

# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2021/0590
<b>Address</b>	156A Old Canterbury Road SUMMER HILL NSW 2130
<b>Proposal</b>	Boundary adjustment and demolition of outbuildings
<b>Date of Lodgement</b>	9 July 2021
<b>Applicant</b>	Le Mottee Group Pty Ltd
<b>Owners</b>	Ms Catherine M Carr, Ms Susan E Bateman, Ms Jennifer P Clayton, Ms Milissa A Bateman, Mr Timothy E Bateman, Mr Andrew R Bateman and Mr Matthew J Bateman
<b>Number of Submissions</b>	N/A
<b>Value of works</b>	\$2,000.00
<b>Reason for determination at Planning Panel</b>	Minimum street frontage is less than the minimum permitted by more than 10%
<b>Main Issues</b>	Minimum street frontage
<b>Recommendation</b>	Approval
<b>Attachment A</b>	Conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception



### LOCALITY MAP

Subject Site		Objectors Nil		↑ N
Notified Area		Supporters Nil		

## 1. Executive Summary

This report is an assessment of the application submitted to Council to carry boundary adjustment and demolition of outbuildings of 156A Old Canterbury Road SUMMER HILL NSW

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

The main issues that have arisen from the application include:

- Non-compliance with Clause 4.1A(2)(c) of *Ashfield Local Environmental Plan 2013* – minimum street frontage

The non-compliances are acceptable and therefore the application is recommended for approval.

## 2. Proposal

The current application seeks consent for a boundary adjustment and demolition of outbuildings of an existing dual occupancy development

The proposal seeks consent for the following works:

- Adjustment of boundary – The proposed lot 1 is to be 219.7sqm with a street frontage of 6.25m; the proposed lot 2 is to be 220sqm with a street frontage of 5.94m.
- Demolition of outbuildings – Demolition of two fibro clad sheds located within the rear yard.

## 3. Site Description

The subject site is located on the northern side of Old Canterbury Road, between Carrington and Spencer Street. The site consists of two allotments rectangular shaped with a total area of 439.7 sqm and is legally described as lot 7 Section 6 in DP 700 and lot A in DP 334133, 156A Old Canterbury Road SUMMER HILL NSW.

The site has a frontage to Old Canterbury Road. The site is not affected by easements.

The site supports a dual occupancy residential building made up of brick walls and tiled roof. The adjoining properties support dwelling houses.

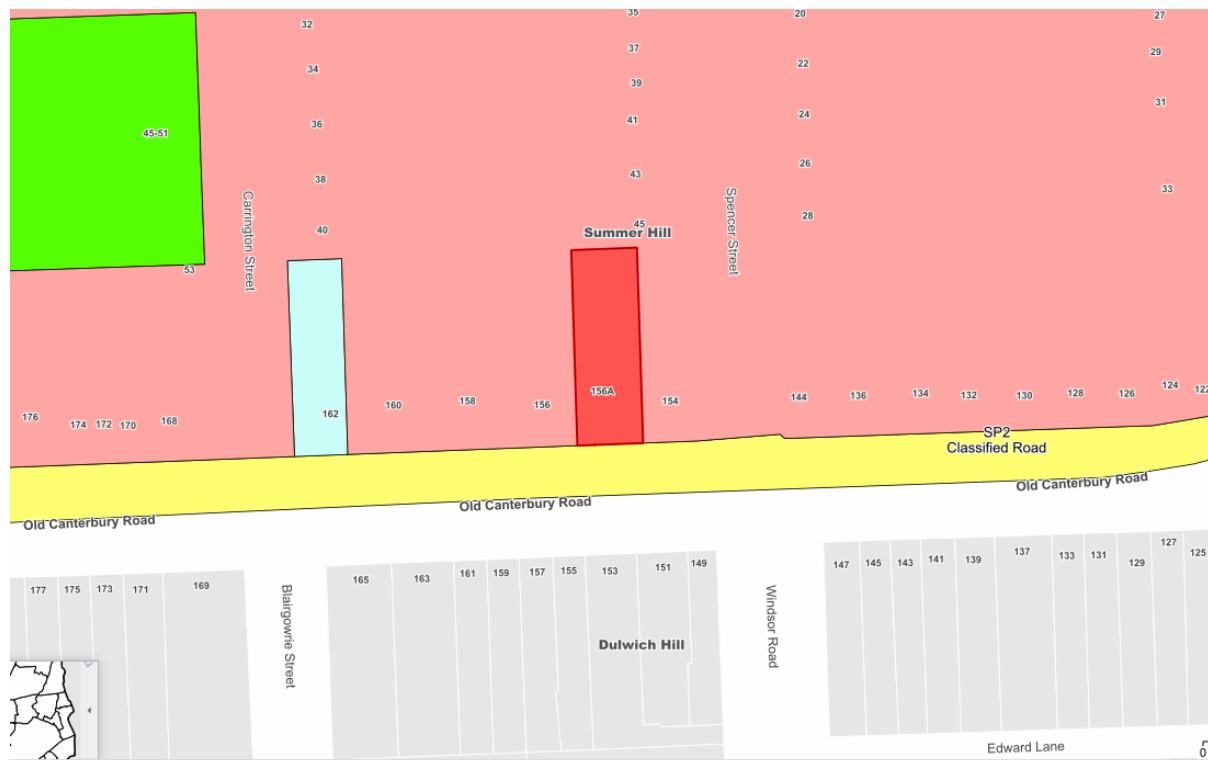


Figure 1 – Zoning Map, subject site identified by red box

#### 4. Background

##### 4(a) Site history

There is no relevant history of previous building or development applications for the site.

##### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
27 August 2021	An email was sent to the applicant requesting a floor plan
16 September 2021	A floor plan was submitted.

The current assessment is based off the additional information submitted by the applicant on the 16 September 2021.

#### 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

## 5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*

The following provides further discussion of the relevant issues:

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

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

The site has been used for residential use for many years and is unlikely to be a contaminated. It is considered that the site will not require remediation in accordance with *SEPP 55*.

### 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 2011*:

- Clause 1.2 - Aims of Plan
- Clause 2.3 - Land Use Table and Zone Objectives
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards

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

The site is zoned R2 Low Density Residential under the *ALEP 2013*. The *ALEP 2013* defines the proposed development as:

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

The development is permitted with consent within the land use table. The development is consistent with the objectives of the R2 zone.

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

Lot/Standard	Existing	Proposed	Complies
Proposed Lot 1 - Lot A DP 334133			
7m frontage	3.048m frontage	6.25m frontage	No
200 sqm area	< 200sqm	Lot area 219.7sqm	Yes
Proposed Lot 2 - Lot 7 Section 6 in DP 700.			
7m frontage	9.14m frontage	5.94m frontage	No
200 sqm area	>200sqm	Lot area 220sqm	Yes

Standard	Proposal	non compliance	Complies
<b>Height of Building</b> Maximum permissible: 8.5m	No Change	N/A	N/A
<b>Floor Space Ratio</b> Maximum permissible: 0.7:1 or 307.79 sqm	Lot 1 0.36:1 Lot 2 0.47:1	N/A	Yes

#### Clause 4.6 Exceptions to Development Standards

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

- Clause 4.1A(2)(c) - Exceptions to minimum subdivision lot size for certain residential development – each lot will have a minimum street frontage of 7m

The applicant seeks a variation to the minimum street frontage development standard under Clause 4.1A(2)(c) of the *ALEP 2013* by 10.7% (0.75m) and 15.14% (1.06m) variation for lot 1 and lot 2 respectively.

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the applicable *ALEP 2013* below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the *ALEP 2013* justifying the proposed contravention of the development standard which is summarised as follows:

- *The proposed boundary adjustment will allow individual ownership of a dwelling and therefore provide housing acceptable for the residential zoning*
- *The proposal will provide additional housing types for future residents and only residential land uses are proposed*

- *The proposed boundary adjustment will not interfere with other land uses and will help increase the demand for facilities or services associated with the residential zoning*
- *The current design does not permit individual ownership of each unit associated with the dual occupancy. The proposal is the best outcome for the site and existing development, and there would be no benefit to Council, neighbours or general members of the public from the refusal of this application. The proposed development will in no way impact on the public realm*

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable / unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. It is considered the development is in the public interest because it is consistent with the objectives of the R2 zone, in accordance with Clause 4.6(4)(a)(ii) of the applicable *ALEP 2013* for the following reasons:

- The proposed subdivision corrects an existing error which places the current boundary line through the middle of the existing Lot 1 dwelling. The amended subdivision pattern places the revised boundary line through the centre of the site and in-line with the party wall of the existing dual occupancy. This amendment allows for the creation of a new individual parcel of land, with a semi-detached dwelling on each lot, continuing on the existing housing stock for the locality.
- The proposed boundary line allows for the individual use/sale of each semi-detached dwelling and enables day to day operation of the land as a dwelling house.
- The land will continue to have two dwellings on-site.
- The proposed subdivision does not alter the existing low density residential environment of the locality or zone.

It is considered the development is in the public interest because it is consistent with the objectives of the minimum subdivision lot size development standard, in accordance with Clause 4.6(4)(a)(ii) of the *ALEP 2013* for the following reasons:

- The proposal continues on the established pattern of subdivision within the area, with the proposed subdivision pattern aligning with that of other semi-detached dwellings.
- Acceptance of the proposed subdivision results in no further amenity impacts for neighbouring residents for the area.
- The site is located within proximity to public transport and is an appropriate location for smaller residential lots.
- The proposal maintains the existing character of the area.

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

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of *ALEP 2013*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the minimum subdivision lot size development standard which requires a minimum frontage of 7m, and it is recommended the Clause 4.6 exception be granted.

It is considered that the proposal generally complies with the provisions of the Ashfield LEP 2013.

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

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

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

#### 5(d) Development Control Plans

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

CIWDCP2016	Compliance
<b>Section 1 – Preliminary</b>	
B – Notification and Advertising	Yes
<b>Section 2 – General Guidelines</b>	
A – Miscellaneous	
1 - Site and Context Analysis	Yes
15 - Stormwater Management	Yes
E1 – Heritage items and Conservation Areas (excluding Haberfield)	
1 – General Controls	N/A
2 – Heritage Items	N/A
F – Development Category Guidelines	
1 – Dwelling Houses and Dual Occupancy	Yes

#### 5(e) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have minimal impact on the locality.

As discussed above within the assessment section of this report, the current proposal is expected to have a minimal impact on the existing streetscape. The current proposal is in-keeping with the desired future character and generally meets the objectives and controls of the *ALEP 2013* and DCP. The proposal is therefore recommended for approval.

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

It is considered that the proposal will have no adverse impact on the adjoining properties and therefore it is considered that the site is suitable to accommodate the proposed development.

#### 5(g) Any submissions

The application was notified in accordance with the Inner West Council *Community Engagement Framework* for a period of 14 days to surrounding properties. No submissions were received in response to the initial notification.

### 5(h) The Public Interest

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

The proposal is not contrary to the public interest and is recommended for approval.

## 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.

- Engineering

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11/7.12 levies are not payable for the proposal.

## 8. Conclusion

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

The development would result in minimal impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered supportable and in view of the circumstances, approval of the application is recommended.

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.1A(2)(c) of *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, approve Development Application No. DA/2021/0590 for boundary adjustment and demolition of outbuildings at 156A Old Canterbury Road Street SUMMER HILL NSW subject to conditions outlined in Attachment A.



**Attachment A – Conditions of consent**

**CONDITIONS OF CONSENT**

**DOCUMENTS RELATED TO THE CONSENT**

**1. Documents related to the consent**

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
1 of 1	Plan of proposed subdivision	-	LE MOTTE GROUP
01 A	Floor Plan	15/9/2021	Pavela Architects

As amended by the conditions of consent.

**FEES**

**2. Security Deposit - Custom**

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

<b>Security Deposit:</b>	\$2,254.00
<b>Inspection Fee:</b>	\$236.70

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

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

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

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

The amount nominated is only current for the financial year in which the initial 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.

### **GENERAL CONDITIONS**

#### **3. Stormwater Drainage System – General**

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the kerb and gutter of a public road. Minor roof or paved areas that cannot reasonably be drained by gravity to a public road shall be disposed to an absorption trench subject to ensuring no concentration of flows or nuisance to other properties.

Any existing component of the stormwater system that is to be retained, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.

**4. Waste Management Plan**

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

**5. Erosion and Sediment Control**

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

**6. Standard Street Tree Protection**

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

**7. Works Outside the Property Boundary**

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

**PRIOR TO ANY DEMOLITION****8. Construction Fencing**

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

**PRIOR TO CONSTRUCTION CERTIFICATE****9. Dilapidation Report – Pre-Development – Minor**

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

**10. Sydney Water – Tap In**

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

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

**DURING DEMOLITION AND CONSTRUCTION****11. Construction Hours – Class 1 and 10**

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

**PRIOR TO OCCUPATION CERTIFICATE****12. Protect Sandstone Kerb**

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

**13. Smoke Alarms - Certification of upgrade to NCC requirements**

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

**14. Section 73 Certificate**

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

**PRIOR TO SUBDIVISION CERTIFICATE**

**15. Separate Drainage Systems**

Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with a Stormwater Plan detailing that separate drainage systems are provided to drain each proposed lot.

**16. Civil Engineer Verification**

Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with written verification from a suitably experienced / Chartered/Registered Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng), stating that all stormwater drainage and related work has been and constructed in accordance with the approved plans.

**17. Section 73 Certificate**

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

**18. Separate Stormwater**

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with details, endorsed by a practising stormwater engineer demonstrating separate drainage systems to drain each proposed lot.

**19. Release of Subdivision Certificate**

Prior to the release of a Subdivision Certificate, the Certifying Authority must be provided with a copy of the Final Occupation Certificate.

**20. Torrens Title Subdivision**

Prior to the issue of a Subdivision Certificate, the Certifying Authority must verify that the physical works within this consent have been completed.

**ADVISORY NOTES**

**Permits**

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

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

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

**Insurances**

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

**Prescribed Conditions**

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

**Notification of commencement of works**

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
  - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and

- ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

**Storage of Materials on public property**

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

**Toilet Facilities**

The following facilities must be provided on the site:

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

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

**Infrastructure**

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

**Other Approvals may be needed**

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

**Failure to comply with conditions**

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

**Other works**

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

**Obtaining Relevant Certification**

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

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

**Disability Discrimination Access to Premises Code**

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

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

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



**Notification of commencement of works**

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

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

**Dividing Fences Act**

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

**Permits from Council under Other Acts**

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

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

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

**Noise**

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

**Amenity Impacts General**

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

**Fire Safety Certificate**

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

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

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

**Construction of Vehicular Crossing**

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

**Lead-based Paint**

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

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

**Dial before you dig**

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

**Useful Contacts**

BASIX Information 1300 650 908 weekdays 2:00pm - 5:00pm  
[www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

Department of Fair Trading 13 32 20  
[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Prior to You Dig 1100  
[www.dialprior toyoudig.com.au](http://www.dialprior toyoudig.com.au)

Landcom 9841 8660

To purchase copies of Volume One of "Soils and Construction"

Long Service Corporation Payments 131441  
[www.lspc.nsw.gov.au](http://www.lspc.nsw.gov.au)

NSW Food Authority 1300 552 406  
[www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)

NSW Government [www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)  
[www.diysafe.nsw.gov.au](http://www.diysafe.nsw.gov.au)

Information on asbestos and safe work practices.

NSW Office of Environment and Heritage 131 555  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

Sydney Water 13 20 92  
[www.sydneywater.com.au](http://www.sydneywater.com.au)

Waste Service - SITA 1300 651 116  
[www.wasteservice.nsw.gov.au](http://www.wasteservice.nsw.gov.au)

Water Efficiency Labelling and Standards (WELS) [www.waterrating.gov.au](http://www.waterrating.gov.au)

WorkCover Authority of NSW 13 10 50  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

Enquiries relating to work safety and asbestos removal and disposal.

**Asbestos Removal**

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

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

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

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

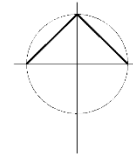
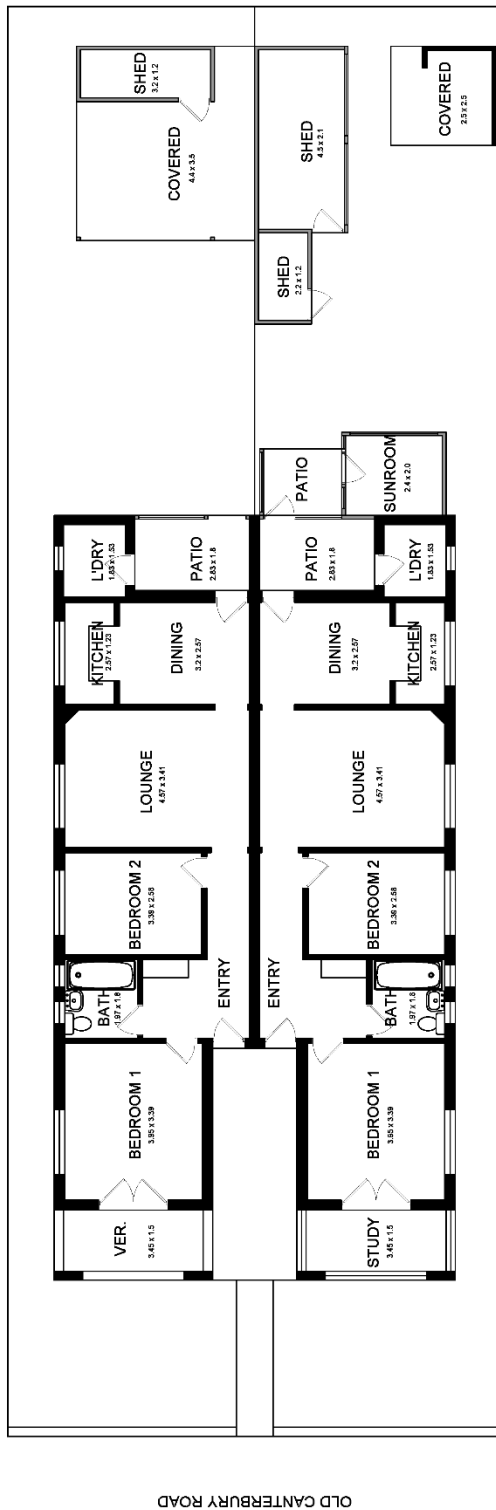
**Street Numbering**

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

**REASONS FOR REFUSAL**



Attachment B - Plans of proposed development



WALL LEGEND

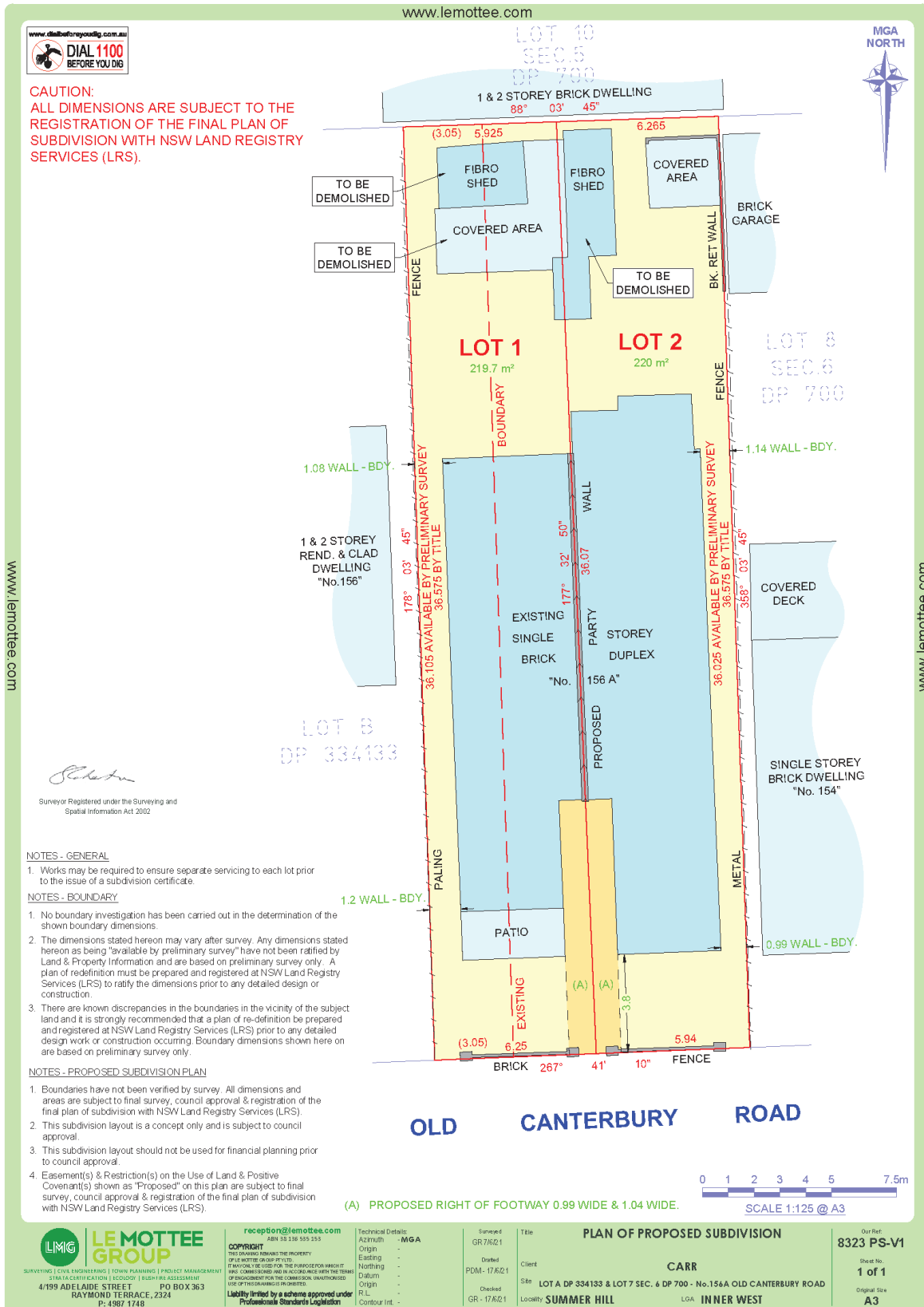
- EXTERNAL CAVITY BRICK WALLS
- COMMON DOUBLE BRICK PARTY WALL
- SINGLE SKIN BRICK WALLS
- LIGHTWEIGHT WALLS

156A OLD CANTERBURY ROAD, SUMMER HILL



OLD CANTERBURY ROAD

PROJECT: EXISTING SEMI DETACHED DWELLING		DATE: 13/05/2018	SCALE: 1:100	NO: 01	DATE: 05/04/2021	NO: 01	DATE: 01/04/2021	NO: 01	DATE: 01/04/2021	NO: 01
ADDRESS: 156A OLD CANTERBURY ROAD, SUMMER HILL NSW		CLIENT: HARRIS TIPSIE		PROJECT NO: 21183 01		DRAWING NO: A		PAVELA ARCHITECTS ARCHITECTS 15/150 SYDNEY ROAD, SYDNEY NSW 1570 TEL: (02) 9550 1234 WWW.PAVELAA.COM.AU		
DRAWN BY: A. LUTER STRANDBERG		CHECKED BY: A. LUTER STRANDBERG		DATE: 01/04/2021		DATE: 01/04/2021		I, the undersigned, being a duly qualified architect, hereby certify that this is a true and correct copy of the original design as submitted to the Council for consideration.		
FLOOR PLAN		DATE: 01/04/2021		DATE: 01/04/2021		DATE: 01/04/2021		I, the undersigned, being a duly qualified architect, hereby certify that this is a true and correct copy of the original design as submitted to the Council for consideration.		



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Surveyor or Registered under the Surveying and Spatial Information Act 2002

**LEMOTTEE GROUP**  
 SURVEYING | CIVIL ENGINEERING | TOWN PLANNING | PROJECT MANAGEMENT  
 STRATEGIC CATHY | ECOLOGY | RUSH FIRE ASSESSMENT  
 4/199 ADELAIDE STREET PO BOX 363  
 RAYMOND TERRACE 2324  
 P: 4987 1748

reception@lemottee.com  
 ABN 33 338 535 133  
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Technical Details:	MGA
Azimuth	-
Origin	-
Ending	-
Northing	-
Datum	-
Origin	-
R.L.	-
Contour Int.	-

Surveyed	GR 7/62/1
Dated	-
PDN	17/6/21
Checked	-
GR	17/6/21

**PLAN OF PROPOSED SUBDIVISION**  
**CARR**  
 Site: LOT A DP 334133 & LOT 7 SEC. 6 DP 700 - No. 156A OLD CANTERBURY ROAD  
 Locality: SUMMER HILL LGRA: INNER WEST

Our Ref: 8323 PS-V1  
 Sheet No: 1 of 1  
 Original Size: A3

## Attachment C- Clause 4.6 Exception



SURVEYING | CIVIL ENGINEERING | TOWN PLANNING | PROJECT MANAGEMENT  
STRATA CERTIFICATION | ECOLOGY | BUSHFIRE ASSESSMENT

Thursday, 24 June 2021

DA:  
Our Ref: 8323

The General Manager  
Inner West Council  
PO Box 14  
PETERSHAM NSW 2049

**CLAUSE 4.6 – EXCEPTIONS TO DEVELOPMENT STANDARDS**  
**Lot 7 Sec 6 DP 700 & Lot A DP 334133 – 156A Old Canterbury Road, Summer Hill**

*(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.*

The proposed development is in accordance with the objectives of this clause, the aims and objectives of the R2 land use zone and is considered the best outcome for the existing duplex. Therefore, a degree of flexibility is requested to allow the variation proposed.

*(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.*

The development seeks a variation to Clause 4.1A of the Ashfield LEP. This provision is not excluded from the operation of this clause and therefore, consent may be granted for this variation.

*(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.*

Le Mottee Group Pty Limited



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Page 1 of 4







This document is the written request and 3(a) and 3(b) are addressed below. The development standard to be varied under this application is the minimum street frontage requirement of 7m. The proposed boundary adjustment will result in proposed Lot 1 having a street frontage of 6.25m and proposed Lot 2 having a street frontage of 5.94m. This is a maximum 11.32% variation to the standard but is not inconsistent with the objectives of either Clause 4.6 or the objectives of the R2 zone. The existing lot A DP 334133 has a street frontage of 3.048m, resulting in a 78.63% variation. The proposal is considered the best outcome for the site and existing development.

The site is zoned to facilitate housing. The objectives of the R2 zone are:

- *To provide for the housing needs of the community.*

The proposed boundary adjustment will allow individual ownership of a dwelling and therefore provide housing acceptable for the residential zoning. **CONSISTENT**

- *To provide for a variety of housing types and densities.*

The proposal will provide additional housing types for future residents and only residential land uses are proposed. **CONSISTENT**

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed boundary adjustment will not interfere with other land uses and will help increase the demand for facilities or services associated with the residential zoning. **CONSISTENT**

- *To identify land suitable for future urban expansion.*

The land is within an existing urban area and the proposed and existing development is consistent with this use. **CONSISTENT**

As above, the proposed development is in accordance with the aims and objectives of the land use zone. Further, the objectives of Clause 4.1A is to encourage housing diversity without adversely affecting residential amenity. The site is located in an existing residential area that supports a mix of free-standing dwellings, units and dual occupancies. The proposed boundary adjustment does not contravene this objective and is considered in keeping with the character of the area. **CONSISTENT**

The proposed boundary adjustment is in keeping with the character of the surrounding area and other new developments. Further, the proposed variation will not result in a detrimental impact to the environment, the amenity of the area or the public realm, it is considered that strict compliance is unreasonable.

*(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 Planning Secretary has been obtained.*

In respect to (a), this statement and the completed 'application form to vary a development consent', adequately addresses the matters of Subclause (3). Further, the existing development is permitted within the current R2 Low Density Residential zone and is consistent with the zone objectives.

In respect to (b) it is considered that Council will organise concurrence with the Director-General in regard to this matter.

*(5) In deciding whether to grant concurrence, the Planning Secretary must consider—*

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*  
 (b) *the public benefit of maintaining the development standard, and*  
 (c) *any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

In respect to (a) the variation of the development standard for 'Clause 4.1A' does not raise any matters of state or regional significance.

In respect to (b) there is no public benefit in refusing the proposed modification to Clause 4.1A. The current design does not permit individual ownership of each unit associated with the dual occupancy. The proposal is the best outcome for the site and existing development, and there would be no benefit to Council, neighbours or general members of the public from the refusal of this application. The proposed development will in no way impact on the public realm.

In respect to (c), it is expected that this statement addresses any matter to be taken into consideration by the Director General.

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

- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*  
 (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

*Note—*

*When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition or Zone R5 Large Lot Residential.*

The proposed variation is not related to Subdivision of land in any abovementioned zone, therefore, this subclause does not apply in this instance.



*(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*

Is noted.

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

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (c) clause 5.4.*

The variation sought does not contravene any of the matters listed above.

Should you require any additional information or have any questions please do not hesitate to contact the undersigned on 02 4987 1748.

Regards,

*H. Jones*

Hugh Jones  
Town Planner / Project Manager  
Bachelor of Urban & Regional Planning, Cert IV Proj Mgt Prac, PIA (Assoc.)  
F:\Job Files\8000-9000\8323\PLANNING\DEVELOPMENT APPLICATION\LODGED\Addendum to SoEE\_6 Mona Street, Cullburra Beach.docx