



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	10.2018.25.1
Address	178 Smith Street
Proposal	Torrens title subdivision of 178 Smith Street to create two lots, construction of new two storey dwelling to Short Street and construction of a new hardstand parking space to Smith Street.
Date of Lodgement	16 February 2018
Applicant	Wil Nino
Owner	Maria Micaela, Nino Garcia, Wendy Nino, and Wilfred Nino
Number of Submissions	Four (4) – Two submissions made from residents not directly notified within the notification radius.
Value of works	\$480,250.00
Reason for determination at Planning Panel	Clause 4.6 variation to the minimum subdivision lot size
Main Issues	Minimum subdivision lot size and landscaped area for proposed Lot 1
Recommendation	Consent, subject to conditions

Location Plan	Legend
	<p>Site</p> <p>Objections</p> <p>Neighbouring properties notified</p>



Picture 1 Site Photo – Smith Street frontage



Picture 2 Site Photo – Short Street frontage

1. Executive Summary

This report concerns an application for Torrens title subdivision of 178 Smith Street to create two lots, construction of a new two storey dwelling to Short Street and construction of a new hardstand parking space to Smith Street.

The proposal generally complies with aims, objectives and design parameters contained in Ashfield Local Environment Plan 2013 (ALEP 2013) with the exception to the minimum subdivision lot size development standard. The applicant submitted a written request under Clause 4.6 exception to the development standard as part of the subject development application. The Clause 4.6 written request is considered to be well founded and worthy of support.

The development generally complies with the provisions of the Inner West Comprehensive Development Control Plan 2016. It is considered that, subject to conditions, the proposal will not result in any significant impacts on the streetscape or amenity of adjoining properties.

2. Proposal

This application seeks consent for the Torrens title subdivision of 178 Smith Street to create two lots, construction of new two storey dwelling to Short Street and construction of a new hardstand parking space to Smith Street frontage.

In particular the proposed works involve:

- Torrens title subdivision of the site to create two lots. Lot 1 is to face Smith Street and have a total site area of 600.1m², while Lot 2 is to face Short Street and have a total site area of 328.2m².
- Construction of a new two car hardstand parking space within the Smith Street frontage of Lot 1.
- Construction of a new two storey dwelling upon Lot 2. The proposed two storey dwelling is to incorporate a single car garage, living room, guest bedroom/study, dining room, kitchen and patio upon the ground floor. While on the first floor is three bedrooms, a bathroom and a family room.

3. Site Description

A site visit was carried out on 19 July 2018.

The subject site is located on the southern side of Smith Street, bounded by Henson Street to the east, Louisa Street to the West and Short Street to the South. The site area is approximately 928.3 square metres. An existing single storey brick and tile dwelling house is located on the site, the existing dwelling house is a local heritage item.

Surrounding land uses are predominantly residential, with neighbouring dwellings consisting of single storey dwelling houses.

4. Background

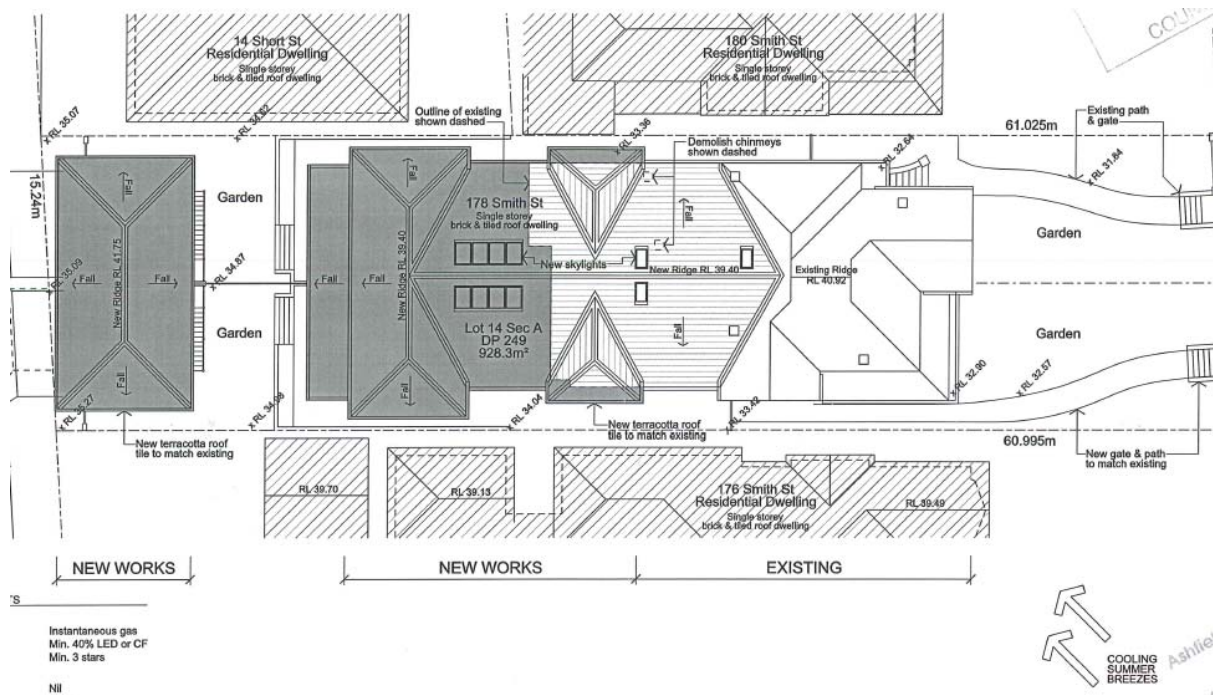
4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
00.6.1963.4752	Internal conversion of dwelling into 3 flats	Approved – 31/10/1963
006.1978.460	Construction of a brick fence	Approved – 8/11/1978
10.2014.80	Alterations and additions to an existing dwelling to create a dual occupancy	Approved – 18/3/2014
10.2017.113	Alterations to the existing dwelling, consisting of replacement of roof tiles, exterior painting and minor alterations	Withdrawn – 27/9/2017

DA 1.2014.80 provides consent for the applicant to subdivide the current heritage item at 178 Smith Street and create a dual occupancy development extending the length of the site. This consent is still current and will lapsed on 26 May 2020. The site plan from 10.2014.80 is provided below and provides an indication to the nature of this approval.



Picture 3 – Site Plan for the approved dual occupancy development on the subject site.

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
24 May 2018	<p>Additional Information Letter – This letter requested the following design changes:</p> <ul style="list-style-type: none"> i. Amended plans outlining a reduction to the overall height of the new dwelling on Lot 2 as to be more in context with surrounding developments ii. Amended plans detailing increase setbacks to the new dwelling minimise impact to the heritage item at 178 Smith Street iii. Amended plans detailing a reduction to the window sizes for the new dwelling on Lot 2 iv. Amended plans detailing a reduction to the vehicle crossing width for the Smith Street frontage v. Amended plans detailing a redesign to the hardstand to Smith Street to be on-grade vi. Amended plans detailing a dry pressed paver to be used on the driveway for Smith Street vii. Details on the new masonry posts for the front fence to Smith Street. <p>Points i – vii have been satisfactorily addressed through the submission of amended plans on 1 June 2018 and 19 July 2018.</p>

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 79C 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
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy No 55—Remediation of Land
- Ashfield Local Environmental Plan 2013; and
- Comprehensive Inner West Development Control Plan 2016.

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 indicating that the proposal achieves full compliance with the BASIX requirements. Appropriate conditions are included in the recommendation to ensure the BASIX Certificate commitments are implemented into the development.

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

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

Ashfield Local Environmental Plan 2013 Summary Compliance Table				
Clause No.	Clause	Standard	Proposed	Compliance
2.2	Zoning	Zone R2 Low Density Residential	Torrens title subdivision and construction of a new dwelling	Yes
4.1	Minimum subdivision lot size	Clause 4.1 outlines a minimum lot size of 500m ² . However the site is located within Area 1 on the lot size map. Area 1 refers to clause 4.1A (2) which outlines a minimum lot size of 200m ² , if certain criteria are met.	Two Lot Torrens Title subdivision proposed, with lots sizes of: Lot 1: 600.1m ² Lot 2: 328.2m ²	No (clause 4.6 submitted)
4.1A (2), (a), (b) & (c)	Exceptions to minimum lot size for certain residential development	each lot resulting from the subdivision will be at least 200 square meters, and a semi-detached dwelling is or will be located on each lot, and each lot will have a minimum street frontage of 7 meters.	Each proposed lot is greater than 200m ² The development proposes the construction of a detached dwelling Each lot maintains a frontage of 15.2m	Yes No (clause 4.6 submitted) Yes
4.3	Height of buildings	8.5m	New dwelling results in a height of 7.7m	Yes
4.4	Floor space ratio	0.7:1 – Site currently: 650m ² Lot 1: 0.7:1 (420m ²) Lot 2: 0.7:1 (230m ²)	Lot 1: 0.32:1 (192.8m ²) Lot 2: 0.63:1 (206.6m ²)	Yes Yes
5.10	Heritage Conservation	178 Smith Street is an item of local heritage significance – Item No. 638 The site is not located within a heritage conservation area.		
5.10(4)	Effect of proposed development on heritage significance	The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or the area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).	The proposal has been appropriately designed not impact upon the existing dwelling. The proposed works have been assessed and are unlikely to impact upon the heritage item current situated upon the site.	Yes
5.10(5)	Heritage assessment	The consent authority may, before granting consent to any development: (d) On land on which heritage item is located, or (e) On land that is within a heritage conservation area, or (f) On land that is within the vicinity of land referred to in paragraph (a)	Appropriate documentation regarding heritage management and impacts upon heritage significance have been prepared and submitted as part of this development application. This documentation has	Yes

		<p>or (b),</p> <p>Require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>been reviewed by Councils heritage advisors who outlined no objection to the proposal, subject to suitable conditions of consent.</p>	
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The following provides further discussion of the relevant issues:

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

The property is zoned R2 – Low Density Residential under the provisions of ALEP 2013. Dwelling houses and Torrens Title subdivision are permissible with Council's consent under the zoning provisions applying to the land.

The proposed development is for Torren Tittle subdivision of the site and construction of a new single dwelling house on Lot 2 is acceptable having regard to the objectives of the R2 - Low Density Residential zone.

(viii) Minimum subdivision lot size (Clause 4.1)

A minimum subdivision lot size of 500m² applies to the site as indicated on the Lot Size Map that accompanies ALEP 2013. The site is also located within Area 1 of the Lot Size Map which links directly to clause 4.1A (2) that states 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 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.

The development seeks consent for the construction of a new detached dwelling house and as such fails to achieve compliance with point (b) of clause 4.1A (2). As such the minimum required lot size for subdivision reverts back to 500m² as outlined by clause 4.1 (3).

A written request, in relation to the development's variation from the minimum subdivision lot size development standard in accordance with Clause 4.6 (Exception to Development Standards) of ALEP 2013, was submitted with the application. The submission is discussed below under the heading "Exceptions to Development Standards (Clause 4.6)".

(ix) Exceptions to Development Standards (Clause 4.6)

Lot 2 of the proposal results in a site area of 382.2m² and is therefore under the minimum 500m² site area development standard prescribed under Clause 4.1 of ALEP 2013.

Under Clause 4.6 development consent must not be granted for a development that contravenes a development standard unless the consent authority has considered a written request from the applicant that demonstrates that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

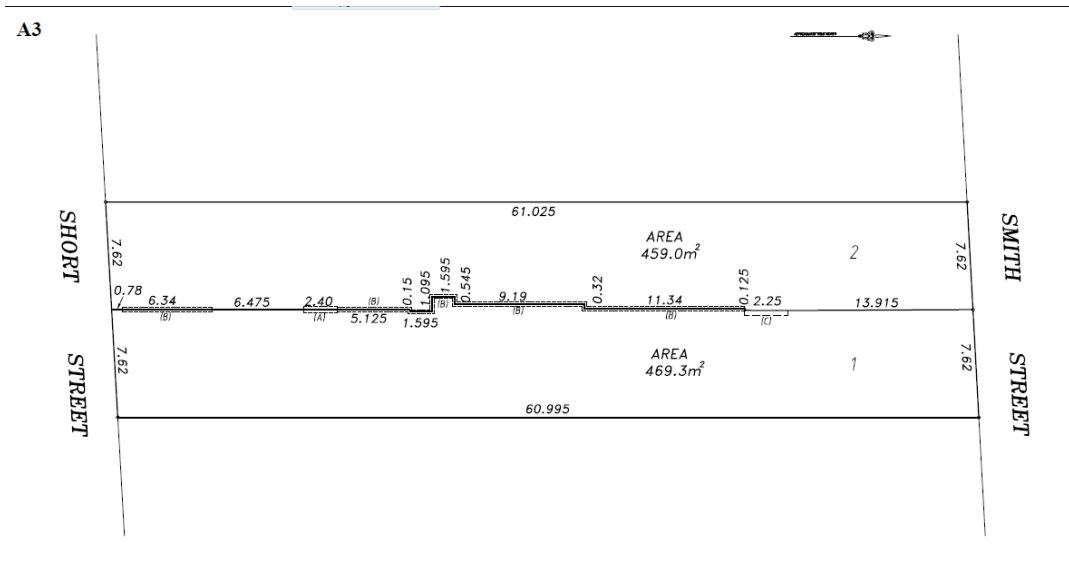
- There are sufficient environmental planning grounds to justify contravening the development standard.

The consent authority must also be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

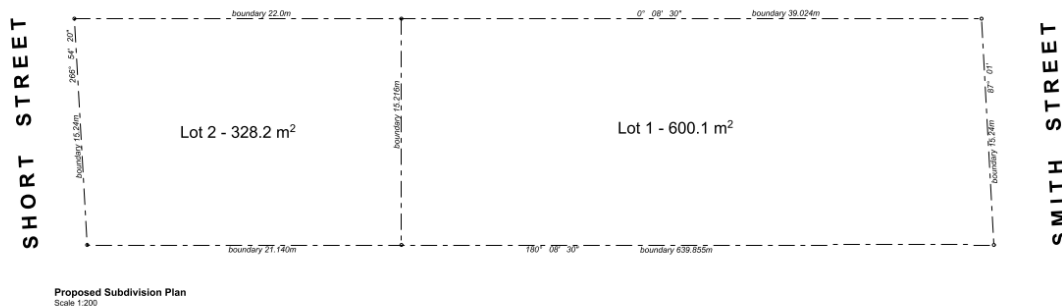
The applicant seeks to vary the minimum lot size for subdivision standard by 117.8m or 23.5%.

A written request in relation to the contravention to the height development standard in accordance with Clause 4.6 (Exceptions to Development Standards) of ALEP 2013 was submitted with the application. In summary the applicant's written request justifies the non-compliance on the basis that:

- *The proposal complies with the criteria (a) and (c) of clause 4.1A (2) and does not seek to vary numerical standards, the variation is a variation to the wording of Clause 4.1A (2)(b) to enable it to apply to a 'dwelling house'.*
- *Both the definition of 'dwelling house' and 'semi-detached dwelling' have the same reference to the foundation definition of 'dwelling'. They provide the same type of land use and are akin to each other in the terms of on-going use and functionality. The difference is in physical or built form arrangement regarding freestanding or attachment.*
- *Whilst criteria (b) refers to 'semi-detached' dwelling, the objective of Clause 4.1A contemplates housing diversity in forms of land uses that would be permissible in the zone and would be reasonably accommodated on site without affecting residential amenity. The proposed 'dwelling house' is of this type of development and thus is reasonable to vary criteria (b) to allow a 'dwelling house'.*
- *The approved subdivision under DA2014/80 is inconsistent with the prevailing subdivision pattern of the dwellings at 180, 182 and 184 Smith Street. The currently proposed subdivision will create two lots which will provide for better conservation and protection of the heritage item as it will remain on a single lot as a detached dwelling thereby conserving it. (The pattern of subdivision for DA 2014/80 vs the current application are outlined below).*
- *The current proposal does not result in impact upon residential amenity. The application is supported by shadow diagrams to demonstrate the shadow cast by the proposal is acceptable. The shadow cast by the approved development (DA2014/80) is considered to be greater, given the substantial length of the approved dwellings. The proposed separation of the two dwellings with backyards reduces the shadow cast to the private open space of the adjoining properties.*
- *This is a unique example of a situation where the underlying objective or purpose of the standard would be thwarted if strict compliance was required, given the site already benefits from an approval for subdivision, however the proposed subdivision would result in better housing diversity in the form of two freestanding homes, as opposed to two semi-detached dwellings. If strict compliance were required then only the approved development could be undertaken, which from planning and heritage position is not considered to be a good outcome as it would impact upon the setting and character of the heritage item.*



Picture 4 – Plan of Subdivision approved under DA 10.2014.80.



Picture 5 – Plan of Subdivision proposed under the current development application.

The justification provided in the applicant’s written request is considered well founded and worthy of support. Considering the above justification, strict compliance with the development standard is considered unreasonable and unnecessary given the circumstances of the site. The proposed development is considered to be consistent with both the objectives of the zone and the objectives of the development standard.

The contravention of the development standard does not raise any matter of significance for State and Regional environmental planning, and there is no public benefit in maintaining strict compliance with the standard.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of the Comprehensive Inner West Development Control Plan (DCP) 2016:

DCP 2016 – Chapter F: Development Category Guidelines				
Control No.	Control	Standard	Proposed	Compliance
DS8.2	Minimum Landscaped area %	Lot 1: 501 – 600m ² . 35% of the site area	147.7m ² – 24.6%	No
		Lot 2: 301 – 400m ² . 28% of the site area	139.8m ² – 42.6%	Yes
DS8.3	Maximum site coverage	Lot 1: 501 – 600m ² . 50% of the site area	294.5m ² – 49%	Yes
		Lot 2: 301 – 400m ² . 60% of the site area	169.1 – 51.5%	Yes
DS3.4	Wall height	Maximum external wall height of 6 metres measured from the existing ground level.	New dwelling results in a wall height of 6m	Yes
DS4.3	Setbacks	Side setbacks are determined by compliance with the BCA. Generally, Council requires a minimum side setback of 900mm for houses	Proposal is setback 1.5m from the eastern side boundary, 1m from the western, 3m from the rear boundary (measured from the patio) and 3m from the front boundary.	Yes
DS6.1	Garages and carports	A minimum of one carparking is required per dwelling	Lot 1 incorporates a two car hardstand space, while Lot 2 incorporates a single car garage.	Yes
DS13.1	Solar access	Sunlight to at least 50% (or 35m ² with minimum dimension 2.5m, whichever is the lesser) of private open space areas of adjoining properties is not to be reduced to less than three (3) hours between 9am and 3pm on 21 June. Existing solar access is maintained to at least 40% of the glazed areas of any neighbouring north facing primary living area windows for a period of at least three hours between 9am and 3 pm on 21 June. Requires main living areas to be located on the northern side of buildings where possible and subject to streetscape quality considerations. Requires sun shading devices such as eaves, overhangs or recessed balconies minimise the amount of direct sunlight striking facades.	Neighbouring private open spaces is to retain a minimum of 3 hours solar access	Yes
DS 13.2				Yes
DS 13.3			Existing solar access is to be retained to a minimum 40% of neighbouring north facing windows.	Yes
DS 13.4			Proposal has been appropriately designed to take advantage of solar orientation. Appropriate sun shading devices such as eaves proposed	Yes
DS 11.1	Front gardens	Requires front garden to have an area and dimensions that provide sufficient soil area for ground cover, vegetation and trees.	Proposal retains sufficient space for the provision of a front garden to each dwelling	Yes
DS 11.2	Front gardens	Requires hard paved areas to be minimised, and driveways have a maximum width of 3 metres	Hard surface areas have been minimised, where possible.	Yes
DS 12.1	Rear gardens	Requires rear gardens to have an area and dimension that provide sufficient soil area for ground cover, vegetation and trees.	Each site is to retain a rear garden with a sufficient dimension to facilitate a private open space and vegetation planting	Yes
DS14.1	Visual Privacy	Requires the number of windows to side elevations located above the ground floor to be minimised.	Windows which may facilitate or provide direct sightlines have been amended to be situated on a higher sill height of roughly 1.4m. This	Yes

			enables future occupants an opportunity to obtain solar access while limiting direct sightlines. The privacy screen to the east elevation of the new patio on Lot 2 has been conditioned to a minim height of 1.8m	
DS19.1	Stormwater Disposal	Stormwater from roofs is discharged by gravity to street gutter system	Conditioned to engineering requirements	Yes

The following provides discussion of the relevant issues:

Landscaped Area Lot 1/ Hardstand Parking Space/ Setting of Heritage Item

The proposed lot 1 results in a landscaped area of 147.7m² or 24.6% a variation from clause DS8.2 of the Inner West Comprehensive Development Control Plan 2016. The landscaped area control was introduced to soften the visual impact of the built form, ensure development is sympathetic to the existing streetscape and provide adequate principle private open space and deep soil planting.

An assessment of the proposal has been undertaken and the proposed variation is considered to be directly linked to the subdivision and addition of a new hardstand parking space. The proposed subdivision has been appropriately designed to cater for the creation of new areas for private open space and deep soil landscaping.

A review of neighbouring sites and analysis of parking arrangements within the immediate vicinity of 178 Smith Street has highlighted as predominance of hardstand parking spaces within the front setback. Currently neighbouring sites at 180, 182 and 184 Smith Street all enjoy a hardstand parking space within the front setback or vehicular access from the Smith Street frontage. Analysis of these hardstand spaces highlights a predominance of single car driveways, single vehicular crossovers, a single hardstand parking spaces. The proposed two car hardstand and associated vehicular crossover is uncharacteristic to the Smith Street frontage and is expected to sterilise the front setback and have adverse impacts on the setting of the heritage item. The length of the driveway within this locality provides for an opportunity of tandem off- street parking, utilising a single vehicle driveway. A design change condition recommending the proposal to be amended to a single hardstand parking space has added to the consent. This is consistent with part 2.2 in Chapter E1 of the DCP which seeks to *'retain significant settings, garden and landscape features and details'*.

Acceptance of a single vehicle hardstand parking space and the subsequent variation from the minimum landscaped area for the site, is not expected to result in a development that is out of character with the existing streetscape or impeded upon the ability of the remaining on-site landscaped area to soften the visual impact.

The development is considered to meet the objectives of clause DS8.2 of the Inner West Comprehensive Development Control Plan 2016 and the variation to the minimum landscaped area for Lot 1 is recommended to be supported.

Privacy

In order to minimise direct sight lines and minimise potential privacy impacts for neighbouring dwellings, windows along the east, west and north elevations of the proposed new dwelling have been amended and reduced in size to ensure minimal impact. Windows situated on the first floor of the proposed dwelling have the potential for the greatest impacts to visual privacy. These windows relate directly to bedrooms 1 and 2, spaces that are low trafficable. When combined with the reduced window sizes and high window sills, direct

sightlines to neighbouring private open space are difficult to achieve. The proposed new dwelling has been appropriately designed to avoid direct sightlines and protect visual privacy of all residents

Solar Access

The proposed new dwelling will result in additional impacts of overshadowing for the neighbouring single storey dwelling at No. 14 Short Street at 9am on 21 June. However by 11am solar access is returned to the dwelling at 14 Short Street, with existing solar access obtained for the remainder of the day. The proposal is compliant with Council's controls for solar access with minimal overshadowing for 14 Short Street and other neighbouring sites.

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will not result in significant or unreasonable impacts in the locality.

5(e) 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(f) Any submissions

The application was notified in accordance with the Comprehensive Inner West Development Control Plan (DCP) 2016 for a period of fourteen (14) days to surrounding properties. A total of four (4) submissions were received.

Issue: Excessive roof height/ non – compliance with streetscape

Comment: The proposed new dwelling results in a maximum height of 7.7m well below the maximum permitted 8.5m height for the locality. The proposed dwelling has been amended to provide an increased rear setback, assisting to alleviate the bulk/scale of the proposal and ensuring greater amenity for neighbouring residents. The proposal follows an existing pattern of subdivision currently enjoyed by existing dwellings between 2 – 14 Short Street. The new dwelling is acknowledged to be the first two storey development along Short Street, but is considered to reflect a form of development permissible under the ALEP 2013.

Issue: Loss of privacy

Comment: See discussion above under privacy

Issue: Impact on heritage significance of locality and existing dwelling at 178 Smith Street

Comment: The proposal has been appropriately designed to minimise impacts to the heritage significance of the existing dwelling at 178 Smith Street. The proposal new dwelling has been designed to read separately from the existing dwelling at 178 Smith Street, with no works proposed to the heritage dwelling at 178 Smith Street. The proposal has been reviewed by Council's heritage advisors who outlined no objection to the proposal.

Issue: Solar access

Comment: See discussion above under solar access

Issue: Proposed driveway width for new Smith Street hardstand

Comment: The proposed driveway and hardstand has been amended and reduced, so that the dominance of the hardstand is minimised. The proposed hardstand has also been amended and is now on grade, with minimal excavation proposed to accommodate for the new parking spaces.

Issue: Non-compliance with development standards

Comment: The proposals non-compliance with the minimum subdivision lot size has been discussed above under 5(a)(ii) of this report and is recommended for support. The proposal is compliant with all other relevant development standards

5(g) The Public Interest

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

6. Referrals

6(a) Internal

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

- Heritage Officer - Council's Heritage Advisor raised no objection to the proposed development.
- Development Engineer - Council's Assessment Engineer has reviewed the proposal and raised no objection subject to suitable conditions, these conditions have been incorporated into the recommendations.

7. Section 94 Contributions

The proposal is subject to a section 7.12 contribution of \$19,586.77. This contribution has been calculated based on the creation of 1 new lot, with 1 existing. An appropriate condition requiring the payment of the section 7.12 contribution fee has been added to the consent.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Ashfield Local Environmental Plan 2013 (ALEP 2011). The proposal is generally consistent with the Comprehensive Inner West Development Control Plan 2016. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- C. That the Inner West Local Planning Panel (IWLPP) approve a variation to the minimum lot size subdivision control prescribed by clause 4.1 in the Ashfield Local Environmental Plan 2013, as it is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and objectives for development within the zone.
- D. That the Panel, as the consent authority pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application No. 2018.25.1 for Torrens title subdivision of 178 Smith Street to create two lots, construction of new two storey dwelling to Short Street and construction of a new hardstand parking space to Smith Street at 178 Smith Street, Summer Hill, subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS

DA 2018.25.1

178 Smith Street SUMMER HILL 2130

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

Torrens title subdivision of 178 Smith Street to create two lots, construction of new two storey dwelling to Short Street and construction of a new hardstand parking space to Smith Street.

A General Conditions

(1) Approved plans stamped by Council

The development must be carried out only in accordance with the plans and specifications set out on drawing numbers

No.	Issue	Title	Prepared by	Dated
DA04	A	Subdivision Plan	Archi Spectrum	12/2/2018
DA05	C	Proposed Site & Roof Plan	Archi Spectrum	19/7/2018
DA06	C	Proposed Hardstand	Archi Spectrum	19/7/2018
DA07	B	Proposed Ground Floor	Archi Spectrum	31/5/2018
DA08	B	Proposed First Floor Plan	Archi Spectrum	31/5/2018
DA09	B	Proposed Roof Plan	Archi Spectrum	31/5/2018
DA10	B	North & South Elevations	Archi Spectrum	31/5/2018
DA11	B	East and West Elevations	Archi Spectrum	31/5/2018
DA12	B	Proposed Section	Archi Spectrum	31/5/2018
DA23	C	Fence Detail Elevation	Archi Spectrum	19/7/2018

and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

(2) Compliance with BCA

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

(3) Address of the new Lot 2 - Fronting Short Street

The proposed Lot 2 created by this consent must have the following street address:

- 14A Short Street, Summer Hill

B *Design Changes***(1) Amendments required to approved plans**

The proposed two car hardstand parking space, driveway and vehicular crossover must be reduced in width to a single vehicle hardstand parking space, driveway and vehicular crossover with a maximum width of 3metres. The hardstand space shall be parallel to the eastern property boundary.

These areas must be re-designed to the minimum requirements of a single vehicular parking space outlined by the relevant Australian Standards.

No two car hardstand parking space, driveway or vehicular crossover is approved by this development application.

Amended plans detailing compliance with this condition are approved by the principle certifying authority prior to the issue of a construction certificate.

C *Conditions that must be satisfied prior to issuing/releasing a Construction Certificate***(4) Permits - General**

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

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

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

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

(5) Dilapidation – minor

The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.

(6) Alignment Levels

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

Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.

(7) Waste Management Plan

Prior to the issue of a Construction Certificate, the applicant shall prepare and submit a Waste Management Plan in accordance with the provisions of Inner West Council Comprehensive Development Control Plan 2016 - Planning For Less Waste and the Waste Planning Guide for Development Applications (Planning for Less Waste, prepared by the Regional Waste Boards), including:

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

(8) Erosion & sedimentation control-management plan

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

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

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

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

- (a) "*Sedimentation and Erosion Control*" - Department of Conservation and Land Management.
- (b) "*Soil and Water Management for Urban Development*" - Department of Housing.

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

Further information may be obtained from:

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

(9) Security Deposit

Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and

inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$7,860.00
Inspection fee (FOOTI)	\$225.00

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 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.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

(10) Long service levy

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

(11) Section 7.12 Development Contributions

In accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Ashfield Council Development Contributions Plan, the following monetary contributions shall be paid to Council Prior to issue of a Construction Certificate to cater for the increased demand for community infrastructure resulting from the development:

<u>Community Infrastructure Type</u>	<u>Contribution</u>
Local Roads	\$695.66
Local Public Transport Facilities	\$1,007.91

Local Car Parking Facilities	\$0.00
Local Open Space and Recreation Facilities	\$16,223.62
Local Community Facilities	\$854.25
Plan Preparation and Administration	\$805.33
TOTAL	<u>\$19,586.77</u>

Being for the creation of one (1) new lot, with one (1) lot existing (two lots proposed, one lot existing).

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

$$\$C_C = \frac{\$C_P \times CPI_C}{CPI_P}$$

Where:

- \$ C_C is the amount of the contribution for the current financial quarter
- \$ C_P is the amount of the original contribution as set out in this development consent
- CPI_C is the Consumer Price Index (Sydney – All Groups) for the current financial quarter as published by the ABS.

CPI_P is the Consumer Price Index for the financial quarter at the time of the original consent. Prior to payment of the above contributions, the applicant is advised to contact Council's Planning Division on 9392 5000. Payment may be made by cash, money order or bank cheque.

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

(12) Services and infrastructure adjustment/relocation

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

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

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

(13) Energy efficiency

The development must be designed and constructed to maximise energy efficiency, including wall and ceiling insulation and energy efficient appliances/hot water/cooling systems. Contact the Sustainable Energy Development Authority, telephone 9291 5260 for general design and construction information relating to energy efficiency. Documentation detailing the energy efficiency features of the development is to be shown on the plans to be provided with the Construction Certificate

(14) Footpath/laneway – photographs to be submitted

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

(15) Sydney Water - Section 73 Compliance Certificate

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

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

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

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

(16) Payment of bond/security deposit - engineering, sediment control, stormwater and covenants

A bond of in the form of cash or bank guarantee shall be lodged prior to the release of the Subdivision Certificate. This bond covers:

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

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

- ◆ A charge equal to the value multiplied by the current "overdue rates interest charge" be levied, per month or part thereof, with a minimum charge of three months is to be paid upon lodgement.
- ◆ Any remaining charge is to be calculated at the prevailing "overdue rates interest rate" for each month or part thereof beyond the original three months that the Bank Guarantee was held, and paid prior to its release.

- ◆ Any costs incurred in the acceptance, administration or release of such Bank Guarantees be on-charged to the entity claiming the release of such Bank Guarantee, and that these amounts be paid prior to its release.
- ◆ At the time of lodgement, Council will seek verification of the Bank Guarantee. Please provide contact details for the branch (phone number and officer) to assist with verification of the bona fides of the Bank Guarantee.

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

(17) Erosion & sedimentation control-management plan

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

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

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

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

- (a) "Sedimentation and Erosion Control" - Department of Conservation and Land Management.
- (b) "Soil and Water Management for Urban Development" - Department of Housing.

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

Further information may be obtained from:

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

(18) Long service levy

Compliance with Section 109F of the *Environmental Planning and Assessment Act 1979*; payment of the long service levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* (or, where such a levy is payable by instalments, the first instalment of the levy). All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.2% X \$ = \$.

(19) Public Liability Insurance

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall 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.

D Conditions that must be complied with before work commences

(20) Requirement for a Construction Certificate

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

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

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

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

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

(21) Inspections required by Principal Certifying Authority

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

(22) Sanitary facilities - demolition/construction sites

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

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

(23) Site Controls

Sediment and erosion controls must be in place before work is commenced on the site. The control strategies must be consistent with the technical requirements set out in the Sydney Coastal Councils' *Stormwater Pollution Control Code for Local Government*.

Material from the site is not to be tracked onto the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

A sediment and erosion control plan must be prepared and identify appropriate measures for bunding and siltation fencing. Any such erosion and sedimentation controls shall also include the protection of stormwater inlets or gutter systems within the immediate vicinity of the site.

The sediment and erosion control measures are to be inspected daily and defects or system failures are to be repaired as soon as they are detected.

(24) Tree preservation order - approvals required

A Tree Preservation Order applies to the whole of the Inner West Council area. In this regard it will be necessary to make a separate application to Council prior to the removal or lopping of any trees. Contact Council's Customer Service Centre, telephone 9392 5000 to apply for a "Tree Preservation Order Permit" for Pruning or Removal of protected trees.

(25) Building location - check survey certificate

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

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

(26) Boundary identification prior to construction

The boundary shall be identified by survey prior to the pouring of any footings and concrete slabs.

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

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

(28) Site fencing/security

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

(29) Demolition work plan

Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the

precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

(30) Asbestos sheeting removal - EPA/Workcover Authority

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

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

(31) Asbestos and/or lead removal certification

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

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

(32) Garbage skips on Council land - Council approval

Bulk refuse bins or garbage skips shall not be placed on grass verge, footpath or roadway without Council permission. Application forms and details of applicable fees are available from Council's Customer Service on telephone 9392 5000.

(33) Sydney Water approval

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site: www.sydneywater.com.au, see Your Business then Building & Developing then Building & Renovating or telephone Sydney Water 13 20 92.

(34) Slabs/footings - standards

To ensure compliance with the provision of Section B of the *Building Code of Australia*, all reinforced concrete to footings and slabs shall comply with all relevant provisions of AS 2870.1-1996 "Residential Slabs and Footings Construction" or, alternatively structural engineers details of all structural elements shall be submitted to the Principal Certifying Authority with the Construction Certificate.

(35) Structural engineer's details

To ensure compliance with the provision of Section B of the *Building Code of Australia* structural engineer's details of all structural elements shall be submitted to the Principal Certifying Authority prior to commencement of work, including:

- (i) pier and beam footings;
- (ii) reinforced concrete slabs;
- (iii) stairs, including patio steps;
- (iv) retaining walls
- (v) all structural timber including floors, walls and roof; and
- (vi) all structural steel.

(36) Roof trusses - structural engineer certification

Details of roof trusses to be submitted to the Principal Certifying Authority and approval obtained prior to erection - for this purpose structural engineer certified truss plans will suffice and computation data is not required.

(37) Timber Details

Details of timber beam sizes, floor joists layouts and packing details are to be submitted to the Principal Certifying Authority for consideration prior to commencement of work.

(38) Timber – National Timber Framing Code

All timber used in construction shall comply with the *National Timber Framing Code AS 1684 – 1992* details are to be submitted to the Principal Certifying Authority for consideration prior to commencement of work.

E Conditions that must be complied with during construction or demolition**(39) Plans to be available on site**

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

(40) Locate structures within boundaries

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

(41) Storage of building materials

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

(42) Roof water, surface and subsoil drainage

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

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

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

(44) Waste Management Plan – compliance

- (a) All requirements of the approved Waste Management Plan must be implemented during the demolition and/or excavation and construction period

of the development. Adequate measures need to be in place to ensure the ongoing waste management of the site.

- (b) Keep receipts of where waste will be taken to be treated or disposed. The receipts must be presented to the Principal Certifying Authority prior to issue of the occupation certificate.

(45) Construction hours

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

- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c) at no time on Sundays or public holidays.

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

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

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

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

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

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

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

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

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

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

(47) Demolition requirements/standards

Demolition of is to be carried out in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the Workcover Authority.
- (b) The Waste Management Plan submitted with the Development Application.

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

(48) Materials and colour schemes

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

(49) Road and footpath – safety and access requirements

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

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

(50) Footpath, kerb and gutter protection

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

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

(51) Redundant vehicle crossings – removal and replacement

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

(52) Vehicle access driveways

A vehicular access driveway shall be constructed

- i) for each dwelling;
- ii) with a limit of one driveway per dwelling

and in accordance with Council's standard drawing and specifications. Driveways shall be located a minimum of 1.0m clear of any existing stormwater pits, lintels or poles and 2m clear of any trees within the road reserve.

(53) Road opening permit – Council controlled lands

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

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

(54) Surface run-off

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

(55) Balustrade design requirements

Balustrades shall be constructed in accordance with the following requirements:

- (i) The height is not less than 865mm above the nosings of the stair treads or the floor of a ramp.
- (ii) The height is not less than:
 - (a) 1m above the floor of any access path, balcony, landing or the like; or

- (b) 865mm above the floor of a landing to a stair or ramp where the balustrade is provided along the inside edge of the landing and does not exceed a length of 500mm.
- (c) Any opening does not permit a 125mm sphere to pass through it and for stairs the space is tested above the nosings.

(56) Waterproofing materials/installation – BCA/Australian Standards

Approved products that are impervious to water shall only be used as a substrate or as a lining and as a finish to floors and walls of wet areas (i.e. bathroom/shower room, WC compartment and laundry). Floors and cubicles shall be properly graded and drained to approved outlets.

The wet areas in the building shall be impervious to water as required by Part 3.8.1 of the Building Code of Australia (BCA). The junction between the floor and wall and the construction of the bath shower recess, basin, sink or the like shall be in accordance with the BCA & AS 3740:2004 'Waterproofing of wet areas within residential buildings'.

On completion of the waterproofing of the wet areas, the Principal Certifying Authority shall be furnished with a certificate from the person responsible. This is to state that the materials are suitable for the situation and that the application and/or installation has been carried out in accordance with the manufacturer's instructions, the BCA and AS 3740.

(57) Safety Glazing - BCA

Safety glazing complying with B1 of the Building Code of Australia (BCA) is to be used in every glazed door or panel that is capable of being mistaken for a doorway or unimpeded path of travel. The glazing must comply with AS 1288:2006 'Glass in Buildings – Selection and Installation'.

Framed panels or doors enclosing or partially enclosing a shower or bath shall be glazed with "A" or "B" grade safety glazing material in accordance with AS 1288 and Part 3.6.4 of the BCA.

(58) Fire Detection/Alarm System installation and certification

Smoke alarms must be installed in dwellings in accordance with Clause 3.7.2.3 of the Building Code of Australia (BCA) and AS 3786 on or near the ceiling in -

- (a) any storey containing bedrooms -
 - between each area containing bedrooms and the remainder of the dwelling, including any hallway associated with the bedrooms
- (b) any storey not containing bedrooms.

Smoke alarms must be connected to the consumer mains power and have a stand-by power supply.

The licensed Electrical Contractor shall on completion of the installation of the smoke alarm system, submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786:1993.

(59) Smoke detector location

Smoke detectors are to be installed in the locations marked in red ink on the approved Council stamped and dated plans as acceptable to the principal certifying authority.

(60) Site vehicles - mud/debris

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

(61) Vehicle crossing - Council Approval

An appropriate application is to be made to Council for the construction of a suitable vehicular crossing by Council at the owner's cost.

(62) Spoil and building materials on road and footpath

Spoil and building materials shall not be placed or stored within any public roadway or footpath.

F Conditions that must be complied with prior to the issue of the Subdivision certificate**(63) Drainage Easement**

The proposed easement for the drainage from the new allotment to Smith Street shall be shown on the Certificate and Plan, together with the relevant rights of the upstream owner. In addition, a written statement shall be provided, signed by the Registered Surveyor, that the as-built pipeline is totally within the proposed easement.

G Conditions that must be complied with before the building is occupied**(64) Compliance with submitted ridge height**

A survey report to be submitted upon completion of the works and prior to occupation verifying compliance with the approved ridge height details.

(65) Occupation of New Dwelling to Short Street

No occupation certificate is to be issued prior to the registration and completion of the approved subdivision. The proposed new dwelling addressing Short Street is not to be occupied in any form until such a time that the subdivision of the site is completed and registered with the relevant authorities.

(66) Approval to use/occupy building

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

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

(67) Street Number

A street number appropriately designed to complement the character of the area must be displayed in a position clearly visible from the street, in numbers having a height of not less than 75 mm. The number must be in place before the premises can be occupied.

(68) Public Domain works

All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

(69) Light duty vehicle crossing

Light duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be constructed at the vehicular access locations in both streets before the issue of the Occupation Certificate and at no cost to Council.

(70) Redundant Vehicle Crossing

All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.

(71) Subdivision certificate to be obtained from Council

A subdivision certificate, being a certificate that authorises the registration of a plan of subdivision under Division 3 of Part 23 of the *Conveyancing Act 1919* is to be obtained from Council in accordance with Section 6.3(1)D of the *Environmental Planning and Assessment Act 1979*.

(72) Plan of subdivision - Council signature

A final plan of subdivision, prepared by a registered surveyor, and six (6) paper copies, are to be submitted to Council for signature, prior to registration at the Land Titles Office.

H Conditions that are ongoing requirements of development consents**(73) Single dwelling use only**

The new dwelling shall be used as a single domicile only and shall not be adapted or occupied in two or more parts as a residential flat building.

(74) Temporary buildings-removal

- (1) A temporary building must be demolished or removed on or before its removal date.
- (2) A temporary building must not be used:
 - (a) for residential purposes, or
 - (b) for the storage of dangerous goods within the meaning of the *Dangerous Goods Act 1975*, or
 - (c) at any time after its removal date.
- (3) In this clause, **removal date**, in relation to a temporary building, means:
 - (a) the day occurring 5 years after the date of issue of the relevant development consent or complying development certificate, or
 - (b) if an earlier date is specified in that regard in the relevant development consent or complying development certificate, that earlier date.

I Advisory Notes

(1) Works and requirements of other authorities

- Sydney Water may require the construction of additional works and/or the payment of additional fees. Other Sydney Water approvals may also be necessary prior to the commencement of construction work. You should therefore confer with Sydney Water concerning all plumbing works, including connections to mains, installation or alteration of systems, and construction over or near existing water and sewerage services.
- Contact Sydney Water, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.
- Australia Post has requirements for the positioning and dimensions of mail boxes in new commercial and residential developments. A brochure is available from your nearest Australia Post Office.
- Energy Australia/AGL Electricity/AGL Retail Energy or other alternative service/energy providers have requirements for the provision of connections.
- Energy Australia has a requirement for the approval of any encroachments including awnings, signs, etc over a public roadway of footway. The Engineer Mains Overhead Eastern Area should be contacted on 9663 9408 to ascertain what action, if any, is necessary.
- Telstra has requirements concerning access to services that it provides.

(2) Modifications to your consent - prior approval required

Works or activities other than those authorised by the approval including changes to building configuration or use will require the submission and approval of an application to modify the consent under Section 96 of the *Environmental Planning & Assessment Act 1979*. You are advised to contact Council immediately if you wish to alter your approved plans or if you cannot comply with other requirements of your consent to confirm whether a Section 96 modification is required.

Warning: There are substantial penalties prescribed under the *Environmental Planning and Assessment Act 1979* for breaches involving unauthorised works or activities.

New VC - advisory

NS 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 Vehicle Crossing and Public Domain Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

(3) Occupational health and safety

All site works must comply with the occupational health and safety requirements of the NSW Work Cover Authority.

(4) Tree preservation

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

Preservation Order Permit for Pruning or Removal of Protected Trees" to be obtained from Council.

- * Lopping may be carried out without consent only to maintain a minimum clearance of 500mm from power lines, pruning to remove dead wood/branches and minor pruning of branches overhanging buildings to a height of 2 metres only with the agreement of the owner of the tree. Contact Council's Customer Service Centre - telephone 9392 5000, for details of the Tree Preservation Order.

(5) Relocation of stormwater drainage

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

(6) Other approvals

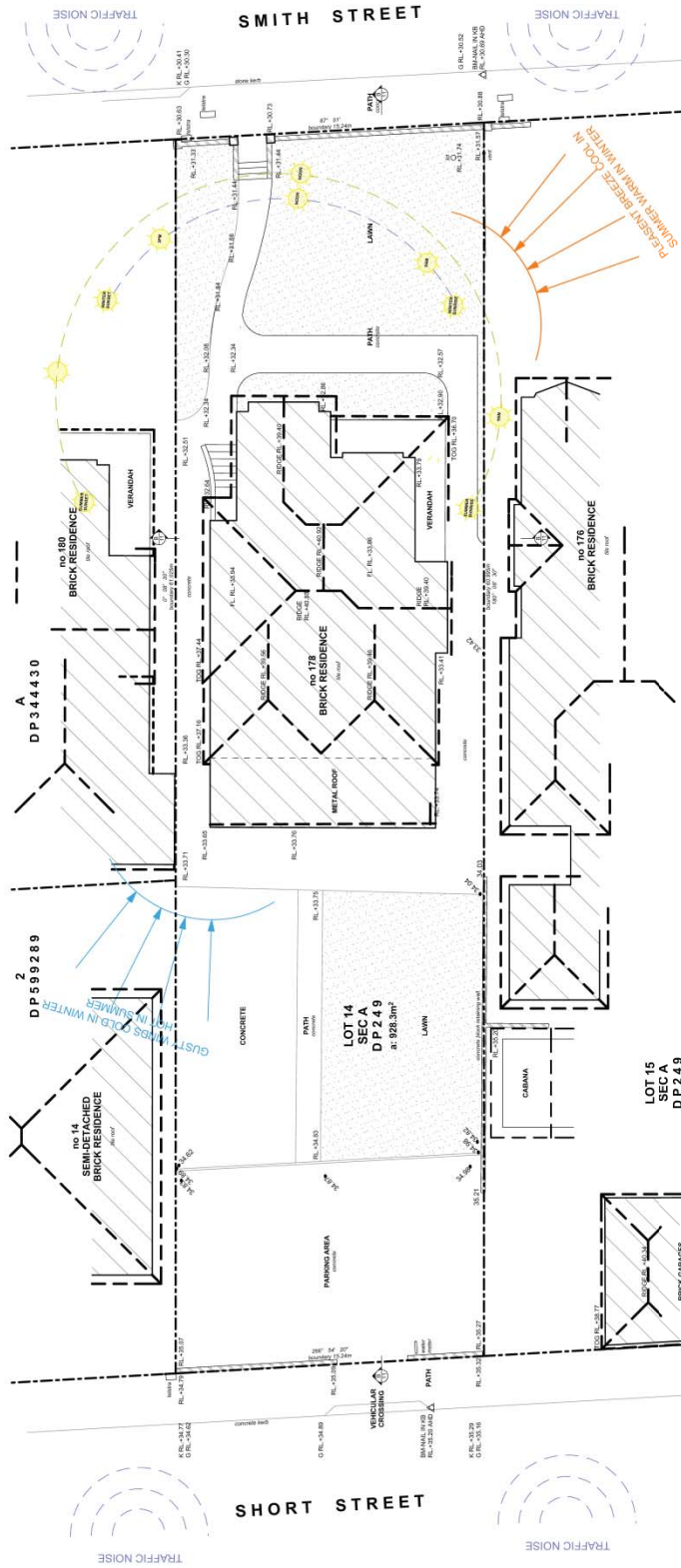
This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, including:

- an Application for Approval under Section 68 of the *Local Government Act 1993* for any proposed activity under that Act, including any erection of a hoarding. All such applications must comply with the *Building Code of Australia*.
- an Application for Approval under Section 68 of the *Local Government Act 1993* for a Place of Public Entertainment if proposed. Further building work may also be required for this use in order to comply with the *Building Code of Australia*. If there is any doubt as to what constitutes "Public Entertainment" do not hesitate to contact Council's Fire Officer.
- an application for an Occupation Certificate under Section 109(C)(2) of the *Environmental Planning and Assessment Act 1979*.
Note: An application for an Occupation Certificate may be lodged with Council if the applicant has nominated Council as the Principal Certifying Authority.
- an Application for a Subdivision Certificate under Section 109(C)(1)(d) of the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
- an Application for Strata Title Subdivision under the *Strata Schemes (Freehold Development) Act 1973*, if strata title subdivision of the development is proposed.
- a development application for demolition approval under the *Environmental Planning and Assessment Act 1979* if consent for demolition is not granted by this consent.

(7) Bulk bins on footpath and roadway

Approval is required from Council prior to the placement of any bulk bins on Council's footpath and/or roadway.

Attachment B – Plans of proposed development



Site Analysis
Scale 1:200

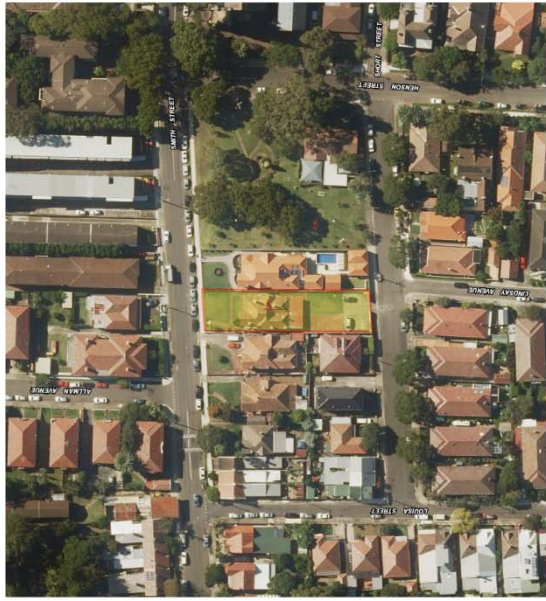
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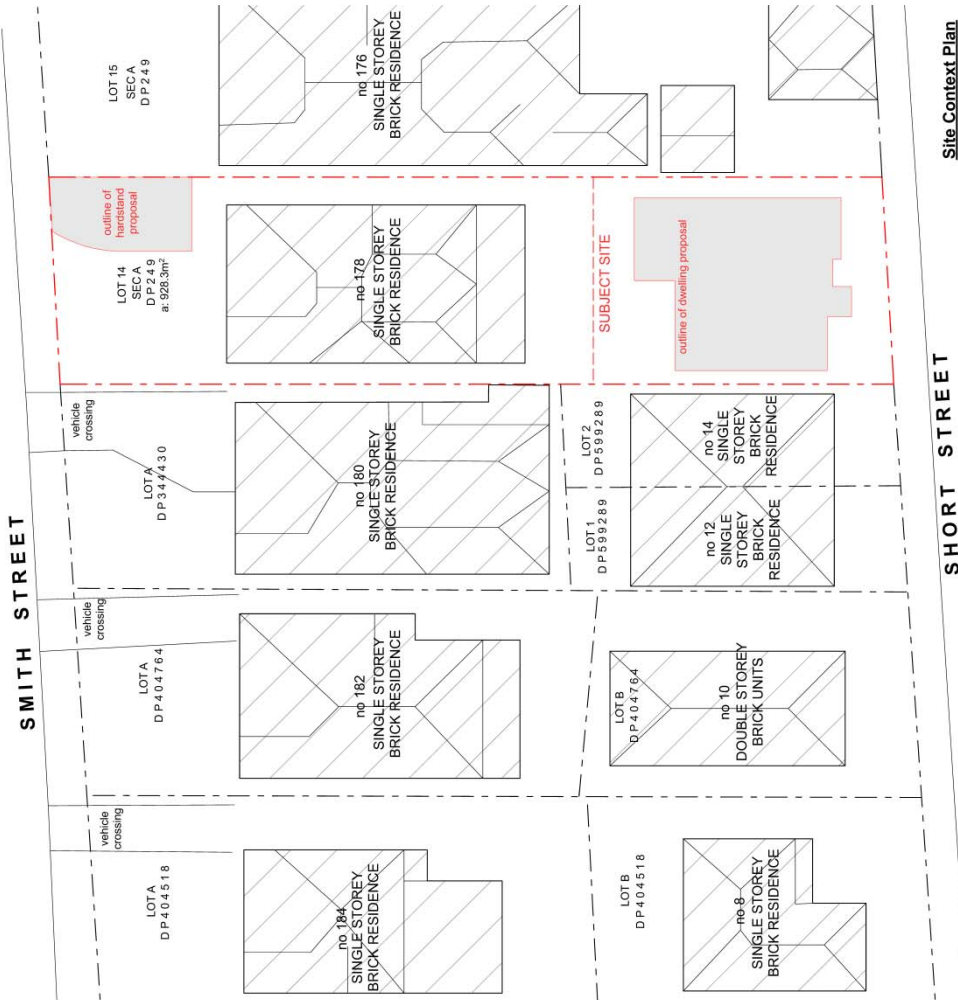
ISSUE: A
 DATE: 12.02.2018
 DESCRIPTION: Issue for DA

PROJECT: Alterations & Additions at:
 178 Smith Street, Summer Hill
 178 Smith Street, Summer Hill

SHEET TITLE: Site Analysis
 SCALE: 1:200 @ A3
 DRAWN: BA
 SHEET SIZE: A3
 REVISION: DA01 a



Site Context
NTS



Site Context Plan
Scale 1:300

SHORT STREET

SMITH STREET

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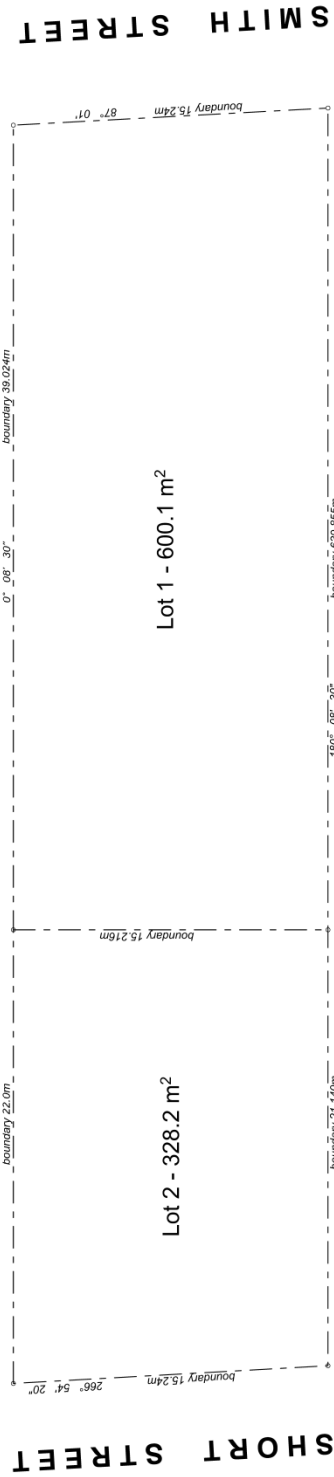
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ISSUE DATE DESCRIPTION
A 12.02.2018 Issue for DA
B 31.05.2018 Revised Issue for DA
C 19.07.2018 Revised Issue for DA

PROJECT: Alterations & Additions at:
178 Smith Street, Summer Hill
178 Smith Street, Summer Hill

SHEET TITLE: Site Context Plan

SCALE: 1:300 @ A3
DRAWN: BA
CHECKED: BA
SHEET SIZE: DWG/NO
A3 DA02 C
REVISION



Proposed Subdivision Plan
Scale 1:200

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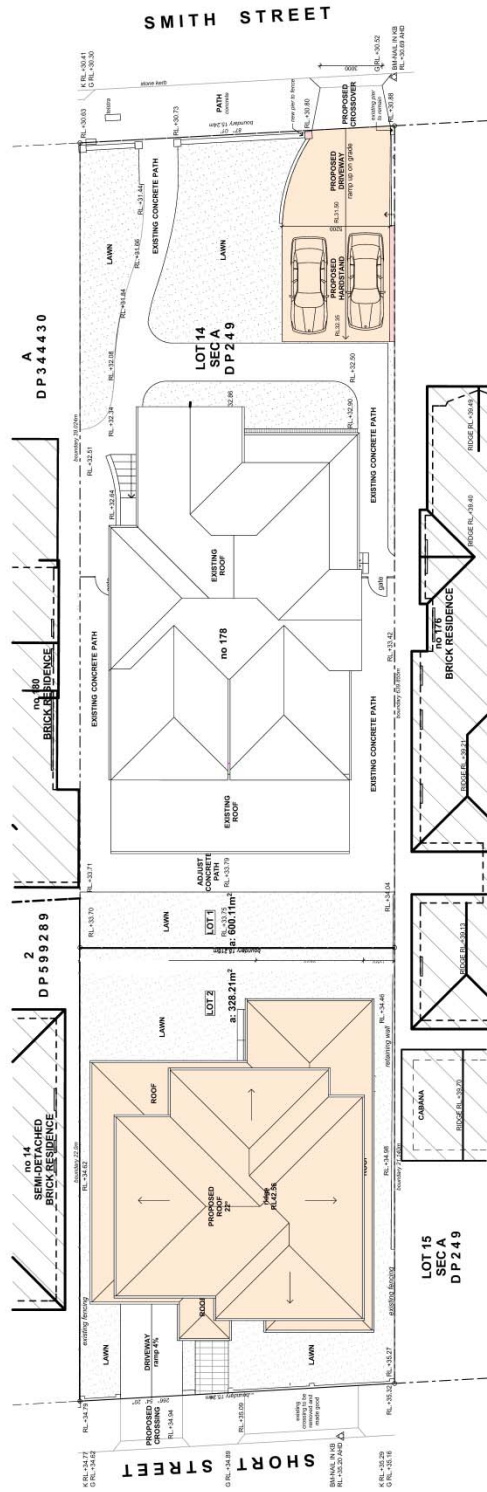
ARCHISPECTRUM
 SURVEYING & ARCHITECTURE
 Suite 5, Level 5, 100 Macquarie Street, Sydney, NSW 2000

ISSUE: A DATE: 12.02.2018 DESCRIPTION: Issue for DA

SHEET TITLE: Subdivision Plan

PROJECT: Alterations & Additions at:
 178 Smith Street, Summer Hill
 178 Smith Street, Summer Hill

SCALE: 1:200 @ A3 SHEET SIZE: DRAWING: A3 DA04 a
 DRAWN: BA REVISION:



Proposed Site & Roof Plan
Scale 1:200

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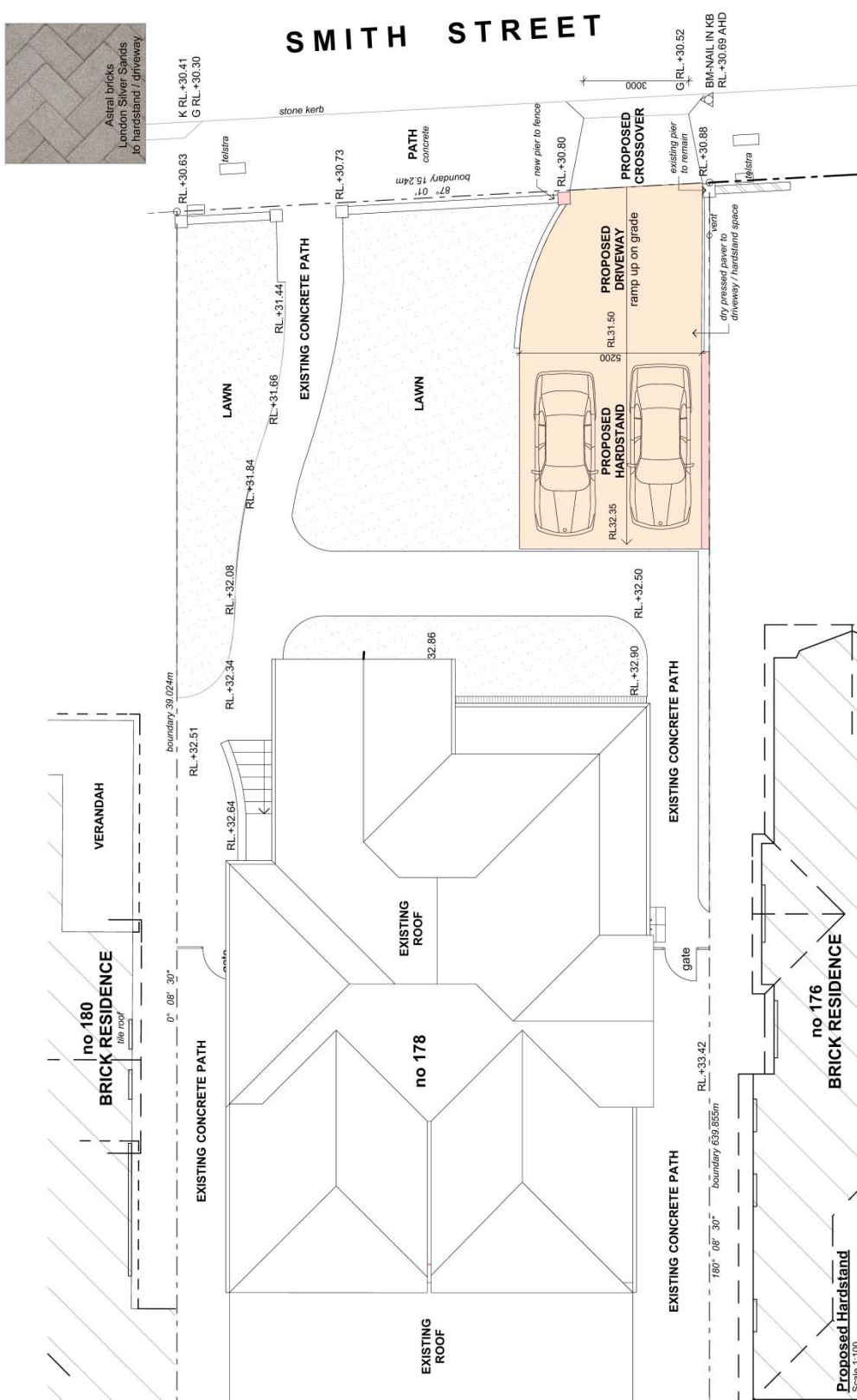
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PROJECT:
Alterations & Additions at:
178 Smith Street, Summer Hill
178 Smith Street, Summer Hill

ISSUE DATE:
A 12.02.2018
B 31.05.2018
C 19.07.2018

DESCRIPTION:
Issue for DA
Revised Issue for DA
Revised Issue for DA

SCALE: 1:200 @ A3
SHEET SIZE: D3xH3
DRAWN: BA
REVISION: A3 DA05 C

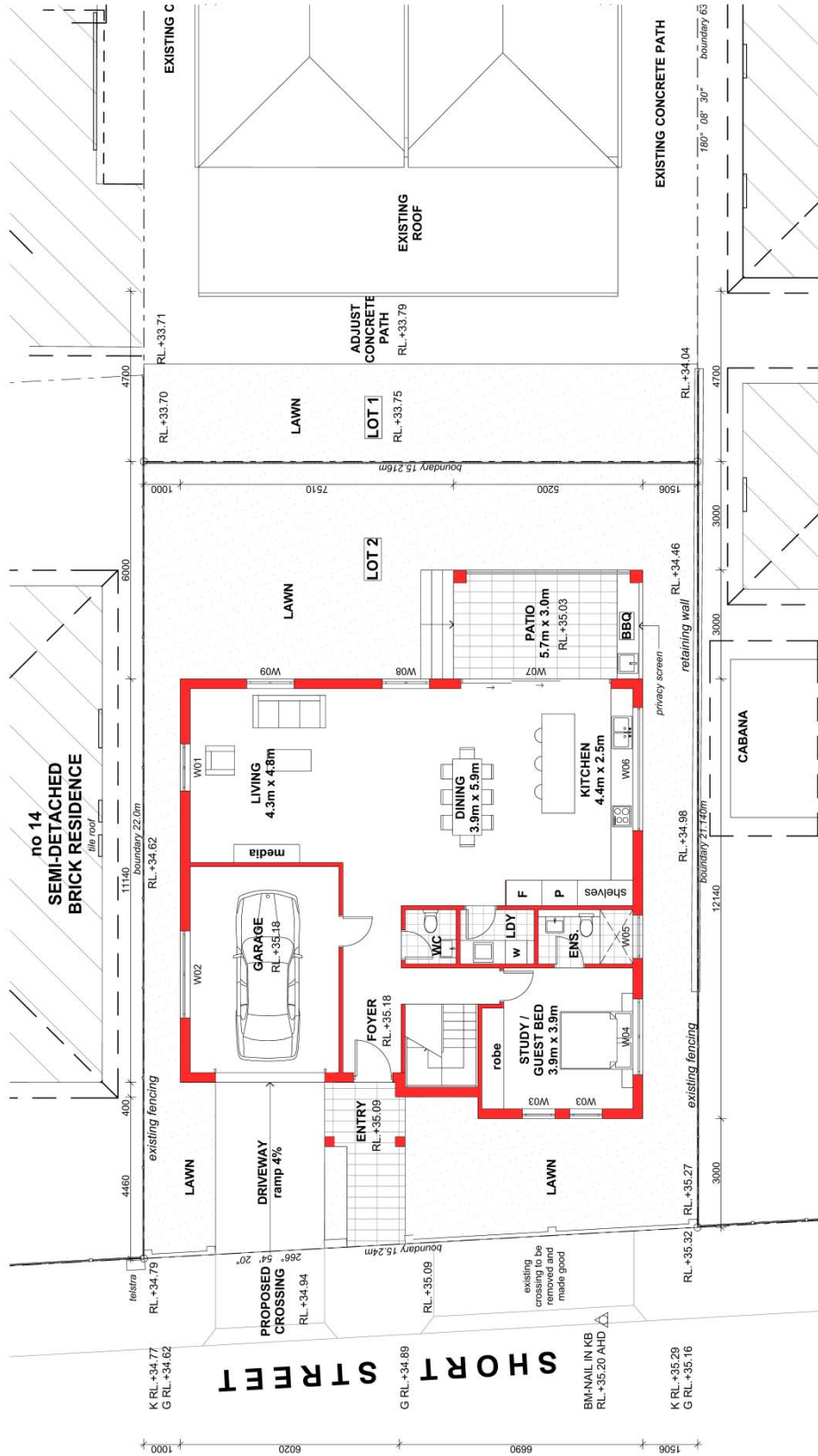


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Scale 1:100
SUBMITTAL
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SHEET SIZE: DWG NO: A3 DA06 C
REVISION:

ISSUE	DATE	DESCRIPTION
A	12.02.2018	Issue for DA
B	31.05.2018	Revised Issue for DA
C	19.07.2018	Revised Issue for DA

Proposed Hardstand
Alterations & Additions at:
178 Smith Street, Summer Hill
178 Smith Street, Summer Hill



Proposed Ground Floor Plan
Scale 1:100

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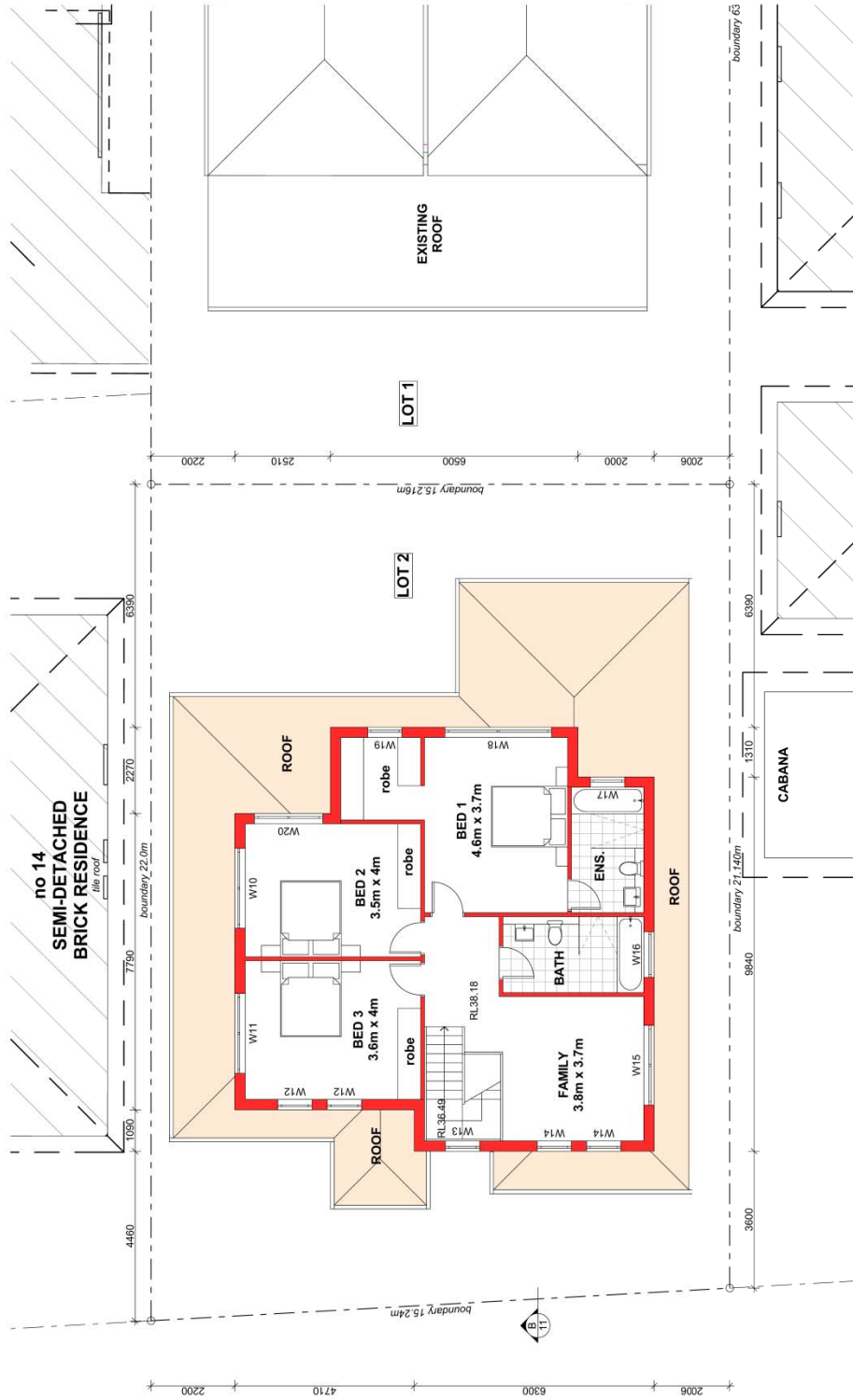
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ISSUE DATE DESCRIPTION
A 12.02.2018 Issue for DA
B 31.05.2018 Revised issue for DA

PROJECT DESCRIPTION
Alterations & Additions at:
178 Smith Street, Summer Hill
178 Smith Street, Summer Hill

SHEET TITLE
Proposed Ground Floor Plan

SCALE: 1:100 @ A3
DRAWN: BA
REVISION:
A3 DA07 b



Proposed First Floor Plan
Scale 1:100

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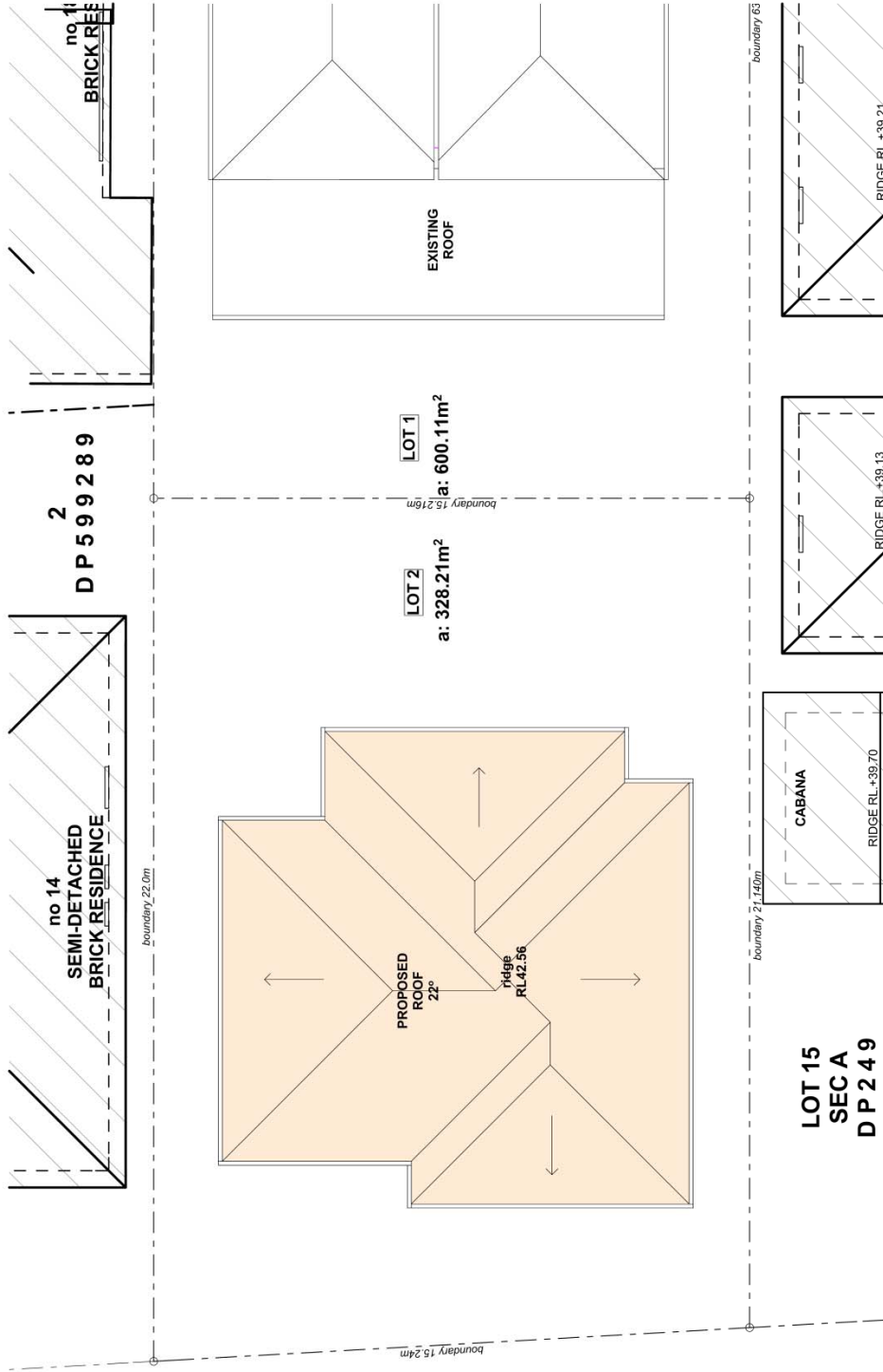
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PROJECT: Alterations & Additions at: 178 Smith Street, Summer Hill
 178 Smith Street, Summer Hill

ISSUE: A 12.02.2018 Issue for DA
 B 31.05.2018 Revised Issue for DA

DESCRIPTION: Proposed First Floor Plan

SCALE: 1:100 @ A3
 DRAWN: BA
 SHEET SIZE: DWG NO: A3 DA08 b
 REVISION:



LOT 15
SEC A
DP 249

Proposed Roof Plan
Scale 1:100

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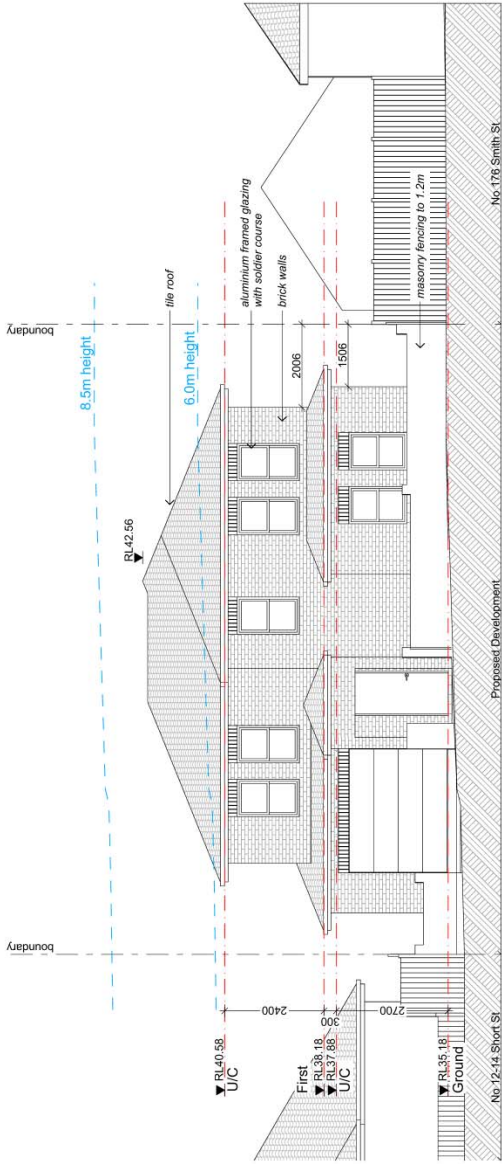
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A	12.02.2018	Issue for DA
B	31.03.2018	Revised Issue for DA

PROJECT:
**Alterations & Additions at:
178 Smith Street, Summer Hill**

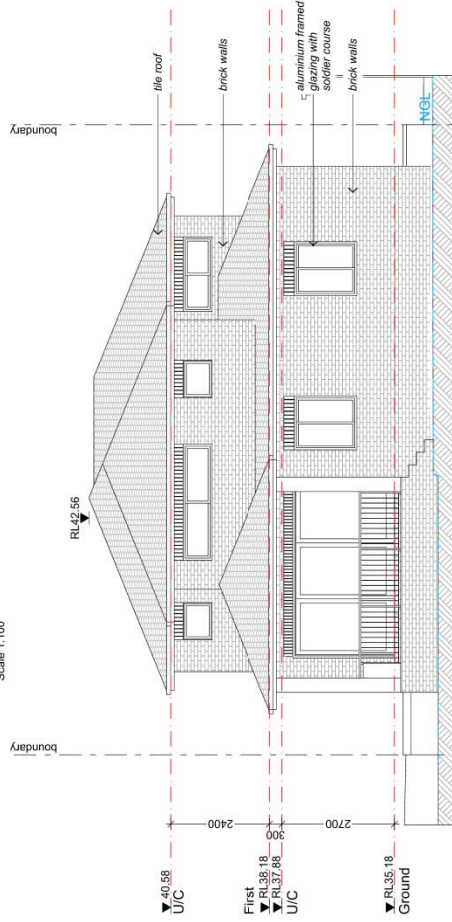
SHEET TITLE:
Proposed Roof Plan

SCALE: 1:100 @ A3
DRAWN: BA
SHEET SIZE: DWG NO. A3
REVISION: DA09 b



South Elevation (Short Street)

Scale 1:100



North Elevation (Rear)

Scale 1:100

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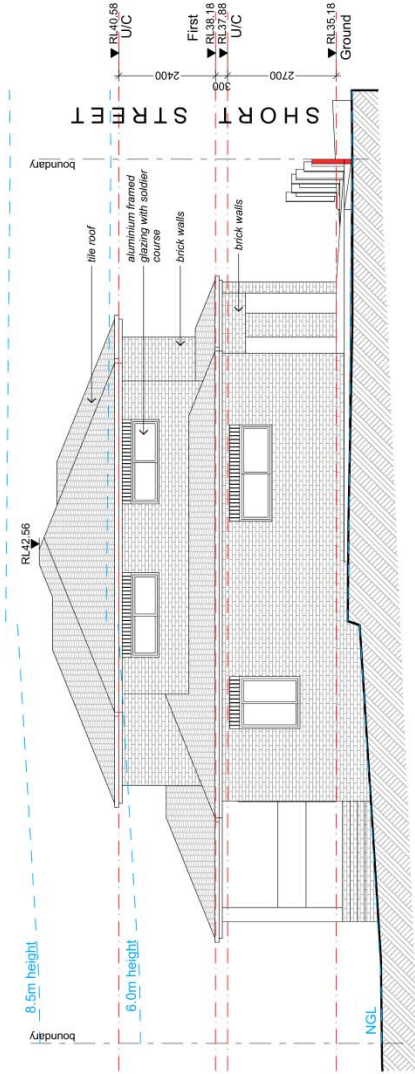


ISSUE	DATE	DESCRIPTION
A	12.02.2018	Issue for DA
B	31.03.2018	Revised Issue for DA

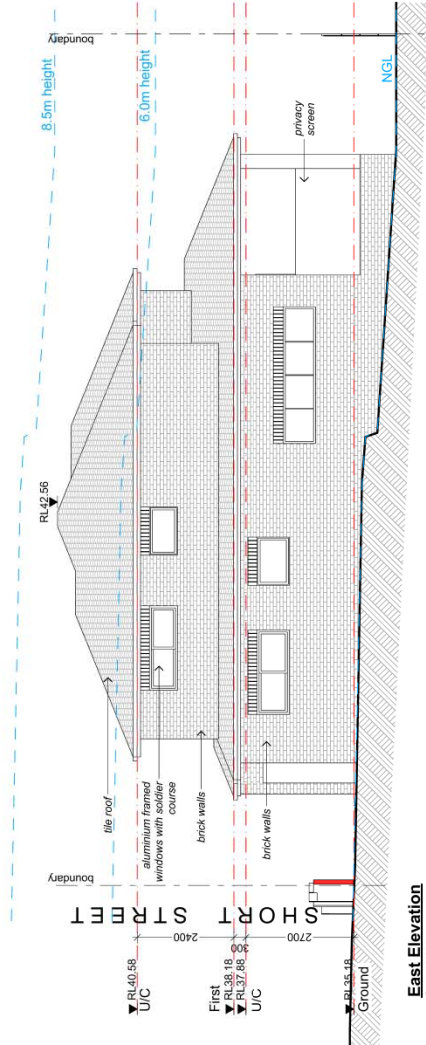
PROJECT: **Alterations & Additions at: 178 Smith Street, Summer Hill**

SHEET TITLE: **North & South Elevations**

SCALE: 1:100 @ A3
DRAWN: BA
SHEET SIZE: DWG NO. **A3 DA10**
REVISION: b



West Elevation
Scale 1:100



East Elevation
Scale 1:100

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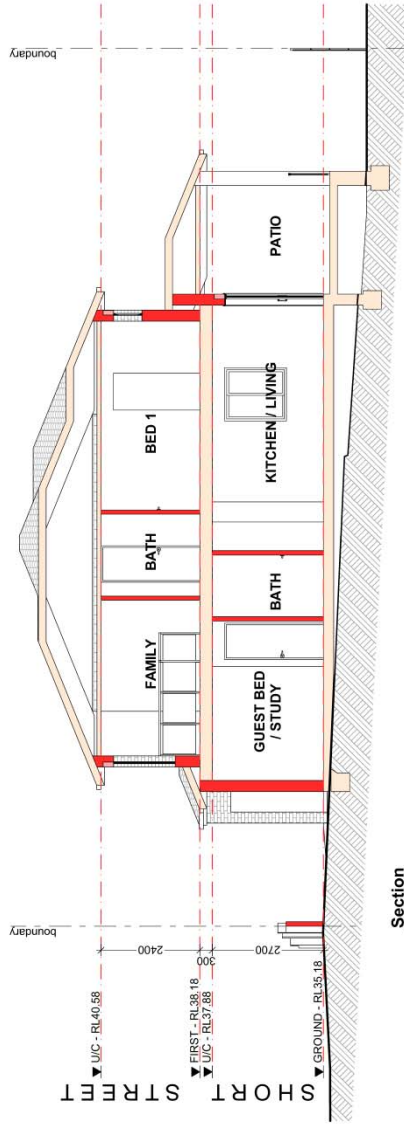
PROJECT: Alterations & Additions at:
178 Smith Street, Summer Hill
178 Smith Street, Summer Hill

ISSUE: A 12.02.2018 Issue for DA
B 31.05.2018 Revised Issue for DA

SCALE: 1:100 @ A3
DRAWN: BA

SHEET SIZE: DWG NO
A3 DA11 b

REVISION

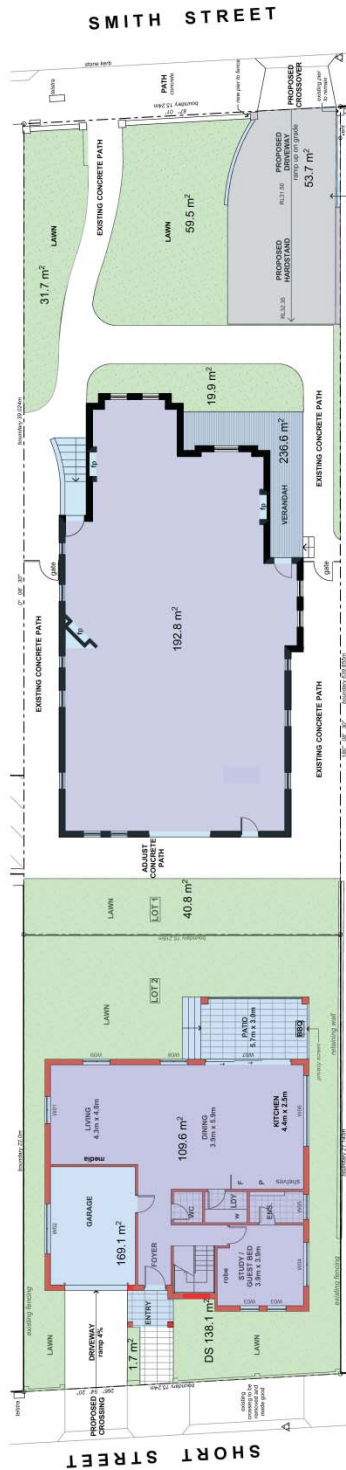


Section
Scale: 1:100

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ISSUE: A, B
 DATE: 12.02.2018, 31.05.2018
 DESCRIPTION: Issue for DA, Revised Issue for DA
 PROJECT: Alterations & Additions at: 178 Smith Street, Summer Hill
 SHEET TITLE: Proposed Section
 SCALE: 1:100 @ A3
 DRAWN: BA
 SHEET SIZE: TWO NO.
 REVISION: A3 DA12 b

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Proposed Ground Floor Plan
Scale 1:200



Proposed First Floor Plan
Scale 1:200

LOT 1

Site: 600.11m²

FSR CALCULATIONS

Existing Ground Floor 192.8m²
PROPOSED FSR 0.32 : 1

SITE COVERAGE

Existing Site coverage 236.6m²
Carstand 53.7m²
Total 290.3m² (48.3%)

LANDSCAPE

Proposed Deep Soil 159.1m² (26.5%)

LOT 2

Site: 328.21m²

FSR CALCULATIONS

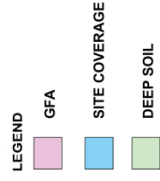
Proposed Ground Floor 109.6m²
First Floor 91.9m²
Total: 201.5m²
PROPOSED FSR 0.61 : 1

SITE COVERAGE

Proposed Site coverage 169.1m² (51.5%)

LANDSCAPE

Proposed Deep Soil 139.8m² (42.6%)



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email: cad@architecturespectrum.com.au A.S.N. 40 860 987 144

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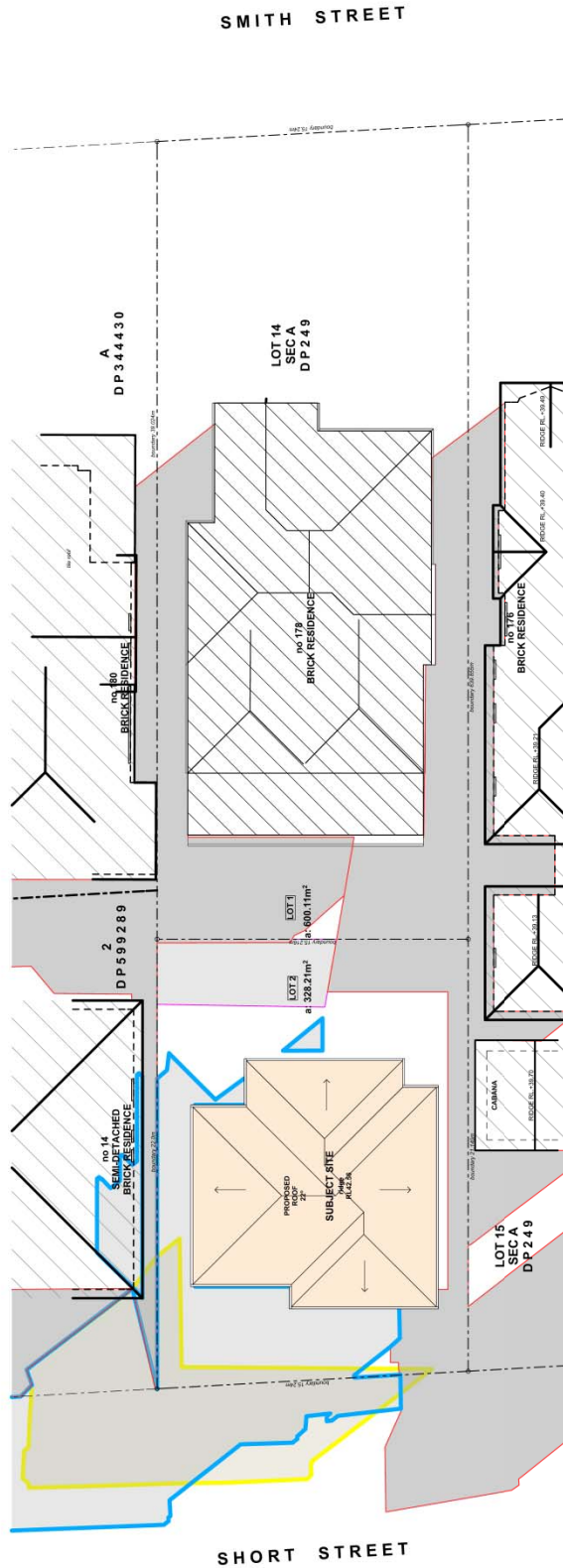
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REVISION	DATE	DESCRIPTION	PROJECT	SHEET TITLE
A	12.02.2018	Issue for DA	Alterations & Additions at: 178 Smith Street, Summer Hill 178 Smith Street, Summer Hill	Calculations
B	31.05.2018	Revised Issue for DA		
C	19.07.2018	Revised Issue for DA		

SCALE: 1:200 @ A3
DRAWN: BA
CHECKED: DA
REVISION: A3 DA13 C

- Existing shadows
- Proposed shadows
- Additional shadow cast by proposed 1.8m dividing fence
- Shadow cast by DA Approved double garages



Shadow Diagram 21 June 9am
Scale 1:200

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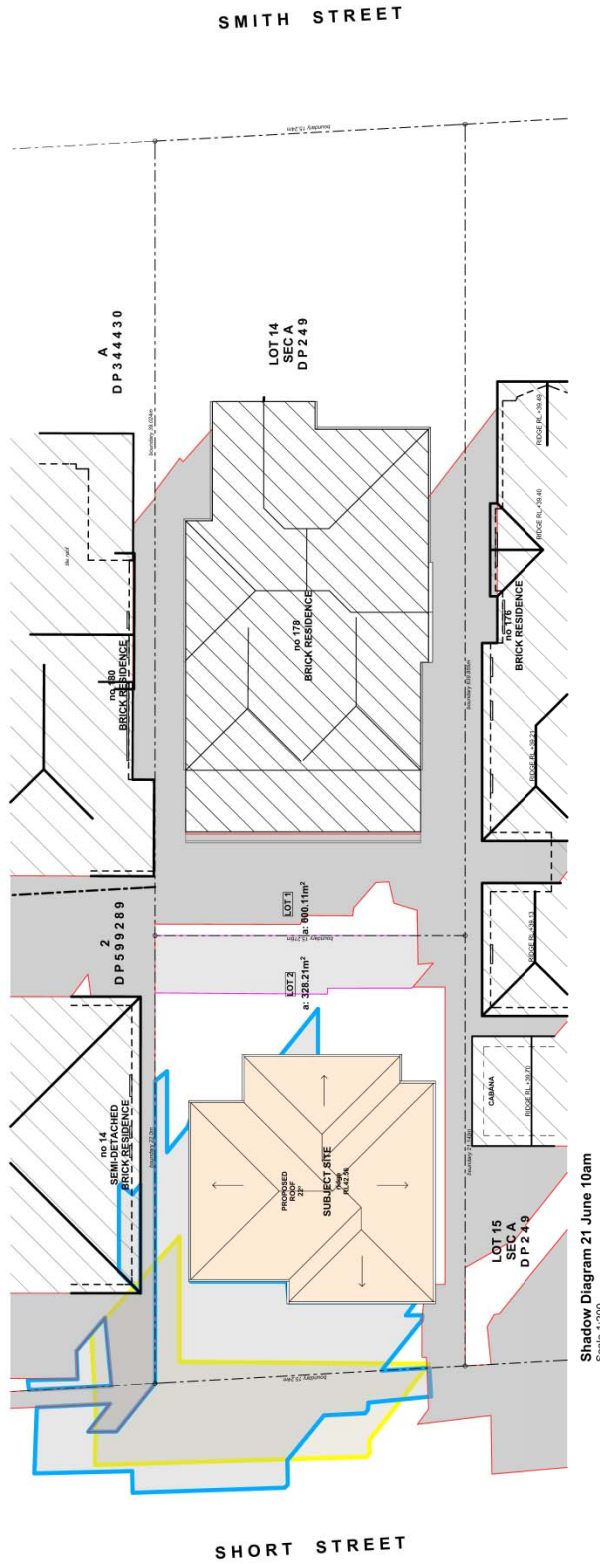
ISSUE	DATE	DESCRIPTION
A	12.02.2018	Issue for DA
B	31.05.2018	Revised Issue for DA

PROJECT: Alterations & Additions at:
178 Smith Street, Summer Hill
178 Smith Street, Summer Hill

SCALE: 1:200 @ A3
DRAWN: BA

SHEET NO: **A3 DA14 b**

- Existing shadows
- Proposed shadows
- Additional shadow cast by proposed 1.8m dividing fence
- Shadow cast by DA Approved double garages



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PROJECT: **Alterations & Additions at: 178 Smith Street, Summer Hill**

 SHEET TITLE: **Shadow Diagram 10am**

 SCALE: 1:200 @ A3

 SHEET NO: **A3 DA15 b**

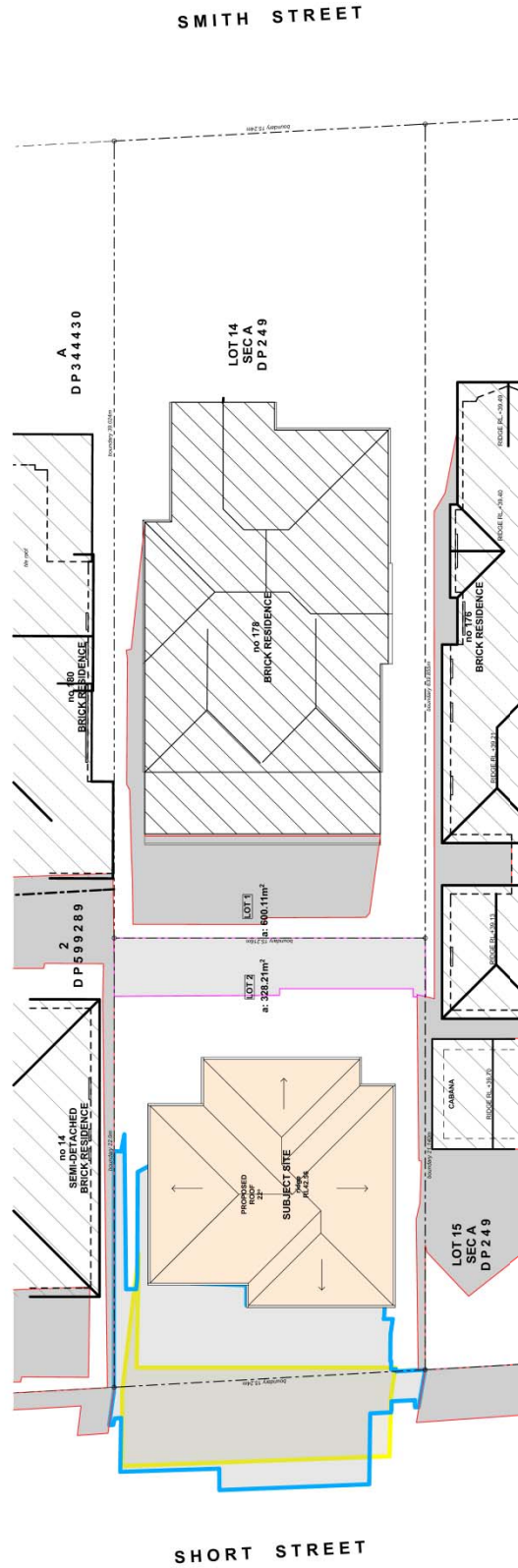
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 REVISION:

ISSUE	DATE	DESCRIPTION
A	12.03.2018	Issue for DA
B	31.05.2018	Revised Issue for DA

178 Smith Street, Summer Hill

-  Existing shadows
-  Proposed shadows
-  Additional shadow cast by proposed 1.8m dividing fence
-  Shadow cast by DA Approved double garages




Shadow Diagram 21 June 12noon
Scale 1:200

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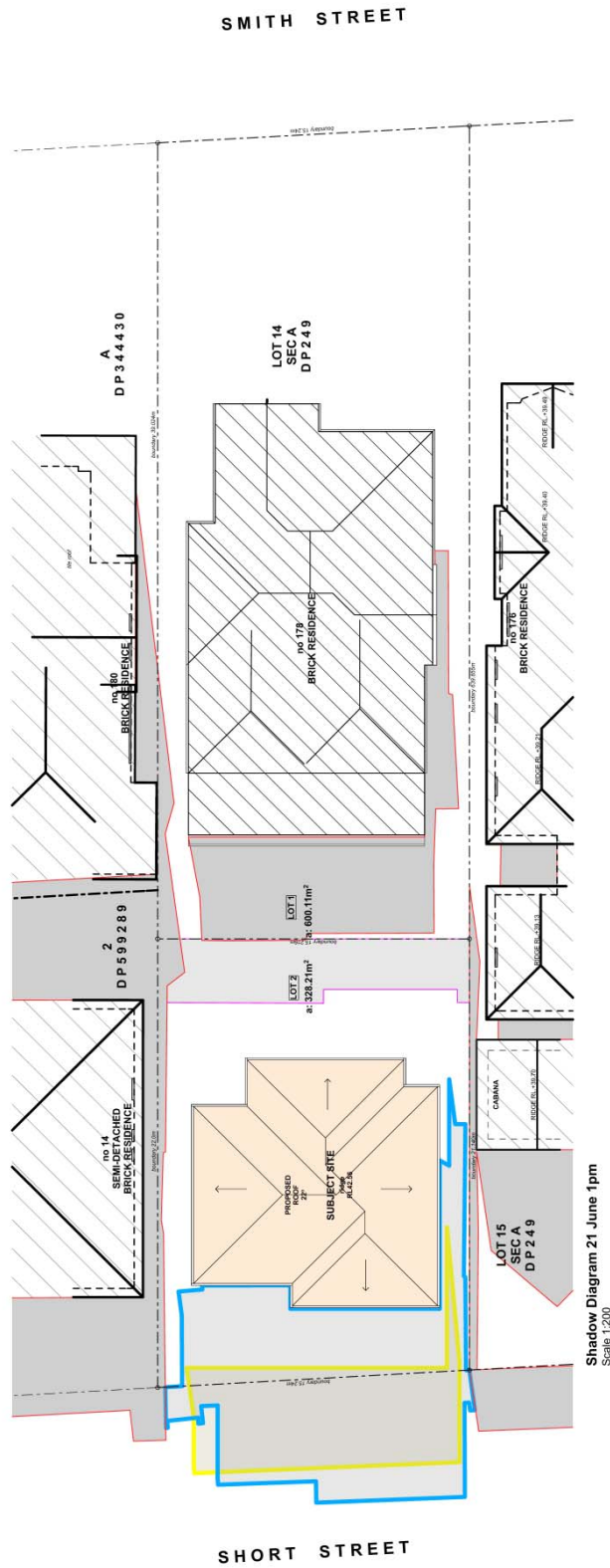
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REVISION	DATE	DESCRIPTION	PROJECT	SHEET TITLE
A	12.02.2018	Issue for DA	Alterations & Additions at: 178 Smith Street, Summer Hill	Shadow Diagram 12noon
B	31.05.2018	Revised Issue for DA	178 Smith Street, Summer Hill	



SCALE: 1:200 @ A3
 DRAWN: BA
 SHEET SIZE: A3
 DWG NO: DA17
 REVISION: b

- Existing shadows
- Proposed shadows
- Additional shadow cast by proposed 1.8m dividing fence
- Shadow cast by DA Approved double garages



Shadow Diagram 21 June 1pm
Scale 1:200

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ISSUE	DATE	DESCRIPTION	PROJECT
A	12.02.2018	Issue for DA	Shadow Diagram 1pm Alterations & Additions at: 178 Smith Street, Summer Hill 178 Smith Street, Summer Hill
B	31.05.2018	Revised Issue for DA	

SHEET TITLE: **Shadow Diagram 1pm**

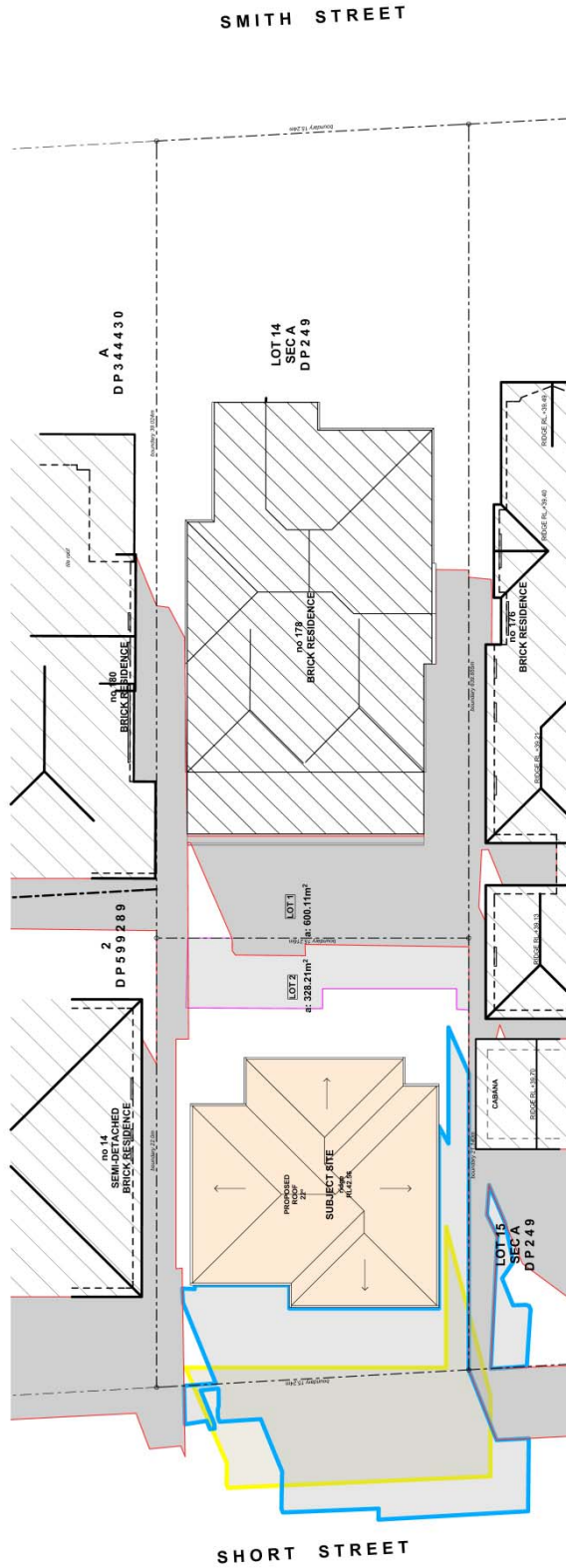
SCALE: 1:200 @ A3

DRAWN: BA

SHEET NO: **A3 DA18 b**

REVISION:

- Existing shadows
- Proposed shadows
- Additional shadow cast by proposed 1.8m dividing fence
- Shadow cast by DA Approved double garages



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PROJECT: Alterations & Additions at: 178 Smith Street, Summer Hill

DESCRIPTION: Issue for DA, Revised Issue for DA

DATE: 12.02.2018, 31.05.2018

ISSUE: A, B

SHEET TITLE: Shadow Diagram 2pm

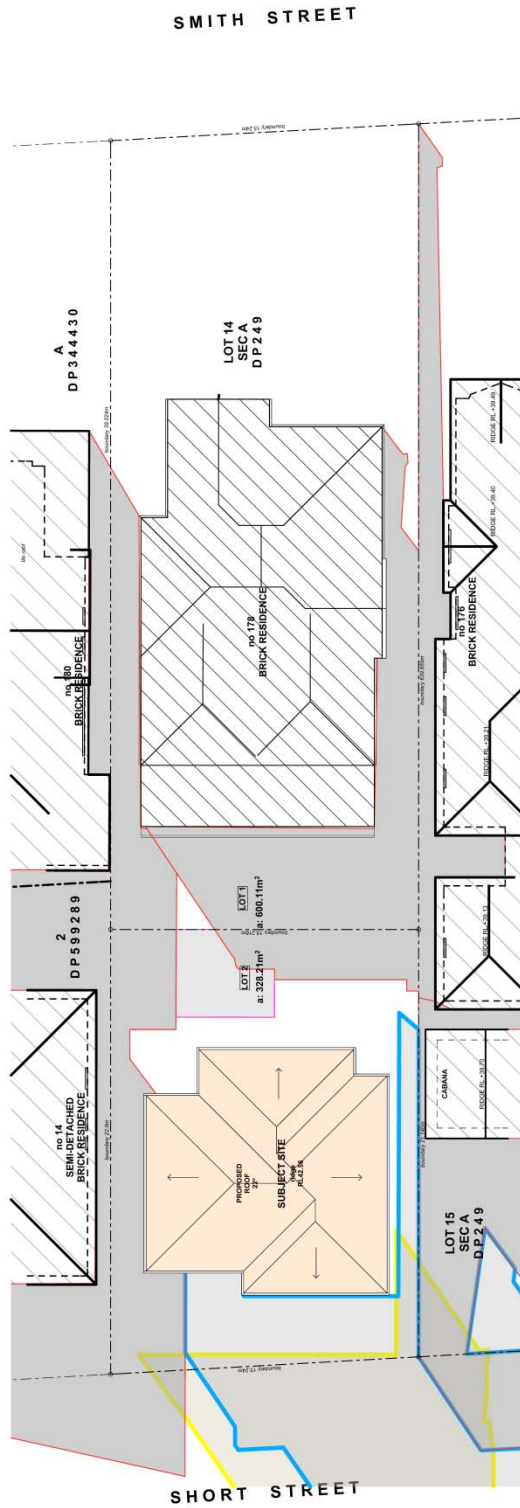
SCALE: 1:200 @ A3

SHEET SIZE: DWG NO. A3 DA19 b

DRAWN: BA

REVISION:

- Existing shadows
- Proposed shadows
- Additional shadow cast by proposed 1.8m dividing fence
- Shadow cast by DA Approved double garages



Shadow Diagram 21 June 3pm
Scale 1:200

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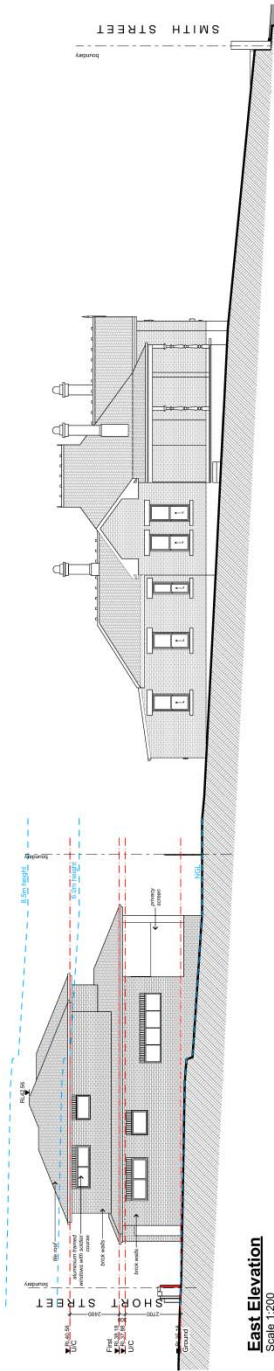
PROJECT:
 Alterations & Additions at:
 178 Smith Street, Summer Hill

DESCRIPTION:
 Issue for DA
 Revised Issue for DA

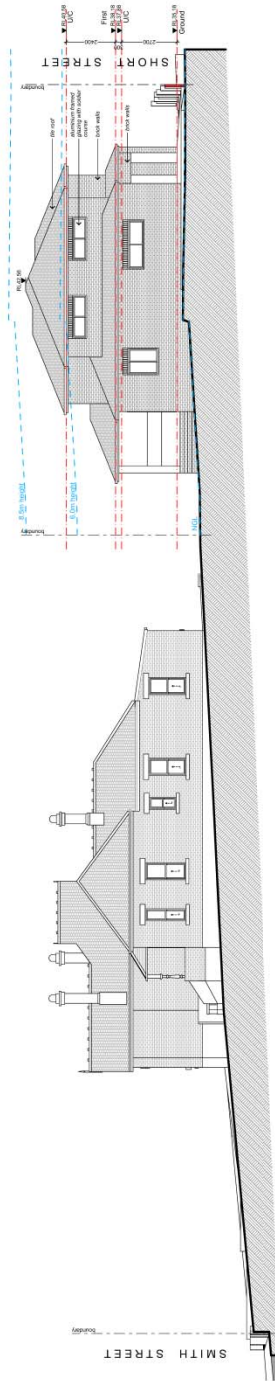
ISSUE DATE:
 A 12.02.2018
 B 31.05.2018

SCALE: 1:200 @ A3
DRAWN: DA


SHEET NO.: A3 DA20 b



East Elevation
Scale 1:200



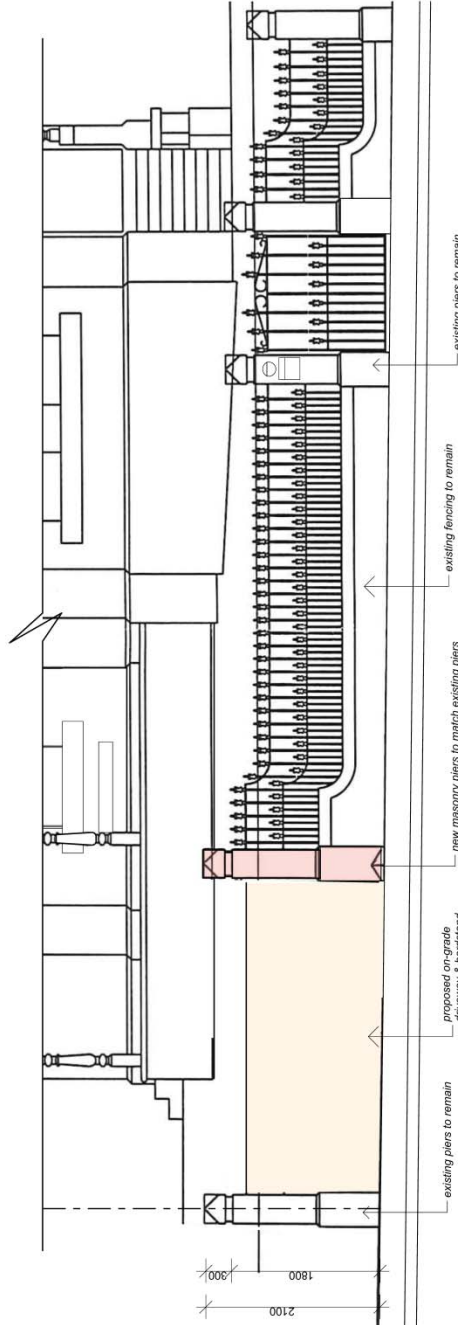
West Elevation
Scale 1:200


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ISSUE	DATE	DESCRIPTION
A	12.02.2018	Issue for DA
B	31.05.2018	Revised issue for DA

PROJECT: **Alterations & Additions at:
178 Smith Street, Summer Hill**
 SHEET TITLE: **Side Elevations**
 DRAWN: BA
 SCALE: 1:200 @ A3
 SHEET SIZE: DWG NO. **A3 DA22 b**
 REVISION:



Fence Elevation (Smith Street)
Scale 1:30



Existing Pier
to be matched
NTS

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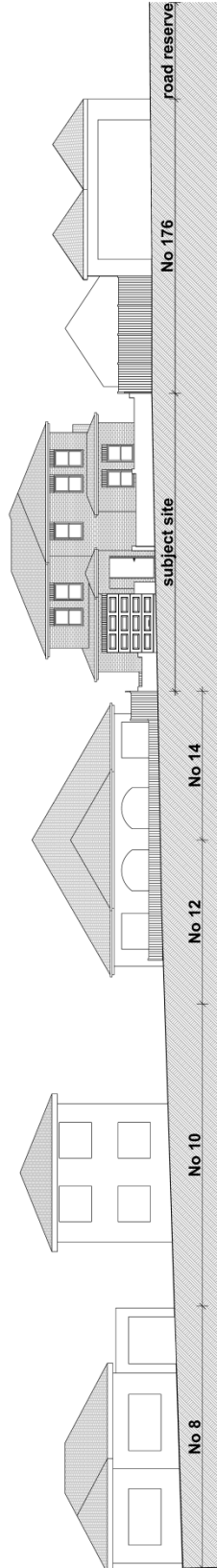
ISSUE: A 12.02.2018 Issue for DA
 B 31.05.2018 Revised Issue for DA
 C 19.07.2018 Revised Issue for DA

DESCRIPTION: Alterations & Additions at:
 178 Smith Street, Summer Hill

PROJECT: 178 Smith Street, Summer Hill

SHEET TITLE: Fence Detail Elevation

SCALE: 1:30 @ A3
 DRAWN: BA
 SHEET SIZE: DRAWING
 REVISION: A3 DA23 C



Short Street Context Elevation
Scale: 1:200

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PROJECT: Alterations & Additions at: 178 Smith Street, Summer Hill
 178 Smith Street, Summer Hill

ISSUE: A 12.02.2018 Issue for DA
 B 31.05.2018 Revised issue for DA

DATE: 12.02.2018
 31.05.2018

DESCRIPTION: Issue for DA
 Revised issue for DA

SHEET TITLE: Short Street Context Elevation

SCALE: 1:200 @ A3
 DRAWN: BA

SHEET SIZE: DWG NO: A3
 REVISION: DA24 b

-  outline of approved DA dual occupancy
-  Shadow Cast by Approved DA Dual Occupancy



Approved DA shadows 9am
Scale 1:200

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ISSUE	DATE	DESCRIPTION	PROJECT	SHEET TITLE
A	27.04.2018	Issue for DA	Alterations & Additions at: 178 Smith Street, Summer Hill	Shadow Diagram - Approved DA - Winter Solstice 9am
B	19.07.2018	Revised Issue for DA	178 Smith Street, Summer Hill	

SCALE: 1:200 @ A3
SHEET SIZE: (DWG NO)
DOWNS, BA
REVISION:
A3 DA25 b

-  outline of approved DA dual occupancy
-  Shadow Cast by Approved DA Dual Occupancy



Approved DA shadows 12 noon
Scale 1:200

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PROJECT:
 Alterations & Additions at:
 178 Smith Street, Summer Hill

DESCRIPTION:
 Issue for DA
 Revised Issue for DA

ISSUE DATE:
 A 27.04.2018
 B 19.07.2018

SHEET TITLE:
 Shadow Diagram - Approved DA -
 Winter Solstice 12noon

SCALE: 1:200 @ A3

DRAWN BY: BA

REVISION:
 A3 DA26 b

-  outline of approved DA dual occupancy
-  Shadow Cast by Approved DA Dual Occupancy



Approved DA shadows 3pm
Scale 1:200

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ISSUE	DATE	DESCRIPTION
A	27.04.2018	Issue for DA
B	19.07.2018	Revised Issue for DA

PROJECT: Alterations & Additions at: 178 Smith Street, Summer Hill
SHEET TITLE: Shadow Diagram - Approved DA - Winter Solstice 3pm
 SCALE: 1:200 @ A3
 DRAWN: BA
 SHEET SIZE: DRAWING
 REVISION: A3 DA27 b

Attachment C – Clause 4.6 Exception to Development Standards

APPENDIX A – Clause 4.6 Exception to Clause 4.1 Minimum Subdivision Lot Size and Clause 4.1A Exceptions to minimum subdivision lot size for certain residential development

For abundant precaution, a Clause 4.6 Exception to Clause 4.1A Exceptions to minimum subdivision lot size for certain residential development is submitted to the Consent Authority.

(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.*

Comment:

Under Clause 4.1(2) of the Ashfield LEP 2013, the Minimum subdivision lot size standard that is referenced on the Lot Size map is 500 sqm.

However, the lot size map identifies the site as being within 'Area 1' as shown in a blue outline. This is shown below:

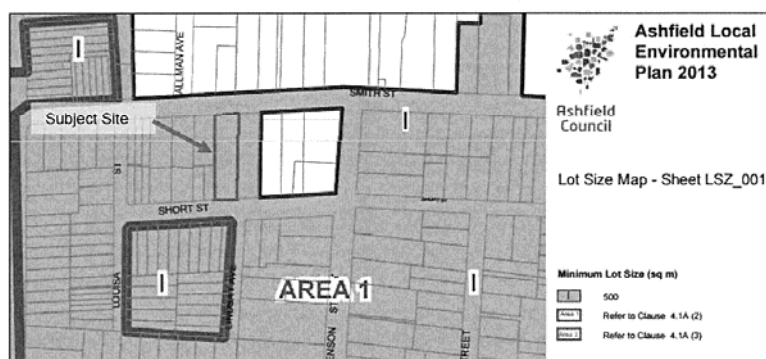


Image 33: Lot Size map (Source: Ashfield LEP 2013)

The lot size map states that 'Area 1' refers to Clause 4.1A (2).

Clause 4.1A (2) is an exception to Clause 4.1 and is applicable to the subject site.

Clause 4.1A(2) specifies a minimum lot size of 200sqm subject to meeting the criteria in Clause 4.1A(2)(a) to (c). This is outlined below with the relevant sections highlighted in yellow:

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 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.

The site has an area is 928.3 sqm.

The site has an approval for a Torrens Title subdivision into two lots of 459sqm and 469.3 sqm. Under the approved development, each lot shall accommodate a semi-detached dwelling, by dividing the heritage item in the middle, effectively splitting the item to create two x semi-detached dwellings and two lots.

The approval has not been acted upon but remains valid.

The proposal seeks consent for Torrens Title subdivision into two lots being Lot 1 of 600.1sqm and Lot 2 of 328.2 sqm.

Lot 1 complies with the minimum 500sqm lot size referenced under Clause 4.1 and complies with the 200 sqm referenced under Clause 4.1A(2).

Lot 2 does not comply with the minimum 500sqm lot size referenced under Clause 4.1, however complies with the 200 sqm referenced under Clause 4.1A(2).

The site is capable of utilising the provisions under Clause 4.1A(2) as it is within Area 1 and is not within a heritage conservation area.

The criteria under Clause 4.1A(2) is:

- (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.

The proposal complies with criteria (a) and (c). The proposed two storey dwelling is defined as a 'dwelling house', however, it is not a semi-detached dwelling as both land uses are separately defined in the LEP.

Therefore, this Clause 4.6 Exception seeks to vary criteria (b) to enable a 'dwelling house' to be located on each lot, as opposed to a 'semi-detached dwelling' located on each lot.

However, the proposal does not seek to vary the numerical standards, as the site complies with the criteria under Clause 4.1A(2) and each subsequent lot complies with the numerical standard under Clause 4.1A(2)(a) and (c). Therefore, the variation is a variation to the wording of Clause 4.1A(2)(b) to enable it to apply to a 'dwelling house'.

Importantly, the site is a unique situation in that it already has an approval for subdivision into two lots as shown below.

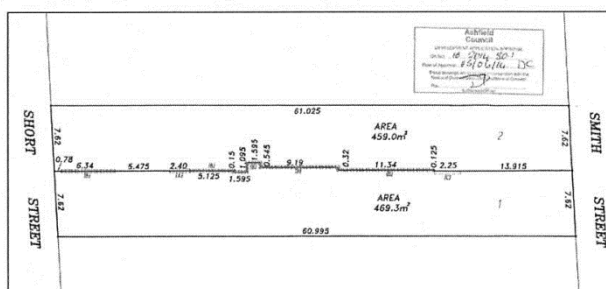


Image 34: Approved subdivision of the site into two lots (Source: Junek & Junek Land Surveyors)

This is unique as the approved subdivision can be theoretically registered with the Land Titles Office and the site could comprise two lots. However, the approved subdivision is inconsistent with the prevailing subdivision of the adjoining lots to the west at 180, 182 and 184 Smith Street and in this regard it is considered that the proposed subdivision is consistent with the prevailing subdivision pattern.

The proposed subdivision will create two lots which will provide for the better conservation and protection of the heritage item as it will remain upon a single lot as a detached dwelling thereby conserving it.

The rear lot will be capable of accommodating a dwelling house, thereby contributing to the provision of infill small lot subdivision and subsequently facilitating future housing for the community.

Reference is made to the case of *Anthony Makerry v Inner West Council [2016] NSWLEC 1660*, where the Land and Environment Court upheld an application for subdivision of land where the subdivision was a boundary adjustment of two existing lots with the subsequent lots resulting in a variation to the minimum lot size under Clause 4.1 of the Ashfield LEP 2013. Whilst that case had different circumstances, it is a relevant case for consideration given it relates to subdivision within land under the Ashfield LEP 2013 and a Clause 4.6 Exception was upheld in relation to the variation to the minimum lot size to enable subdivision of land into two lots.

This Clause 4.6 establishes that in the circumstances of this case, the departure can be supported as the application satisfies a number of the five principles of the 'Wehbe' test and additionally, satisfies the test established under *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009*, by demonstrating that there are sufficient environmental planning grounds to justify the proposed exception to minimum lot size development standard. Moreover, there are environmental planning grounds that are particular to the circumstances of this site and the proposed development, such that it will not set any general precedent let alone any undesirable precedent.

This Clause 4.6 Exception establishes that there is planning merit in applying a degree of flexibility to the Minimum subdivision lot size standard in this particular and unique instance, as it will achieve a better urban outcome for the site without having any negative impacts or consequences whatsoever.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

The Clause 4.6 Exception seeks to vary criteria (b) of Clause 4.1A(2), to enable a 'dwelling house' to be located on each lot, as opposed to a 'semi-detached dwelling' located on each lot.

Clause 4.1A of the Ashfield LEP 2013 is not excluded from Clause 4.6 by Clause 4.6(8) or otherwise.

(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.

Comment:

Assessment under Clause 4.6(3)(a)

The proposed variation to Clause 4.1A(2)(b) is assessed with consideration to the principles established by the Land and Environment Court in *Wehbe v Pittwater Council* [2007] NSW LEC 82. His Honour Preston CJ set out 5 ways of establishing that compliance with the standard is unreasonable or unnecessary. The 5 parameters were further tested in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 where Justice Pain upholding a decision of Pearson C held that the principles in *Wehbe* remained relevant to the provisions of Clause 4.6(3)(a).

The findings of *Four2Five Pty Ltd v Ashfield Council* NSWLEC 1009 requires the identification of grounds particular to the circumstances of the proposed development, as opposed to grounds that would apply to any similar development in the vicinity of the site.

However the Court of Appeal, in reviewing that decision, held that such particular or unique circumstances were a matter of merit or opinion **in that matter**, rather than being a legal requirement or prerequisite to a successful Clause 4.6 variation request in each and every case. That said, for reasons explained below, this Clause 4.6 variation request establishes that such particular circumstances (particular to this site and this application) are present in respect of the subject development application.

His Honour Preston CJ set out five alternative ways of establishing that compliance is unreasonable or unnecessary in the preparation of a SEPP 1 objection in *Wehbe v Pittwater Council* (2007) NSW LEC 827, albeit only one of these 5 ways needs to apply in order for the objection to be well founded.

The five alternative ways are:

- a. *Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*
- b. *Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
- c. *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
- d. *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 unreasonable or unnecessary.*
- e. *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..."*

Each criteria under *Wehbe* is addressed as follows.

Wehbe Criterion (a)

- a. *Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

This Clause 4.6 Exception seeks to vary criteria (b) of Clause 4.1A(2). The objective of Clause 4.1A is:

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

The objective is addressed below.

The intent of this objective is to facilitate housing diversity, whilst not impacting residential amenity.

The proposal will provide housing diversity by providing two dwellings in the form of detached dwelling houses upon individual lots of land. This type of housing is ideal for families in a suburban context and will positively contribute to the housing diversity of the area. The heritage item is utilised as a dwelling, being a 3/4 bedroom home with front and rear landscaped areas and a proposed double hardstand. This provides housing for families within the area.

The proposed dwelling is a 4 bedroom home with front and rear landscaped areas and garage parking. It will also provide housing for families within the area.

The site is in proximity to public transport and is an ideal alternative form of development that provides housing diversity, as opposed to other forms of housing such as medium density housing or multi dwelling housing and residential flat buildings. With the increase in medium to high density development within the locality and in greater Sydney, it is essential to provide housing in the form of family homes as opposed to apartments, as this is a land use that is required by the population and within inner-Sydney it is becoming more scarce for such opportunities.

It is also noted that the proposal does not prevent either future dwelling from being rented and so does not necessarily reduce rental stock but certainly does increase housing choice by enabling separate ownership to occur, which may be more attractive to certain demographics such as new entrants to the housing market. It is noted that one of the zone objectives of the R2 Low Density Residential Zone is to *provide for the housing needs of the community within a low density residential environment*. The proposal only enhances the ability of the site to assist in meeting this objective.

Similarly, the proposal, by increasing housing choice, also meets the express aim in the Ashfield LEP 2013 at Clause 1.2 being *"(d) to provide increased housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities"*.

The objective does not differentiate between the type of housing required to meet the intent of the objective. However, given it primarily applies to land in the R2 Low Density Zone, it is envisaged that the uses that are permissible within the zone would meet the housing diversity intent. Within this consideration, reference is made to the criteria under Clause 4.1A(2).

The criteria under Clause 4.1A(2) is:

- (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 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.*

The site is within Area 1 and is not within a heritage conservation area. Therefore, Clause 4.1A(2)(a) to (c) is applicable.

The proposal complies with criteria (a) given Lot 1 is 600sqm and Lot 2 is 328 sqm, both being greater than 200 sqm.

The proposal complies with criteria (c) as each lot will have a frontage of 15.2 metres, which is greater than 7 metres.

The proposed two storey dwelling upon Lot 2 and subsequent dwelling on Lot 1, are defined as a 'dwelling house', however, they are not a semi-detached dwelling as both land uses are separately defined in the LEP. The relevant definitions are provided below:

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

dwelling house means a building containing only one dwelling.

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

Both the definition of 'dwelling house' and 'semi-detached dwelling' have the same reference to the foundation definition of 'dwelling'. They provide the same type of land use and are akin to each other in the terms of their ongoing use and functionality.

However, their physical configuration differs given a 'dwelling house' is freestanding and not attached to another dwelling, whilst the definition of 'semi-detached' is attached to one other dwelling.

This is the only difference between the two uses.

They both have an underlying reference to 'dwelling' and thus, put simply, they are the same as each other, but for their difference physical or built form arrangement regarding freestanding or attachment.

Therefore, whilst criteria (b) refers to 'semi-detached' dwelling, the objective of Clause 4.1A contemplates housing diversity in forms of land uses that would be permissible in the zone and would be reasonably accommodated on a site without affecting residential amenity. The proposed 'dwelling house' is of this type of development and thus it is reasonable to vary criteria (b) to allow a 'dwelling house'.

In regards to impact, the proposal does not result in impact upon residential amenity. The application is supported by shadow diagrams to demonstrate that the shadow cast by the proposal is acceptable. The shadow cast by the approved development is considered to be greater, given the substantial length of the approved dwellings. The proposed separation of the two dwellings with backyards reduces the shadow cast to the private open space areas of the adjoining properties.

In relation to privacy, the windows of the proposed dwelling have a high sill height to mitigate overlooking and a privacy screen has been provided to the BBQ area.

It should be noted that the site has an approval for two x semidetached dwellings and the proposal results in a similar form of development.

The proposal is not considered to result in any impact upon residential amenity.

Accordingly, the proposal satisfies objective of Clause 4.1A.

In summary, a variation to criteria (b) is considered reasonable, given the proposal complies with and meets the objectives of the standard, and the proposal is equivalent to or, put simply, the same as a development that would strictly comply with criteria (b).

Therefore, strict compliance with the Clause 4.1A(2)(b) is unreasonable or unnecessary in this instance as *no purpose would be served in requiring strict compliance with the standard* given that the objectives of the control are met, as stated in *Wehbe v Pittwater Council* (2007).

Wehbe Criterion (b)

- *b. Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

The underlying objective and purposes remain relevant to the proposed development. The proposed development is consistent with the objectives of Clause 4.1A.

Wehbe Criterion (c)

- *c. Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

This is a unique example of a situation where the underlying objective or purpose of the standard would be thwarted if strict compliance was required, given the site already benefits from an approval for subdivision, however, the proposed subdivision would result in better housing diversity in the form of two freestanding homes, as opposed to two semi-detached dwellings.

If strict compliance were required then only the approved development could be undertaken, which from a planning and heritage position is not considered to be a good outcome as it would impact upon the setting and character of the heritage item.

The proposal delivers a better environmental planning outcome by creating two lots facing to existing streets to accommodate two dwelling houses.

The underlying objective of the standard is to facilitate housing diversity, and the proposal achieves this outcome.

The proposal in its current form achieves these objectives and therefore, the variation supports the objectives.

Wehbe Criterion (d)

- *d. 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 unreasonable or unnecessary.*

In this context, the proposed subdivision will create two lot sizes that are similar to other lots within the area, results in compliance with the objective of the standard and in consistency with other lot sizes in the area.

Wehbe Criterion (e)

- *e. 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..."*

The R2 Low Density Residential zoning of the land is appropriate for the site. The objectives of the R2 Low Density Residential zone are:

- *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 application will create two lots to enable a dwelling house on each lot. This shall provide for two dwellings, within a low density residential environment, providing for the housing needs of the community. The proposal is able to better provide for the housing needs of the community by facilitating a housing choice in the form of a freestanding family home.

In conclusion, the proposal complies with the objectives of the R2 Low Density Residential zone. This Clause 4.6 Exception has addressed the five criteria under Wehbe and the conclusion is that the proposal satisfies two of the criteria of Wehbe, being criterion (a) and (c). Therefore, compliance with the standard is unreasonable and unnecessary.

Accordingly, the application satisfies Clause 4.6(3)(a).

Additionally, there are sufficient environmental planning grounds that justify contravening the standard, as outlined below.

Assessment under Clause 4.6(3)(b)

The following outlines the environmental planning grounds that justify the contravention of the standard. The matters outlined above are also relied upon for the purposes of clause 4.6(3)(b) and should be taken to be repeated here in addition to the matters below

- i. The site has an approval for a two lot subdivision. Additionally, the site is unique in that it has a front and rear frontage to two streets, as opposed to a laneway. This is a unique characteristic of the site that would not apply to similar development in the vicinity of the site.

The proposal provides for two dwelling houses by retaining the existing and constructing a new dwelling. The end outcome in the form of two dwellings is the same as the current approval, however, the proposal is a better outcome as the heritage item is retained on a single lot and the proposed dwelling is provided on a new lot facing a primary street. The proposal retains compliance with the objectives of the standard and therefore can be supported.

- i. The proposal results in a more consistent subdivision layout with the prevailing subdivision pattern of the dwellings at 180, 182 and 184 Smith Street.
- ii. The proposal does not result in an undue or adverse environmental planning impact in terms of shadow, holistic amenity, privacy, traffic, view loss or streetscape presentation. Indeed the result of the subdivision will be similar to the existing approval, but in a better form and will provide the benefit of additional housing choice in a location close to public transport and amenities.
- iii. The proposal shall be able to facilitate housing diversity in accordance with the underlying objective of the standard.
- iv. The proposal retains compliance with the zone objectives.

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- v. There is no doubt that the proposal meets the objective of the Act to promote the orderly and economic use and development of land.
 - vi. The proposal meets the express aim in the Ashfield LEP 2013 at Clause 1.2 (a) and (d), by providing two lots that shall promote the orderly and economic development of Ashfield and shall provide increased housing choice in locations that have good access to public transport. Clause 1.2 (a) and (d) state:
 - *(a) to promote the orderly and economic development of Ashfield in a manner that is consistent with the need to protect the environment;*
 - *(d) to provide increased housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities,*
 - vii. Compliance with the objectives of the standard, the objectives of the zone and the objectives under Clause 1.2 of the Ashfield LEP 2013 demonstrates that the proposed development is not inconsistent and not out of character with the desired future development in this location.

Holistically, for the reasons above, permitting flexibility in the standard will result in the development achieving a suitable urban outcome for the site that is consistent with the desired future character of the area.

This Clause 4.6 submission establishes that while the proposal departs from the standard, there are sufficient environmental planning grounds to justify the variation, with the grounds being particular to the circumstances of the proposed development, and demonstrates that compliance is unreasonable and unnecessary in the circumstance of this case.

Accordingly, the application satisfies Clause 4.6(3)(b).

Therefore, on balance, the variation to the criteria (b) of Clause 4.1A(2) is reasonable given the resultant development is compliant with the objective of the standard and zone under the Ashfield LEP 2013.

(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.

Comment:

This request has adequately addressed the matters required under sub-clause (3) and it adequately satisfies the relevant test to establish that compliance is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the contravention.

Additionally, the numerical departure retains compliance with the relevant objects of the Environmental Planning & Assessment Act 1979, being the objects set down in Section 5(a)(i) and (ii):

(a) to encourage:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

The proposal facilitates the orderly and economic use and development of land and the numerical non-compliance is not contrary to any matter of State or Regional planning significance.

This Clause 4.6 Exception has established that the proposal retains compliance with the objectives of the standard, objectives of the zone, and delivers a good planning outcome for the site. This demonstrates that the proposed development will be in the public interest.

An assessment in reference to the land use zone as required under Clause 4.6(4)(a)(ii) has been provided within this Clause 4.6.

Concurrence from the Director-General has been given to Council to permit a departure to a development standard where there is sufficient planning merit.

On the basis of justification in this Clause 4.6, it is considered that strict compliance with the minimum subdivision lot size standard is unreasonable and unnecessary in this instance. This Clause 4.6 Exception has considered relevant Planning Principles of the Land & Environment Court in adequately addressing the matters required under sub-clause (3).

(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.

Comment:

The proposed variation to the standard does not raise any matters of significance for state or regional planning. The variation is also not contrary to any state policy of ministerial directive.

There is no public benefit of maintaining the development standard in this instance as the site as the proposal represents a better planning outcome than retaining the existing approval.

It is therefore considered acceptable that an exception to the criteria (b) of Clause 4.1A(2) is granted in this instance for the following reasons:

- The purpose of the standard is being achieved and the development complies with the objectives of standard under the Ashfield LEP 2013.
- The justification is particular to the circumstances of the application and there are sufficient environmental planning grounds that justify the contravention.
- The proposal does not result in an adverse environmental planning impact. The proposal results in a complete absence of environmental harm.
- The underlying objective and purpose of the standards would be thwarted if compliance was required as the highly irregular status quo would be preserved.
- The Clause 4.6 Exception is well-founded.

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- The non-compliance enables compliance with the objects and purpose of the Environmental Planning & Assessment Act 1979
 - The non-compliance is not contrary to any matter of state or regional planning significance.
 - The proposal better meets the relevant aims and objectives of the R2 Low Density Residential zone and of the Ashfield LEP 2013 as a whole, as identified above.