per Council correspondence 21.08.20

Date  
25.08.20

Legend

Drawing title  
**Elevations & Sections**

Drawing No.  
DA\_09

Revision  
B

LCA  
Inncwest Council

Area  
404.40m<sup>2</sup>

Projection  


Site address  
21 & 21a Edwin Street  
Croydon NSW

Police Identifier  
Lot 4 | 19352

Client  
Percy

Scale  
1:100 @ A3

Drawn  
GM | CH

Project No.  
1811

Project Type  
A1's & A4's

Project date  
January 2019

Prepared  
per 1811

Drawn  
GM | CH

Checked  
A1's & A4's

Project date  
January 2019

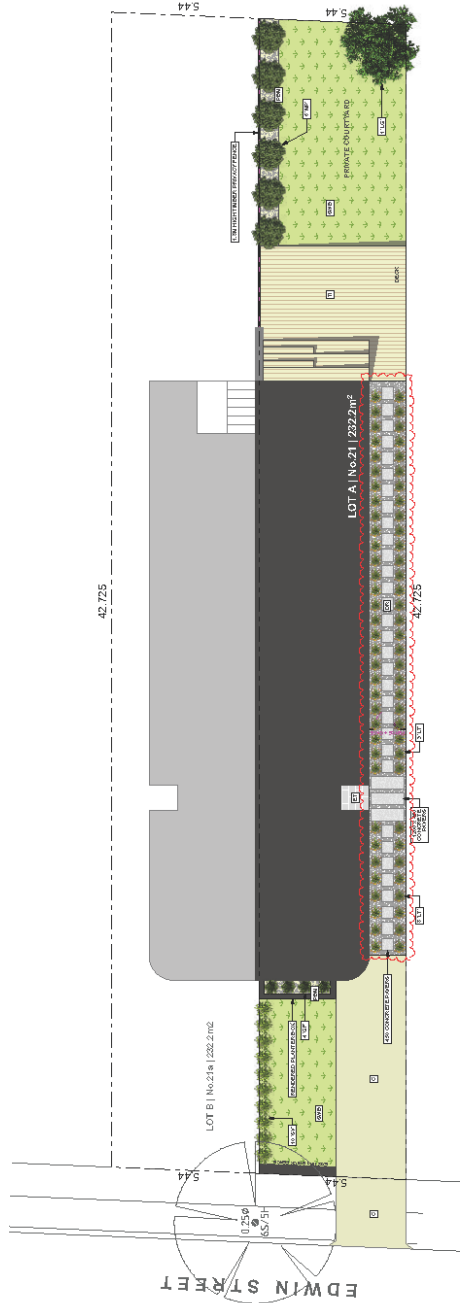
Project  
1811

Drawn  
GM | CH

Checked  
A1's & A4's

Project date  
January 2019





**LEGEND PLANT SCHEDULE**

Symbol	Botanical Name	No. of Plants	Plant Size	Plant Age	Orientation	Notes
	10' Sp. Canary Palms	4	200mm	1.5m	East	Canopies
	5' Sp. Yellow Gums	10	100mm	4m	West	Canopies
	1' Sp. Lumnitzera	10	100mm	5m	West	Canopies
	10' Sp. Mangy Pandanus	5	200mm	7m	West	Canopies
	1.5' Sp. Mangy Pandanus	1	100mm	5m	West	Canopies

**MAINTENANCE**

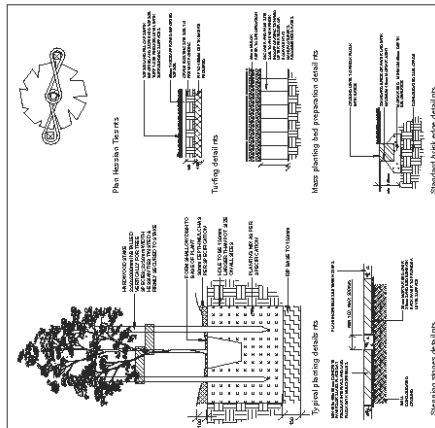
1. The contractor shall be responsible for the maintenance of the plants for a period of 12 months from the date of completion of the works.
2. The contractor shall ensure that the plants are watered and fertilized as required.
3. The contractor shall ensure that the plants are protected from frost and other weather conditions.
4. The contractor shall ensure that the plants are protected from pests and diseases.
5. The contractor shall ensure that the plants are protected from theft and vandalism.
6. The contractor shall ensure that the plants are protected from fire.
7. The contractor shall ensure that the plants are protected from lightning.
8. The contractor shall ensure that the plants are protected from other natural disasters.
9. The contractor shall ensure that the plants are protected from other man-made disasters.
10. The contractor shall ensure that the plants are protected from other unforeseen circumstances.

**LANDSCAPE GUIDELINES**

1. The landscape design shall be in accordance with the Inner West Council Landscape Design Guidelines.
2. The landscape design shall be in accordance with the Australian Standard AS/NZS 4300:2003.
3. The landscape design shall be in accordance with the Australian Standard AS/NZS 4300:2003.
4. The landscape design shall be in accordance with the Australian Standard AS/NZS 4300:2003.
5. The landscape design shall be in accordance with the Australian Standard AS/NZS 4300:2003.
6. The landscape design shall be in accordance with the Australian Standard AS/NZS 4300:2003.
7. The landscape design shall be in accordance with the Australian Standard AS/NZS 4300:2003.
8. The landscape design shall be in accordance with the Australian Standard AS/NZS 4300:2003.
9. The landscape design shall be in accordance with the Australian Standard AS/NZS 4300:2003.
10. The landscape design shall be in accordance with the Australian Standard AS/NZS 4300:2003.

**ADDITIONAL NOTES**

1. The contractor shall ensure that the plants are watered and fertilized as required.
2. The contractor shall ensure that the plants are protected from frost and other weather conditions.
3. The contractor shall ensure that the plants are protected from pests and diseases.
4. The contractor shall ensure that the plants are protected from theft and vandalism.
5. The contractor shall ensure that the plants are protected from fire.
6. The contractor shall ensure that the plants are protected from lightning.
7. The contractor shall ensure that the plants are protected from other natural disasters.
8. The contractor shall ensure that the plants are protected from other man-made disasters.
9. The contractor shall ensure that the plants are protected from other unforeseen circumstances.
10. The contractor shall ensure that the plants are protected from other unforeseen circumstances.



**Project Information**

Scale: 1:200 @ A3  
 Drawn: GM/CH  
 Project No.: 1811  
 Project Type: A1's & A2's  
 Project date: January 2019

**Site Address**  
 21 & 21A Edwin Street  
 Croydon NSW  
 Field Identifier: Lot 4 | 19392  
 Client: Pelsy

**Project north**

LGA: Inner West Council  
 Area: 468.40m<sup>2</sup>

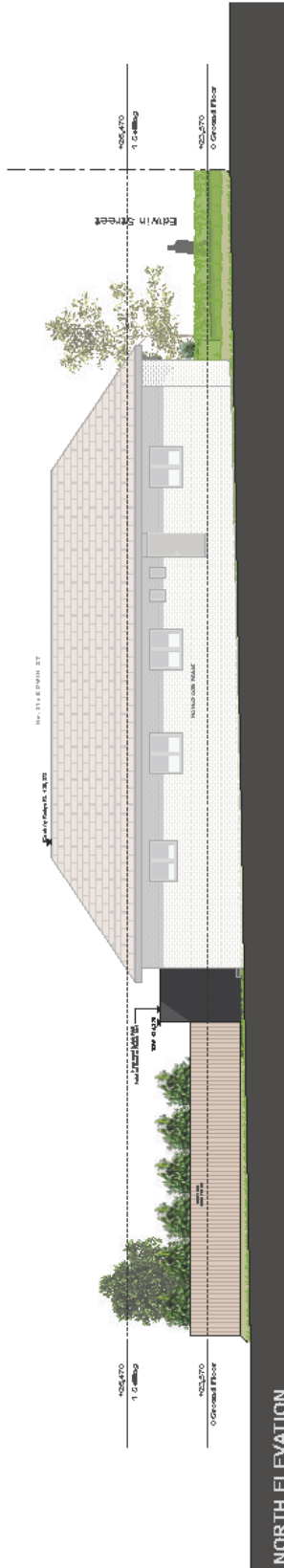
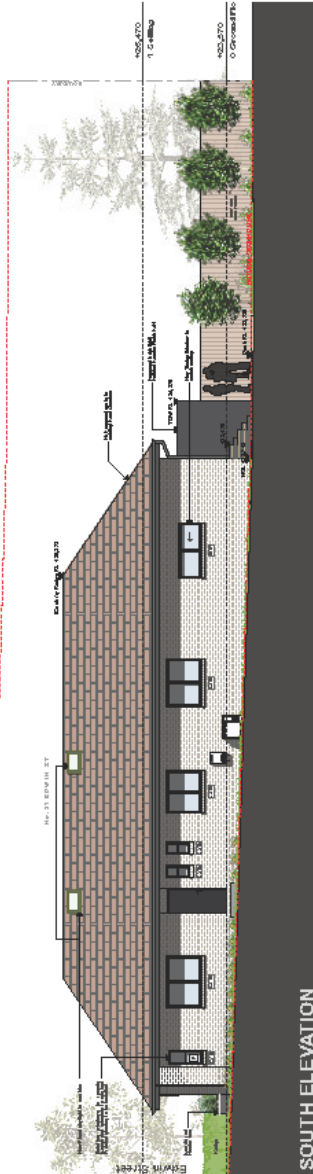
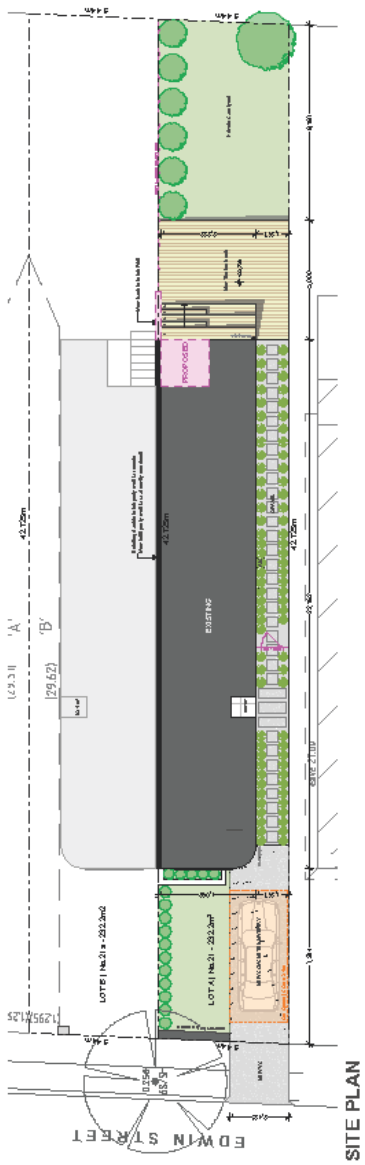
**Drawing title**  
 Landscape Plan  
**Drawing No.**  
 DA.11  
**Revision**  
 B

**Legend**

Rev. Description: B Radial as per Council correspondence 21.08.20  
 Date: 23.08.20







**INNER WEST COUNCIL**

**ALTERATIONS & ADDITIONS**

Drawing No: Notification Plan  
Revision No: DA12  
Revision: A

USA  
Innerwest Council  
Area: 461,401m<sup>2</sup>

Project north

Site address: 21 & 23 Edwin Street  
Proposed Use: Residential  
Lot 41 19382  
Grant Party

Scale: 1:200 (A4)  
Drawn: GM/CH  
Project No: 1911  
Project date: January 2019

Prepared by: [M]  
Checked by: [M]  
Drawn by: [M]  
Project No: 1911  
Project date: January 2019



## Attachment C- Clause 4.6 Exception to Development Standards

### CLAUSE 4.6 VARIATION CLAUSE 4.1A: EXCEPTIONS TO MINIMUM SUBDIVISION LOT SIZE FOR CERTAIN RESIDENTIAL DEVELOPMENT ASHFIELD LOCAL ENVIRONMENTAL PLAN 2013

#### 1. Introduction

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This submission seeks a variation to Clause 4.1A of the Ashfield Local Environmental Plan 2013, which relates to *Exceptions to minimum subdivision lot size for certain residential development*.

This submission has been prepared with regards to a development application seeking a Torrens title subdivision of the subject site creating two (2) allotments, resulting in one semi-detached dwelling on both allotments.

As detailed in this written request for a variation, the development meets the requirements prescribed under Clause 4.6 of the Ashfield Local Environmental Plan (LEP) 2013.

This submission is made under Clause 4.6 of the Ashfield LEP 2013 – Exceptions to development standards. Clause 4.6 states the following:

#### ***“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 a development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (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 Director-General has been obtained.**
- (5) In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
  - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
  - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

**Note.** *When this Plan was made it did not include all of these zones.*
- (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).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
  - (a) *a development standard for complying development,*
  - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
  - (c) *clause 5.4."*

The use of Clause 4.6 to enable an exception to this development control is appropriate in this instance and the consent authority may be satisfied that all requirements of Clause 4.6 have been fulfilled in terms of the merits of the proposed development and the content in this Clause 4.6 variation request report.

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

- 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- 4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.*

In addition, 4.6(4)(a)(i) and (ii) requires that development consent must not be granted to a development that contravenes a development standard unless the:

- (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*

This submission has been prepared having regard to the following guideline judgements on Clause 4.6:

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 ('Four2Five No 1)*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 ('Four2Five No 2)*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 ('Four2Five No 3)*
- *Micaul Holdings Pty v Randwick City Council [2015] NSWLEC 1386;*
- *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7; and*
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.*

The Environmental Planning Instrument to which these variations relate to is the Ashfield LEP 2013.

The development standard that this variation relates to is Clause 4.1A – Exceptions to minimum lot size for certain residential development, which reads as follows:

***“4.1A Exceptions to minimum subdivision lot size for certain residential development***

*(1) The objective of this clause is to encourage housing diversity without adversely affecting residential amenity.*

*(2) Despite clause 4.1 (3), development consent may be granted to the subdivision of land identified as “Area 1” on the Lot Size Map that is not land on which a heritage item is located or within a heritage conservation area if—*

- (a) each lot resulting from the subdivision will be at least 200 square metres, and*
- (b) a semi-detached dwelling is or will be located on each lot, and*
- (c) each lot will have a minimum street frontage of 7 metres.*

*(3) Despite clause 4.1 (3), development consent may be granted to the subdivision of land identified as “Area 2” on the Lot Size Map if—*

- (a) each lot resulting from the subdivision will be used for the purpose of a dwelling house, and*
- (b) each lot resulting from the subdivision will be at least 174 square metres, but will not exceed 450 square metres, and*
- (c) the total number of lots on that land will not exceed 11.”*

Subclause 4.1A (2) has been highlighted above, as the subject site is identified as within ‘Area 1’ on the Lot Size Map. As a result, the requirements of subclause (2) are to be applied to the subdivision of the site. The location of the subject site on the Lot Size Map is illustrated in Figure 1, below. The subject site is not affiliated with a heritage item or heritage conservation area.

Whilst a minimum lot size of 500m<sup>2</sup> is originally specified by Clause 4.1 and the Lot Size Map, the provisions of Clause 4.1A supersede these requirements. Nevertheless, the objectives of Clause 4.1 will be considered below.

The subject site currently has a site area of 464.4m<sup>2</sup>. Under the proposed Torrens title subdivision, the proposed lot sizes are as follows:

- Lot A (21 Edwin Street)
  - Site Area = 232.2m<sup>2</sup>
  - One semi-detached dwelling proposed on the lot
  - Street frontage = 5.44m
- Lot B (21A Edwin Street)
  - Site Area = 232.2m<sup>2</sup>
  - One semi-detached dwelling proposed on the lot
  - Street frontage = 5.44m

The proposed subdivision achieves the minimum lot size of 200m<sup>2</sup> and will result in one semi-detached dwelling (existing dwelling) per lot.

A written justification is therefore required for the proposed variation to the minimum street frontage of 7.0m stipulated by Clause 4.1A(2)(c).



Figure 1: Minimum Lot Size Map (ALEP13, Map 001)

**2. Site Background**

The site is commonly known as 21 and 21A Edwin Street, Croydon and is legally defined as Lot 4 in Deposited Plan 19392. The subject site is located on the south-eastern side of Edwin Street and is bound by Thomas Street to the north and Hume Highway/Liverpool Road to the south.

The existing site contains two existing, single storey, brick dwellings with tiled roofs. Though on the same lot, the two dwellings are separately identified and occupied. By definition, the allotment contains dual occupancy development.

The site is rectangular in shape with the front and rear boundary measuring 5.44m. The side boundaries are both 42.725m. The site provides for an overall area of 464.40m<sup>2</sup>. Refer to Figure 3 for the context of the site in its immediate locality.

Development within the vicinity is generally the original housing stock, though there are scattered examples in Edwin Street of more contemporary and two storey development. On the western side of Edwin Street, allotments are afforded a greater site area, with single detached dwellings of a traditional aesthetic. It is noted that this side of Edwin Street is located within the Gads Hill Heritage Conservation Area. The eastern side, including the subject site, is not within a heritage conservation area, and contains a mosaic of detached, semi-detached, attached and more contemporary styles of dwellings from the 1980s onwards.



Figure 2: Aerial Locality Map (SIX Maps)



**3. Extent of Non-Compliance**

As noted above, Clause 4.1A (*Exceptions to minimum subdivision lot size for certain residential development*) of the Ashfield Local Environmental Plan 2013 outlines four requirements under subclause (2):

- Applies to land not on which a heritage item is located or within a heritage conservation area
- Each lot resulting from subdivision will be at least 200 square metres
- A semi-detached dwelling is or will be located on each lot, and
- Each lot will have a minimum street frontage of 7 metres

The proposed subdivision meets the criteria outlined above, with the exception of a 7.0m street frontage. Both proposed lots have a street frontage width of 5.44m.

Consequently, the extent of non-compliance is a shortfall of 1.56m to the street frontage of both proposed lots.

**4. Is Compliance With the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?**

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827* are considered.

In the matter of *Four2Five*, the Commissioner stated within the judgement the following, in reference to a variation:

*“...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1.”*

In the decision of *Wehbe vs Pittwater Council (2007) LEC 827*, Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 has been well founded and that approval of the objection may be consistent with the aims of the policy. The five possible ways are as set out below:

<b>First</b>	<p><i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.</i></p> <p><i>The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable. (applicable)</i></p>
<b>Second</b>	<p><i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. (not applicable)</i></p>

<b>Third</b>	<i>A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable. (not applicable)</i>
<b>Fourth</b>	<i>A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. (not applicable)</i>
<b>Fifth</b>	<i>A fifth way is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary. (not applicable)</i>

In respect of the minimum subdivision lot size, and exceptions to minimum subdivision lot size for certain residential development, the first method is invoked.

The objectives supporting a minimum subdivision lot size control identified in Clause 4.1 and 4.1A are discussed below. Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.

The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.1 and Clause 4.1A.

*Clause 4.1:*

- (1) The objectives of this clause are as follows—*
  - (a) to maintain the existing pattern of subdivision within heritage conservation areas in terms of lot size and lot dimensions,*
  - (b) to provide opportunities for infill small lot subdivision in areas close to transport and amenities in a manner that does not adversely impact on the streetscape or amenity of residential areas,*
  - (c) to provide for small lot subdivision in certain areas close to public transport as an alternative to redevelopment for the purpose of multi dwelling housing in order to retain the scale and character of the area,*
  - (d) to ensure that lot sizes allow development to be sited to protect and enhance riparian land.*

*Clause 4.1A:*

- (1) The objective of this clause is to encourage housing diversity without adversely affecting residential amenity.*

In response to the Objectives of Clause 4.1 and 4.1A, although numerically non-compliant with the required minimum street frontage of 7.0m, the application clearly demonstrates that the existing built forms, and related proposed development, can be accommodated on the resultant lot size:

- The subject site is not within a heritage conservation area
- The proposed subdivision does not relate to infill development



- The proposed subdivision retains the two existing dwellings and seeks to formalise a semi-detached arrangement. Existing streetscape and residential amenity are not affected by the proposed subdivision
- The scale and character of the area is not impacted by the proposed subdivision, and is retained as existing

The proposed subdivision maintains compliance with environmental factors, such as landscaped area, site cover, gross floor area, building height, privacy and solar access. Additionally, the subdivision of the site will not reduce the potential for future development of the dwellings. A continued balance between natural and urban elements at the subject site is therefore achieved.

Particular attention is drawn to the comparable development along the south-eastern side of Edwin Street, which demonstrates a pattern of subdivision involving the separation of attached dwellings. The proposal will therefore not disrupt an established street pattern. Refer to Figure 3 for an image which demonstrates the existing subdivision pattern of the locality.



Figure 3: Subdivision Pattern and Lot Sizes (SIX Maps)

As demonstrated in Figure 3 above, there has been separation of dual occupancy development, specifically at 15, 15A, 19 and 19A Edwin Street, which are similar in built forms and character to the subject site. An established pattern of subdivision is therefore evident.

Further to this, as there are two existing dwellings on the site, and the built forms are not subject to drastic modification, the proposed subdivision achieves the objective of Clause 4.1A by ensuring housing diversity without affecting residential amenity. As identified in the Statement of Environmental Effects, on site parking is an established element of the streetscape, particularly as 19, 19A and 17A have parking available forward of the dwelling; all three of these sites, as indicated in Figure 3, are subdivided semi-detached sites; therefore reinforcing an established pattern of development.

The development is generally consistent with the current planning controls as outlined in the submitted Statement of Environmental Effects.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard.

#### **5. Are there Sufficient Environmental Planning Grounds?**

The assessment above demonstrates that the resultant environmental impacts of the proposal will be satisfactory.

The proposed non-compliance in minimum street frontage resulting from the proposed Torrens title subdivision will not result in negative impacts to the development site itself or the adjoining properties, as discussed in the Statement of Environmental Effects and shown on the submitted architectural plans.

It should be noted that, although the proposed allotment street frontage falls below the development standard, each proposed lot is capable of accommodating an existing dwelling. Importantly, the sites provide for ongoing and appropriate areas of landscaping, private open space, gross floor areas, internal habitable areas, solar access and building heights which comply with Council's LEP and DCP standards. Overall, the variation does not have a detrimental impact on the capacity of the lots to comply with Council's controls and the proposed subdivision essentially results in ongoing existing residential amenity.

Although numerically non-compliant with street frontage, the current application clearly demonstrates that the built form envelope as proposed can be accommodated on the resultant lot sizes. The proposed dwellings are reasonable in their size and are complemented by landscaped areas, generous private open spaces and are capable of providing off-street car parking.

In this case, strict compliance with the development standard for minimum subdivision lot size in the Ashfield Local Environmental Plan 2013 is unnecessary and unreasonable.

#### **6. Is the Variation in the Public Interest?**

Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless 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 to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 4 and 5 of this written justification.

The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.1 and 4.1A.

The building contextually has regard to its surrounding properties and is considered to provide sufficient open space and landscaping for the amenity of future residents. The proposed subdivision also does not detract from potential future development.

Furthermore, it is important to also consider the objectives of the R2 Low Density Residential zone in relation to the development. These have been provided below, along with a comment to each objective, demonstrating consistency.

#### ***Zone R2 Low Density Residential***

##### ***Objectives of zone:***

- *To provide for the housing needs of the community within a low density residential environment;*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The Draft Inner West LEP 2020 includes four additional objectives, being:

- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

In response to the above objectives, the following is provided:

The proposed subdivision relates to two existing dwellings on one site. The housing needs of the community are retained within a low density residential environment, by providing two semi-detached dwellings that will not be removed from their existing context. The low density residential environment is retained, and contributory to the existing pattern of subdivision.

The existing land use, as low density residential, is retained. The existing amenities and facilities afforded to both dwellings are not affected by the proposed subdivision. The day-to-day needs of residents is retained, and the formal subdivision of the site does not remove opportunities for potential future development of the site or existing dwellings.

As the proposed subdivision of the site relates to two existing dwellings, the subdivision of the site will not result in a change to the character, style, orientation or pattern of surrounding buildings, streetscapes or landscaped areas. The subdivision is reflective of similar subdivision south of the subject, including the adjoining site.

Environmental performance will also not be affected by the subdivision, with the existing and proposed development achieving the requirements for landscaped areas, as well as private open spaces, which affords ongoing amenity for existing and future residents.

The minimum lot size of 200m<sup>2</sup>, and context of the site, indicates suitability of the site for subdivision, regardless of not meeting the minimum street frontage of 7.0m. This is enforced with the compatibility with the pattern of subdivision, including lot size, width and orientation, within the immediate context of Edwin Street.

The proposed development does not involve any non-residential land uses, nor does it inhibit of other permissible land uses within the R2 Low Density Residential land zone.

The proposed development therefore meets the objectives of the zone.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard, noting the development will be in the public interest.

#### **7. Public Benefit of Maintaining the Standard**

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It is considered that the public benefit will not be undermined by varying the standard. The variation to the minimum subdivision street frontage is consistent with the approach to development and subdivision of developed land in the immediate area. No negative impacts to the development itself or its adjacent properties will occur due to the variation.

The proposal provides for the continued orderly and economic development of the site. Given the site's orientation, location and context it is considered that the site is well suited for the development.

The development is generally consistent with the current planning controls.

It is not considered that the variation sought raises any matter of significance for State or Regional environmental planning.

As per the above, it is considered that the public interest is not impacted in any way by maintaining the standard.

#### **8. Is the Variation Well Founded?**

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It is considered that this has been adequately addressed in Parts 4 and 5 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the Ashfield LEP 2013 in that:

- Compliance with the development standards would be unreasonable and unnecessary in the circumstances of the development;
- There are sufficient environmental planning grounds to justify the departure from the standards;
- The development meets the objectives of the standard to be varied (minimum subdivision lot size) and objectives of the R2 Low Density Zoning of the land;
- The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- The breach does not raise any matter of State or Regional Significance; and
- The development submitted aligns with the predominantly residential nature of the neighbourhood.

Based on the above, the variation is considered to be well founded.

### 9. General

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Clause 4.6 also states that:

*“(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*

*(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

***Note.** When this plan was made it did not include all these zones.*

*(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).*

*(8) This clause does not allow development consent to be granted for development that would contravene any of the following:*

*(a) a development standard for complying development,*

*(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*

*(c) clause 5.4,”*

This variation does not relate to the subdivision of land in the stated land use zones. The variation sought is not contrary to subclause (6).

Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

A BASIX certificate has been prepared in relation to the proposed development and is submitted under a separate cover.

Clauses 5.4 is not applicable in this instance.

### 10. Conclusion

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The proposal does not strictly comply with the minimum subdivision lot size in terms of the street frontage control as prescribed by Clause 4.1A of the Ashfield Local Environmental Plan 2013. Having evaluated the likely affects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the Ashfield Local Environmental Plan 2013 are satisfied as the breach to the controls does not create any adverse environmental impacts.

Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular instance and that the use of Clause 4.6 of the Ashfield Local Environmental Plan 2013 to vary this development control is appropriate.

Based on the above, it is sensible to conclude that strict compliance with the minimum subdivision lot size (minimum street frontage) is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

Should you have any questions, please do not hesitate to contact me.

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Plan 3793