



DEVELOPMENT ASSESSMENT PANEL REPORT

Application No.	DA/2024/0925
Address	22 Ellen Street ROZELLE
Proposal	Demolition of existing structures, Torrens title subdivision of the existing lot into 2 allotments and construction of a two storey semi-detached dwelling on each lot, works include removal of 2 on-site trees
Date of Lodgement	31 October 2024
Applicant	Habitat Housing Pty Limited
Owner	Mr John F Murray Sheree J Murray
Number of Submissions	Initial: 2
Cost of works	\$1,342,000.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	<ul style="list-style-type: none"> • Non-compliance with minimum lot size development standard • Solar access to proposed new lots • Issues raised in submissions
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards



Figure 4: Locality map



Figure 5: Existing front view of subject site

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of existing structures, Torrens title subdivision of the existing lot into 2 allotments and construction of a two storey semi-detached dwelling on each lot, works include removal of 2 on-site trees at 22 Ellen Street Rozelle.

The application was notified to surrounding properties and two (2) submissions were received.

The main issues that have arisen from the application include:

- Non-compliance with minimum subdivision lot size development standard
- Solar access to proposed new lots

Despite the non-compliances noted above, it is considered that the proposed development is generally consistent with the aims and objectives contained in the relevant State Environmental Planning Policies, *Inner West Local Environmental Plan 2022*, and Leichhardt Development Control Plan 2013, subject to the imposition of conditions as recommended.

The potential impacts to the surrounding environment have been considered as part of the assessment and any potential impacts from the development, given the context of the site and the desired future character of the area are considered acceptable.

Considering the above, subject to the imposition of appropriate terms and conditions, the application is considered suitable for approval.

2. Proposal

Consent is sought for the following:

- Demolition of existing structures
- Removal of five (5) trees
- Subdivision of existing lot into two (2) lots
- Construction of a two-storey semi-detached dwelling on each lot. Each dwelling contains (as outlined in the submitted Statement of Environmental Effects (SEE)):
 - *Ground Floor:*
Entry from Ellen Street, study, storage, staircase, bathroom, laundry and open plan living, dining and kitchen area opening onto an outdoor alfresco.
 - *First Floor:*
Master bedroom with a built-in wardrobe and ensuite, bedroom 2 with built-in wardrobe, bathroom and storage.

3. Site Description

The subject site is within the R1 zone (Figure 3), is a corner lot, located on the southern side of Ellen Street, between Victoria Street and Evans Street. The site consists of one (1) allotment

and is irregular in shape with a total area of 277.6sqm and is legally described as Lot 1 in DP1287079.

The site has a dual frontage to Ellen Street of 10.695m to the north and 19.780 to the west. The site supports a two storey dwelling house. Surrounding properties within the R1 zone support single and two storey dwelling houses. Properties within the E1 zone to the east, along Victoria Road, support a mix of single, two and three storey buildings of varying land uses, including commercial, shop top housing and a service station.

The subject site is not listed as a heritage item or in a Heritage Conservation Area (Figure 4). While the adjoining property to the east (18 Ellen Street) is a flood control lot, 22 Ellen Street is not flood affected.

The following trees are located on the site:

- One (1) *Callistemon viminalis* (Weeping Bottlebrush)
- One (1) *Araucaria hetrophylla* (syn *A.excelsa*) (Norfolk Island Pine)
- Two (2) *Jacaranda mimosifolia* (Jacaranda)
- One (1) *Magnolia grandiflora* 'Little Gem' (Little Gem Magnolia)



Figure 6: IWLPP Zoning map - subject site highlighted in dark red

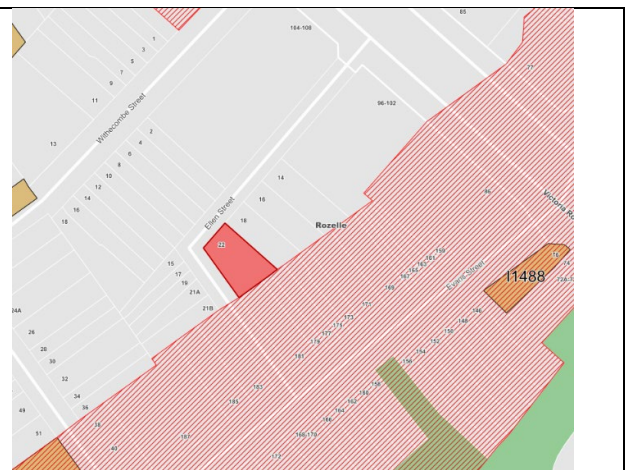


Figure 7: IWLPP Heritage map: subject site highlighted in dark red

4. Background

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
PDA/2021/0470	Demolition of existing dwelling, construction of 2 x two-storey semi-detached dwellings, landscaping and Torrens title subdivision.	Advice letter issued on 21/12/2021

Surrounding properties

Application	Proposal	Decision & Date
18 Ellen Street (Figure 5)		
CDC/2023/0013	Demolition of existing portion of dwelling, and construction of new double storey addition, pool & associated landscaping	Approved on 20/06/2023
21 Ellen Street (Figure 6)		
D/2015/177	Proposed demolition of existing structures and construction of a dual occupancy development plus subdivision into two lots.	Approved on 26/04/2016
19 Ellen Street (Figure 7)		
D/2014/147	Alterations and additions to an existing dwelling including sub-floor, ground floor rear addition, first floor with dormer window.	Approved on 02/06/2014
16 Ellen Street (Figure 8)		
CDCP/2013/94	Alteration and Additions to Existing Dwelling Comprising New First Floor Addition	Approved 14/08/2013
14 Ellen Street (Figure 9)		
CDCP/2014/112	Rear extension to existing single dwelling	Approved on 10/09/2014



Figure 8: 18 Ellen Street



Figure 9: 21A and 21B Ellen Street – source: google maps



Figure 10: 19 Ellen Street (on the left) -
15 & 17 Ellen Street to the left
– source: google maps



Figure 11: 16 Ellen Street – source: google maps



Figure 12: 14 Ellen Street - source: google maps

Application history

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

Date	Discussion / Letter / Additional Information
05/02/2025	A request for further information was sent to the applicant, requiring an updated Clause 4.6 under IWLEP 2022 and updated shadow diagrams.
7/02/2025	The applicant submitted the requested information. However, the shadow diagrams were not adequate to assess the impacts on adjoining sites and Council requested further amendments to the shadow diagrams.
11/02/2025	The applicant submitted the requested shadow diagrams.

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 (EP & A Act 1979)*.

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.6(1) of the *Resilience and Hazards SEPP* requires the consent authority not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In considering the above, there is no evidence of contamination on the site. There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

A search of Council's records in relation to the site has /has not indicated that the site is one that is specified in Section 4.6(4)(c).

SEPP (Sustainable Buildings) 2022

Chapter 2 Standards for residential development - BASIX

The application is accompanied by a BASIX Certificate (lodged within 3 months of the date of the lodgment of this application) in compliance with the *EP & A Regulation 2021*.

SEPP (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of the *Transport and Infrastructure SEPP* and has been referred for comment for 21 days.

Ausgrid provided comments with regard to overhead and underground powerlines in the vicinity of the development, which have been included in Attachment A.

Overall, subject to compliance with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice the proposal satisfies the relevant controls and objectives contained within

SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The *Biodiversity and Conservation SEPP* requires consideration for the protection and/or removal of vegetation and gives effect to the local tree preservation provisions of C1.14 Tree Management of the LDCP 2013.

The application seeks the removal of five (5) trees from within the subject site as discussed in sections 2 and 3 of this report.

An assessment of the proposal against the abovementioned provisions has identified the following:

- While the submitted plans only indicate the removal of two (2) trees; there are an additional three (3) trees located along the southern side boundary that will require removal.
- Removal of the *Callistemon viminalis* (Weeping Bottlebrush) and the *Araucaria hetrophylla* (*syn A.excelsa*) (Norfolk Island Pine) is supported as these trees are both in poor/fair health and poor/fair condition.

- Removal of the two (2) *Jacaranda mimosifolia* (Jacaranda) and the *Magnolia grandiflora* 'Little Gem' (Little Gem Magnolia) is supported. While the Jacaranda trees are in good health, they have been identified by Council’s Arborist to have poor condition/structure, and Council’s Arborist notes that “*all three trees have a low retention value*”.
- As such, removal of all five (5) trees can be supported, provided the proposed replacement trees are in appropriate locations so that they can mature to their full potential without significantly impacting adjacent properties and any structures.

Overall, the proposal is considered acceptable with regard to the *Biodiversity and Conservation SEPP* and C1.14 Tree Management of the LDCP 2013, subject to the imposition of conditions, which have been included in Attachment A.

Chapter 6 Water Catchments

Section 6.6 under Part 6.2 of the *Biodiversity and Conservation SEPP* provides matters for consideration which apply to the proposal. The subject site is located within the designated hydrological catchment of the Sydney Harbour Catchment and is subject to the provisions contained within Chapter 6 of the above *Biodiversity Conservation SEPP*.

It is considered that the proposal remains consistent with the relevant general development controls under Part 6.2 of the *Biodiversity Conservation SEPP* and would not have an adverse effect in terms of water quality and quantity, aquatic ecology, flooding, or recreation and public access.

Inner West Local Environmental Plan 2022

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	The proposal satisfies the section as follows: <ul style="list-style-type: none"> • The proposal encourages development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles, • The proposal does not impact the natural, built and cultural heritage of Inner West, • The proposal facilitates employment opportunities within Inner West, • The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents 	Yes

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	<ul style="list-style-type: none"> The application proposes demolition of existing improvements, Torrens title subdivision into two lots and construction of a semi-detached dwelling on each new lot. Semi-detached dwellings are permissible with consent in the R1 zone. The proposal is consistent with the relevant objectives of the zone, as it will assist to provide for the housing needs of the community and the development will not be inconsistent with the character of the area. 	Yes
Section 2.6 Subdivision – consent requirements	<ul style="list-style-type: none"> The application seeks development consent for the subdivision of the existing lot into two (2) Torrens title lots, which is permissible with consent. 	Yes
Section 2.7 Demolition requires development consent	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> Demolition works are proposed, which are permissible with consent; and Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to conditions

Part 4 – Principal development standards

Section	Proposed	Compliance	
Lot A (NE) – site area 139.3sqm			
Section 4.1 Minimum Subdivision lot size	Minimum	200sqm	No
	Proposed	139.3sqm	
	Variation	60.7sqm or 30.35%	
Section 4.3C (3)(a) Landscaped Area	Minimum	15%	Yes
	Proposed	19.1%	
Section 4.3C (3)(b) Site Coverage	Maximum	60%	Yes
	Proposed	58.15%	
Section 4.4 Floor space ratio	Maximum	0.9:1 or 125.37sqm	Yes
	Proposed	0.9:1 or 125.3sqm	
Lot B (SW) – site area 138.3sqm			
Section 4.1 Minimum Subdivision lot size	Minimum	200sqm	No
	Proposed	138.3sqm	
	Variation	61.7sqm or 30.85%	
Section 4.3C (3)(a) Landscaped Area	Minimum	15%	Yes
	Proposed	28.13%	
Section 4.3C (3)(b) Site Coverage	Maximum	60%	Yes
	Proposed	57.77%	
Section 4.4 Floor space ratio	Maximum	0.9:1 or 124.47sqm	Yes
	Proposed	0.9:1 or 123.9sqm	
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes

Section	Proposed	Compliance
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.1.	See discussion below

Section 4.6 – Exceptions to Development Standards

Section 4.1 – Minimum subdivision lot size development standard

The applicant seeks a variation to the above-mentioned development standard under section 4.6 of the *IWLEP 2022* by 30.35% (60.7sqm) and 30.85% (61.7sqm). Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard. 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 Section 4.6 of the *IWLEP 2022* below.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant’s written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the minimum subdivision lot size development standard are achieved, notwithstanding the numeric non-compliance.

The **first objective of Section 4.1** is “*to ensure lot sizes cater for a variety of development*”.

The written request states that

The proposed semi-detached dwellings are a permissible form of development in the zone and are consistent with the residential character of the locality. As a broadly applicable standard across the locality, the proposed residential use of the land fulfills the intended purpose and function to provide a variety of developments.

This reasoning is considered acceptable, as the proposed lots are adequate for the proposed use, which is permissible, and built form that is not uncharacteristic with other development in the streetscape. Accordingly, the breach is consistent with the first objective.

The **second objective of Section 4.1** is “*to ensure lot sizes do not result in adverse amenity impacts,*”.

The written request states that “*The amenity of adjoining and adjacent properties will not be compromised by the proposed development*”. This reasoning is considered acceptable, as the development will not result in undue amenity impacts to surrounding sites or the public domain,

which is discussed in detail elsewhere in this report. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.1** is *“to provide a pattern of subdivision that is consistent with the desired future character”*.

The written request states the proposed lot sizes are *“consistent with the desired future character, which is informed by the existing pattern of development”* and that the proposed lots *“reinforce the [existing] subdivision pattern”*. As discussed in detail elsewhere in this report, the proposed lots are consistent with the cadastral pattern of the streetscape with regard to area and dimensions. Accordingly, the breach is consistent with the third objective.

The **fourth objective of Section 4.1** is *“to ensure lot sizes allow development to be sited to protect and enhance riparian and environmentally sensitive land”*.

The written request states that *“The site is not identified as being proximate to or containing any riparian or environmentally sensitive land”*, which is accurate. Accordingly, this the breach is consistent with the third objective.

As the proposal achieves the objectives of the minimum subdivision lot size development standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant provides the following environmental planning grounds to justify contravening the minimum subdivision lot size development standard:

Environmental Planning Ground 1 – The proposal *“will not result in a diminished residential amenity outcome”*

This environmental planning ground is accepted because, as discussed in detail elsewhere in this report, the development will not result in undue amenity impacts to surrounding sites.

Environmental Planning Ground 2 – The development complies with other development standards within the IWLEP 2022 and *“... key DCP controls”*.

This environmental planning ground is accepted because the proposal complies with the FSR, landscaped area, and site coverage developments standards within the IWLEP 2022. While the proposal does not comply with all key controls within the LDCP 2013, it is consistent with the relevant objectives within the LDCP 2013 where a non-compliance with a control is proposed.

Environmental Planning Ground 3 - The proposed lots provide reasonably sized dwellings that provide adequate amenity.

This environmental planning ground is accepted because each of the proposed dwellings contain two (2) reasonably sized bedrooms, a study space, adequate facilities, and generous

living areas and areas of POS. Further, as discussed in other sections of this report, adequate amenity is provided for occupants.

Cumulatively, the provided environmental planning grounds are considered sufficient to justify contravening the development standard.

For the reasons outlined above, it is recommended that the section 4.6 exception be granted.

Part 6 – Additional local provisions

Section	Proposed	Compliance
Section 6.1 Acid sulfate soils	<ul style="list-style-type: none"> The site is identified as containing Class 5 acid sulfate soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable. 	Yes
Section 6.2 Earthworks	<ul style="list-style-type: none"> The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability. 	Yes
Section 6.3 Stormwater Management	<ul style="list-style-type: none"> The development maximises the use of permeable surfaces, includes on site retention as an alternative supply and, subject to standard conditions, would not result in any significant runoff to adjoining properties or the environment. 	Yes, subject to conditions

B. Development Control Plans

Summary

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013 (LDGP 2013).

LDGP 2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	No – see discussion
C1.5 Corner Sites	Yes – see discussion
C1.6 Subdivision	No – see discussion

C1.7 Site Facilities	Yes
C1.9 Safety by Design	Yes
C1.11 Parking	Yes – see discussion
C1.12 Landscaping	Yes – see discussion
C1.14 Tree Management	Yes – see discussion
Part C: Place – Section 2 Urban Character	
C2.2.5.2 Easton Park Distinctive Neighbourhood	Yes – see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	Yes – see discussion
C3.4 Dormer Windows	No – see discussion
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes – see discussion
C3.9 Solar Access	No – see discussion
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes
Part D: Energy	
Section 1 – Energy Management	Yes – see discussion
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes – see discussion
D2.2 Demolition and Construction of All Development	Yes – see discussion
D2.3 Residential Development	Yes – see discussion
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes – see discussion
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes – see discussion
E1.2.3 On-Site Detention of Stormwater	Yes – see discussion
E1.2.5 Water Disposal	Yes – see discussion
E1.2.7 Wastewater Management	Yes

The following provides discussion of the relevant issues:

Part C – Section 1 – General Provisions

Control	Assessment	Compliance
C1.2 Demolition	<ul style="list-style-type: none"> The existing building on the site is considered to make a positive contribution to the desired future character of the area and, as such, the proposed demolition is contrary to control C1. However, the existing building could be readily demolished under Part 7 (Demolition Code) of <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>. 	No
C1.5 Corner Sites	<ul style="list-style-type: none"> While the development is not located at a junction of two different streets, it is a corner lot within Ellen Street. The development addresses both street frontages to Ellen Street and does not include large expanses of featureless walls. The proposed scale and building elements, as discussed in detail elsewhere in this report, are consistent with other development in the streetscape and the development will not result in adverse impacts on the amenity of surrounding sites or the public domain. 	Yes
C1.6 Subdivision	<ul style="list-style-type: none"> As discussed above, the proposed lots are less than 200sqm, which is inconsistent with control C1. However, as discussed below this table, the proposed lots are not inconsistent with the prevailing subdivision in the streetscape. Each lot addresses the street and is provided with urban infrastructure. 	No – acceptable on merit
C1.11 Parking	<ul style="list-style-type: none"> No off-street parking proposed. In accordance with Table C4, a “single dwelling house” does not need to provide on-site parking. As such, the proposal complies. Note 5 in relation Table C4 stipulates that <i>Occupants of new developments in existing Parking Permit Areas will not be eligible for resident or business parking permits.</i> The subject site is located within a Parking Permit Area and Council’s standard conditions, advising future owners and tenants of their ineligibility for a permit have been included in Attachment A. 	Yes
C1.12 Landscaping	<ul style="list-style-type: none"> The proposal will enhance the visual setting of buildings, encourages vegetation, and will contribute to the amenity of the residents and visitors as recommended to be conditioned. 	Yes
C1.14 Tree Management	<ul style="list-style-type: none"> As discussed elsewhere in this report, the removal of five (5) trees from within the site is supported and, in principle, adequate replacement planting (one (1) canopy tree required per lot), is proposed. 	Yes, subject to conditions

Control	Assessment	Compliance
	<ul style="list-style-type: none"> However, Council’s Arborist raised concerns about close proximity to boundaries of the proposed canopy trees. To ensure that two canopy trees will be protected under Council’s controls, a condition is included in Attachment A, requiring a set back from any boundary (and building) of, at least, 1.5m for two (2) of the canopy trees, to also ensure that they are in appropriate locations so that they can mature to their full potential without significantly impacting adjacent properties and any structures. 	

Consideration of non-compliances with C1.6 Subdivision

The proposed subdivision of the site results in two (2) lots with site areas of 139.3sqm (Lot A) and 138.3sqm (Lot B). As such, the proposed lots will not comply with the minimum lot size requirements of control C1, which is 200sqm. Having regard to the relevant objectives of the control, in considering a variation the following is noted:

- The area, shape and dimensions of the proposed lots are generally consistent with the provisions within this DCP.
- The development provides more than the required amount of landscaping and includes significant new vegetation/trees.
- The development will not have any adverse impacts on pedestrians, cyclists, or vehicles.
- The design of the development is not inconsistent with other development in the streetscape, complies with BASIX, and provides adequate safety and security.
- The proposed lots are not inconsistent with the pattern of development along Ellen Street as shown in Table 1.

Number	Site Area	Frontage
* Lot A	139.3sqm	6.4 metres
* Lot B	138.3sqm	4.5 metres
14	266.4sqm	9.4 metres
16	232.7sqm	9 metres
18	216.9sqm	9.1metres
15	96sqm	5.2metres
17	82.1sqm	3.1metres
19	99.8sqm	3.5metres
21A	121.2sqm	6.3metres
21B	157.5sqm	5.9metres

- In addition, it is noted that the lots on the northern side of Ellen Avenue, while having a primary frontage to Whitecombe Street, all have a similar width (i.e., approximately 4.9m) as the proposed Lot B.
- As such, the proposed subdivision is considered to be consistent with the relevant objectives of this part.

Part C – Section 2 – Urban Character

Control	Assessment	Compliance
C2.2.5.2 Easton Park Distinctive Neighbourhood	<ul style="list-style-type: none"> • The proposal is considered to be a satisfactory response to the Distinctive Neighbourhood controls under this part as follows: <ul style="list-style-type: none"> ○ The proposed lot sizes are not inconsistent with the prevailing cadastral pattern of Ellen Street. ○ The proposed design incorporates a pitched roof and the setbacks are consistent with other development in the streetscape. ○ A front setback of 1m is provided. ○ The proposed built form and materials are sympathetic to other development in the streetscape. ○ The development complies with the wall height control at the front and the technical non-compliance with the wall height control to the secondary frontage, as discussed elsewhere in this report, is considered acceptable. 	Yes

Part C – Section 3 – Residential Provisions

Control	Assessment	Compliance
C3.2 Site Layout and Building Design	<ul style="list-style-type: none"> • The Development complies with landscaped open space, street orientation, and roof pitch controls. • The proposed lots are consistent with regard to area, road frontage, width and depth of other development in the streetscape the proposed dwellings are not inconsistent with the built form and scale of existing development in the area. • The proposed variation with BLZ, side boundary setbacks, and building envelope controls is considered reasonable as discussed below this table. 	No – acceptable on merit
C3.3 Elevation and Materials	<ul style="list-style-type: none"> • The proposed building façades are divided into vertical bays that are similar with the dimensions established by elements on surrounding developments, and divided into horizontal bandings that clearly delineate each storey. • Colours, materials, and finishes are compatible with those prevailing in the streetscape. 	Yes
C3.4 Dormer Windows	<ul style="list-style-type: none"> • The height of the roof (from gutter to ridge) is more than 2.5m and the distance between the main roof ridge and dormer is more than 300mm. • Only one dormer is proposed to each dwelling. • While the width of the proposed dormer window exceeds 25% of the width of each roof, which is inconsistent with control C8, the dormers are considered acceptable on merit as follows: <ul style="list-style-type: none"> ○ The proposed dormers are similar in shape to the dormers at 17 and 19 Ellen Street. 	No – acceptable on merit

Control	Assessment	Compliance
	<ul style="list-style-type: none"> ○ 21A and 21B Ellen Street have large rectangular-shaped dormer windows that also cover significantly more than 25% of the width of the roof. ○ While 18 Ellen Street does not include dormer windows, it supports a recently completed two storey development that includes a large amount of glazing and a built form and shape that does not resemble other development in the streetscape. ○ Overall, the streetscape is eclectic, supporting varied architectural styles and roofs. ○ Given the above, it is considered unreasonable and onerous requiring compliance with control C8, and the proposed dormers are considered acceptable in this instance. 	
C3.8 Private Open Space	<ul style="list-style-type: none"> • Each dwelling is to be provided with private open space of at least 16sqm with no dimension being less than 3m. • Excluding areas with any dimension of less than 3m (i.e., open space at lot B along south-eastern boundary), an area of POS of, at least, 36sqm located at the rear of each new lot is provided. 	Yes
C3.9 Solar Access	<ul style="list-style-type: none"> • <u>Solar access to subject site</u> Does not comply - Refer to discussion below this table • <u>Overshadowing of surrounding sites</u> Complies - Refer to discussion below this table 	No – acceptable on merit
C3.11 Visual Privacy	<ul style="list-style-type: none"> • All living areas are located at ground floor <p><u>Ground floor windows</u></p> <ul style="list-style-type: none"> • All ground floor windows will be screened by 1.8m high boundary fencing, which will provide screening to 1.6m above finished floor levels of all living areas and areas of private open space that is located at ground level. As such, the proposal complies with controls C1 and C6. <p><u>First floor windows</u></p> <ul style="list-style-type: none"> • First floor windows to the side elevation serve low traffic rooms (i.e., bathrooms) or a void area. These windows have a sill height of 1.5m above finished floor level (FFL). • Windows at 18 Ellen Street have not been depicted on the submitted architectural plans. As such, it is unclear whether the proposed windows will be aligned with windows at 18 Ellen Street. • However, the first floor windows at 18 Ellen Street also have a sill height of 1.5m above FFL and serve low traffic rooms (i.e., bath and bedrooms). • Given the above, while compliance with control C7 cannot be established, it is considered that there will be no undue visual privacy impacts from the first floor windows facing 18 Ellen Street. 	Yes

Control	Assessment	Compliance
	<ul style="list-style-type: none"> For the same reasons stated above, while windows at properties across the south-western boundary have not been depicted on the plans, the development will not result in undue visual privacy impacts to these properties. The windows to the front and rear elevation do not require screening, as they serve low traffic rooms (i.e., bedrooms) and are not aligned, within 9m and 45 degrees, with windows on adjoining sites. 	

C3.2 Site Layout and Building Design

Building Location Zone

The proposed ground floor rear setbacks are greater than the ground floor rear setback at 18 Ellen Street. However, the proposal seeks a variation to the front BLZ at ground floor, and rear BLZ on first floor, noting that the adjoining site (18 Ellen Street) has a front setback of 3.4m, and a first floor rear setback of approximately 10m. The proposed dwellings have a front setback of 1m, and first floor rear setbacks of 4.2m (Lot B) and 5.5m (Lot A).

Therefore, the proposed front setbacks, and first floor rear setbacks, seek to breach the numerical requirements under this Part. Pursuant to Control C6 under Part C3.2, where a proposal seeks a variance to a BLZ, various tests need to be met, which are discussed below:

Merit Test	Comment
Amenity (solar access/privacy)	As discussed later in this report, the development is acceptable with regard to solar access, privacy considerations, and will not result in any view loss implications.
Streetscape & scale	As discussed throughout this report, the development is considered to be appropriately sited and is an acceptable response to the character of the streetscape, noting a variety of built forms and materials in it. In addition, the proposal is not inconsistent with the desired future character controls and scale of other developments in the streetscape and locality and complies with the minimum front setback control within Part C – Section 2.
Private open space (POS)	The development complies with POS controls prescribed in Part C3.8 of the DCP, and the areas of POS comply with applicable landscaping controls. The areas of POS provide adequate visual privacy to occupants of the subject and adjoining sites. In addition, as discussed below, while the development does not comply with solar access controls for the subject site, this non-compliance is considered acceptable in this instance.
Significant vegetation	As discussed elsewhere in this report, the proposed tree removal is considered acceptable and the development includes adequate planting of new trees, and the development complies with the landscaped area development standard.
Visual bulk & height	The bulk and height of the development is consistent with other development in the streetscape. The proposal will not result in undue visual bulk impacts to adjoining sites, noting that the proposed ground floor rear setback at Lot A is greater than the ground floor rear setback of 18 Ellen Street. In addition, the proposed first floor rear setback at Lot A is 2.5m greater than the ground floor rear setback at 18 Ellen Street, which assists in minimising visual bulk to the POS at this site.

Merit Test	Comment
	<p>Visual bulk to 181 Evans Street is marginal, noting that the relatively large structure at this property will “conceal” the bulk of the proposed dwellings when viewed from the area of POS at 181 Evans Street.</p> <p>Visual bulk to 179 Evans Street is considered acceptable and unavoidable, noting that 179 Evans Street has a relatively small area of POS close to the rear boundary, and a site coverage that is well above the 60% allowable under Section 4.3C of the IWLEP 2022.</p> <p>Visual bulk to 177 Evans Street is marginal, noting a building separation of approximately 13.5m and that the two properties only share a boundary of approximately 1.4m. As such, only a small portion of the proposed dwelling at Lot A will be visible from 177 Evans Street.</p>

Accordingly, the proposed front and rear setbacks are considered acceptable.

Side Setbacks

Control C7 at Section C3.2 of the LDCP 2013 relates to side setback requirements and applies a sliding scale to setbacks, in conjunction with the wall heights. The proposal seeks a wall height of up to 6.4m to its south-western boundary, and up to 6.3m to its north-eastern boundary. As such, the dwelling at Lot A is required to be setback by 2.1m from the shared boundary with 18 Ellen Street; however, a 0.95m side setback is proposed. The dwelling at Lot B is required to be setback by 2m from the side boundary facing Ellen Street; the proposed setback varies between nil (at the front) and 2.8m (at the rear).

Pursuant to Clause C3.2 of the LDCP 2013, where a proposal seeks a variation of the side setback control graph, various tests need to be met, which are discussed below:

Merit Test	Comment
Building typology	Not relevant in this instance as new dwellings (not alterations and additions) are proposed.
Pattern of Development	The side wall setbacks, and heights, of the proposed dwellings are consistent with the setbacks, and wall heights of other development in the streetscape.
Reduced floor to ceiling heights (to minimise bulk and scale)	The proposed floor to ceiling heights are acceptable and reasonable (i.e., 3m for living areas and 2.4m for other rooms). As discussed above, the development is not considered to result in undue visual bulk impacts to adjoining sites and the development is of a scale that is consistent with the streetscape character.
Amenity Impacts	As discussed elsewhere in this report, the proposal will not result in undue visual privacy impacts or overshadowing impacts to surrounding sites. In addition, the proposal complies with acoustic privacy controls and will not impact views.
Maintenance of adjoining properties	Existing access arrangements of adjoining sites will not be impacted by the proposal.

Accordingly, the proposed side boundary setbacks are considered acceptable.

Building Height and the Building Envelope

The development complies with the building envelope control for the primary frontage (noting a wall height of 3.6m is prescribed for the area). It is noted that the proposed dormer windows to the front penetrate the envelope, which is acceptable in accordance with Note (iii) within control C16.

The wall height and building envelope control also applies to the secondary road frontage and the development, technically, does not comply with regard to this frontage. However, the non-compliance is considered acceptable in this instance, as the proposal is consistent with the relevant objectives O1, O2, O3, and O4 as follows:

- The development will not result in undue amenity impacts
- The development's scale and design, including setbacks and building height, is generally commensurate with other development in the streetscape
- As discussed above, the proposed BLZ are considered acceptable, and the development will not adversely impact the streetscape or neighbouring amenity
- The development is not inconsistent with the desired future character of the area and will not adversely impact the public domain
- The proposed dwellings provide reasonable amenity to future occupants

Given the above, the proposed non-compliances with BLZ, side boundary setbacks, and envelope controls is considered acceptable.

C3.9 Solar Access

Shadow diagrams illustrating the shadows cast by the existing structures and the proposed development for the winter solstice were submitted with the application.

The discussion below addresses the proposal against the provisions of C3.9 of the LDCP 2013.

New Dwellings

As the proposal includes two new dwellings, C4 (Private Open Space) and C9 (Main Living room) of the LDCP 2013 are applicable, which read as follows:

- *C4 – Private open space is to receive a minimum three hours of direct sunlight over 50% of the required private open space between 9am and 3pm at the winter solstice.*
- *C9 – New residential dwellings are to obtain a minimum of three (3) hours of direct sunlight to the main living room between 9am and 3pm during the winter solstice.*

While the proposal does not comply with these controls, it is considered acceptable in this instance for the following reasons:

- Given the orientation of the site, and structures on the adjoining site at 18 Ellen Street, it is difficult to comply with solar controls for the subject site's areas of POS.

- Direct sunlight to the living room areas at the rear, given the orientation of the site, cannot be provided on June 21.
- Daylight access to all proposed habitable rooms is provided.
- The proposed lots provide a high level of amenity to occupants.
- While marginal, the proposed areas of POS will receive some sunlight during the winter solstice and, evidently, during other times of the year, solar access will increase.

Minimise impact to neighbouring properties – Living areas

In accordance with control C14,

Where the surrounding allotments side boundary is 45 degrees from true north and therefore the allotment is not orientated north/south or east/west, glazing serving main living room shall retain a minimum of two hours of solar access between 9am and 3pm at the winter solstice.

The submitted shadow diagrams depict that the proposal will cast additional shadows onto the rear elevations of no. 179 and 181 Evans Street at 2pm and onto the rear elevations of no. 177, 179 and 181 Evans Street at 3pm. While elevation shadow diagrams have not been submitted, it is evident that all three impacted properties will receive, at least, 2 hours of direct solar access on June 21.

The shadow diagrams also depict additional overshadowing to the front elevations at no. 17, 19, 21A, and 21B Ellen Street at 9am and 10am on June 21, noting that some of these properties have living areas, and glazing, at the front. However, solar access for at least 2 hours will be retained to windows facing Ellen Street.

Given the above, the proposal complies with C14.

Minimise impact to neighbouring properties – Private open space

The POS of surrounding properties that are impacted by the proposal (i.e., no. 177, 179 and 181 Evans Street) have a northern orientation. As such, the following controls are applicable:

- C17 Where surrounding dwellings have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.*
- C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

None of these impacted areas of POS, currently, receive the required amount of solar access. However, the proposal will not result in additional overshadowing to the areas of POS as all new shadows will fall within existing shadows.

Part D – Energy

Control	Assessment	Compliance
Section 1 – Energy Management		Yes
Section 2 – Resource Recovery and Waste Management		
D2.1 General Requirements	<ul style="list-style-type: none"> The proposal includes a Site Waste Minimisation and Management Plan in the development application. 	Yes
D2.2 Demolition and Construction of All Development	<ul style="list-style-type: none"> The proposal entails the demolition of all existing structures form within the site. A standard condition of consent requiring a Waste Management Plan to be prepared prior to demolition will be included in the recommendation. 	Yes, subject to conditions
D2.3 Residential Development	<ul style="list-style-type: none"> The residential development provides an internal storage area for recyclable and compostable material, and areas for composting. 	Yes

Part E – Water

Control	Assessment	Compliance
E1.1.1 Water Management Statement	<ul style="list-style-type: none"> Basix Certificate was provided with the application. 	Yes
E1.1.3 Stormwater Drainage Concept Plan	<ul style="list-style-type: none"> A Stormwater Drainage Concept Plan was lodged with the application. Standard conditions are recommended to ensure the appropriate management of stormwater. 	Yes, subject to conditions
E1.2.2 Managing Stormwater within the Site	<ul style="list-style-type: none"> The proposal includes design elements such as site layout, building setbacks, site drainage systems and fence erection shown in the architectural plans submitted as part of the application in order to ensure minimal disruption or disturbance of land surfaces or natural drainage patterns. 	Yes, subject to conditions
E1.2.3 On-Site Detention of Stormwater	<ul style="list-style-type: none"> The proposed stormwater drainage system includes on-site retention. Standard conditions are recommended to ensure the appropriate management of stormwater. 	Yes, subject to conditions
E1.2.5 Water Disposal	<ul style="list-style-type: none"> Stormwater runoff from all roof and impermeable areas of Lot B drain by gravity to Ellen Street. However, Lot A naturally drains towards the rear and the proposed stormwater drainage system includes charged pipes, which does not comply with control C1. To ensure compliance with control C2 and the objectives of this part, Council's Development Engineer recommends conditions (included in Attachment A), requiring a common drainage easement to be created so that all stormwater runoff from roof and impermeable areas of both lots can be drained by gravity to Ellen Street without impacting adjoining sites. 	Yes, subject to conditions

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will not have significant adverse environmental, social or economic impacts upon the locality.

D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential surrounding and amongst similar uses to that proposed.

E. Submissions

The application was notified in accordance with Council’s Community Engagement Strategy between 07 November 2024 to 21 November 2024.

A total of two (2) submissions were received in response.

Note:

One (1) of the submissions notes that they are generally in support of the application but raised concerns no. 2 and 3 they would like to be considered.

The second submission has been lodged as neutral (neither against nor for the development) and concerns no. 1 and 2.

Issues raised in the submissions are discussed below:

Concern	Comment
1. Safe asbestos removal	Council’s standard condition regarding Asbestos removal has been included in Attachment A, which stipulates that any hazardous waste must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.
2. Development does not provide on-site car parking and additional dwelling/s will increase on-street parking demand.	As outlined in the LDCP 2013 – Part C – Section 3 – C3.11 assessment above, the development is not required to provide on-site parking in accordance with Table C4 within C1.11.1 of the LDCP 2013. As such, in accordance with Section 4.15(3A)(a) of the EP & A Act 1979, Council cannot require that on-site parking is provided. Occupants of the developments will not be eligible for resident or business parking permits.
3. Tree planting and privacy Concerns about visual privacy impacts to POS at 18 Ellen Street and that trees would not provide	As outlined in the LDCP 2013 – Part C – Section 1 – C1.11 assessment above, the proposal complies with visual privacy controls. As such, in accordance with Section 4.15(3A)(a) of the EP & A Act, Council cannot require more onerous standards with regard to

adequate screening until mature. Request to require mature trees to be planted.	visual privacy. In addition, Council does not have controls that require that mature trees are planted.
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F. 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.

This has been achieved in this instance.

6. Section 7.11 / 7.12 Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$20,000.00 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

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

7. Housing and Productivity Contributions

The carrying out of the development would result in an increased demand for essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. A contribution of \$8,498.91 would be required for the development under Part 7, Subdivision 4 Housing and Productivity Contributions of the *EPA Act 1979*.

A housing and productivity contribution is required in addition to any Section 7.11 or 7.12 Contribution. A condition requiring that the housing and productivity contribution is to be paid is included in the recommendation.

8. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Heritage Specialist
- Development Engineer
- Urban Forest
- Resource Recovery
- Street Numbering

The following external referrals were made, and their comments have been considered as part of the above assessment:

- Ausgrid

9. Conclusion

The proposal, subject to recommended conditions, generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

Subject to recommended conditions, the development will not result in any significant 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 suitable for approval subject to the imposition of appropriate conditions.

10. Recommendation

- A. In relation to the proposal by the development in Development Application No.2024/0925 to contravene the Minimum Subdivision Lot Size development standard in Clause 4.1 of *Inner West Local Environmental Plan 2022*, the Panel is satisfied that the Applicant has demonstrated that:
- compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - there are sufficient environmental planning grounds to justify the contravention of the development standard.
- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2024/0925 for demolition of existing structures, Torrens title subdivision of the existing lot into 2 allotments and construction of a two storey semi-detached dwelling on each lot, works include removal of 2 on-site trees at 22 Ellen Street, ROZELLE, subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

GENERAL CONDITIONS

Condition	
1.	Boundary Alignment Levels
	<p>Alignment levels for the site at all pedestrian access locations must match the existing back of footpath levels at the boundary unless levels are otherwise approved by Council via a S138 approval.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>
2.	Permits
	<p>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:</p> <ul style="list-style-type: none"> • 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; • A concrete pump across the roadway/footpath; • Mobile crane or any standing plant; • Skip Bins; • Scaffolding/Hoardings (fencing on public land); • Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.; • Awning or street veranda over the footpath; • Partial or full road closure; and • Installation or replacement of private stormwater drain, utility service or water supply. <p>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.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>
3.	Insurances
	<p>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.</p> <p>Reason: To ensure Council assets are protected.</p>

4.	<p style="text-align: center;">Bin Storage - Residential</p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>												
5.	<p style="text-align: center;">Consent of adjoining property owners</p> <p>This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the <i>Access to Neighbouring Lands Act 2000</i> to seek access.</p> <p>Reason: To meet the requirements of the <i>Access to Neighbouring Lands Act 2000</i>.</p>												
6.	<p style="text-align: center;">Easement - Drainage</p> <p>The site drainage must be designed to drain under gravity. As the site falls to the rear an easement for drainage over Lot B in favour of Lot A will be required to be created.</p> <p>Reason: To ensure legal rights are obtained to drain through adjoining properties.</p>												
7.	<p style="text-align: center;">Asbestos Removal</p> <p>Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>												
8.	<p style="text-align: center;">Resident Parking Scheme Not Applicable</p> <p>All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council Resident Parking Schemes. All occupants and/or employees of this building will be ineligible to obtain Council Resident Parking Scheme parking permits. The owner of the dwelling must advise in writing all intending owners, tenants and occupiers of the dwelling, at the time of entering into a purchase / lease / occupancy agreement, of this prohibition. All developments that are excluded from Permit Parking Schemes can be found in Councils Public Domain Parking Policy.</p> <p>Reason: To provide transparency in the application of the Resident Parking Scheme.</p>												
9.	<p style="text-align: center;">Documents related to the consent</p> <p>The development must be carried out in accordance with plans and documents listed below:</p> <table border="1" data-bbox="440 1485 1233 1637"> <thead> <tr> <th data-bbox="440 1485 647 1554">Plan, Revision and Issue No.</th> <th data-bbox="647 1485 815 1554">Plan Name</th> <th data-bbox="815 1485 1054 1554">Date Issued/Received</th> <th data-bbox="1054 1485 1233 1554">Prepared by</th> </tr> </thead> <tbody> <tr> <td data-bbox="440 1554 647 1608">DA 2.01 Rev C</td> <td data-bbox="647 1554 815 1608">Demolition Plan</td> <td data-bbox="815 1554 1054 1608">20/06/2024</td> <td data-bbox="1054 1554 1233 1608">Habitat Housing</td> </tr> <tr> <td data-bbox="440 1608 647 1637">DA 3.01 Rev C</td> <td data-bbox="647 1608 815 1637">Floor Plans</td> <td data-bbox="815 1608 1054 1637">20/06/2024</td> <td data-bbox="1054 1608 1233 1637">Habitat Housing</td> </tr> </tbody> </table>	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by	DA 2.01 Rev C	Demolition Plan	20/06/2024	Habitat Housing	DA 3.01 Rev C	Floor Plans	20/06/2024	Habitat Housing
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DA 3.01 Rev C	Floor Plans	20/06/2024	Habitat Housing										

	DA 4.01 Rev C	Elevations & Sections	20/06/2024	Habitat Housing
	DA 6.02 Rev C	CGI & Finishes	20/06/2024	Habitat Housing
	DA L-01 Rev B	Landscape Plan	14/10/2024	eco design
	DA L-02 Rev B	Landscape Plan	14/10/2024	eco design
	1768399S	BASIX	11/10/2024	Bonnefin Consulting
	1768400S	BASIX	11/10/2024	Bonnefin Consulting
	not stated	Ausgrid letter of consent (Overhead Powerlines)	not stated	Ausgrid
<p>As amended by the conditions of consent.</p> <p>Reason: To ensure development is carried out in accordance with the approved documents.</p>				
10.	Works Outside the Property Boundary			
	This development consent does not authorise works outside the property boundaries on adjoining lands.			
	Reason: To ensure works are in accordance with the consent.			
11.	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.			
	Reason: To protect pedestrian safety.			
12.	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 <i>Environmental Planning and Assessment Act 1979</i> .			
	Reason: To ensure compliance with legislative requirements.			
13.	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.			
	Reason: To ensure compliance with legislative requirements.			

<p>14.</p>	<p style="text-align: center;">Notification of commencement of works</p> <p>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:</p> <ul style="list-style-type: none"> a. In the case of work for which a principal contractor is required to be appointed: <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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. <p>Reason: To ensure compliance with legislative requirements.</p>
<p>15.</p>	<p style="text-align: center;">Dividing Fences Act</p> <p>The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
<p>16.</p>	<p style="text-align: center;">Lead-based Paint</p> <p>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.</p> <p>Reason: To protect human health.</p>
<p>17.</p>	<p style="text-align: center;">Dial before you dig</p> <p>Contact "Dial Before You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition				
18.	<p>Security Deposit - Custom</p> <p>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.</p> <table border="1" style="width: 100%; margin: 10px 0;"> <tr> <td style="width: 30%;">Security Deposit:</td> <td>\$27,240.00</td> </tr> <tr> <td>Inspection Fee:</td> <td>\$389.00</td> </tr> </table> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure required security deposits are paid.</p>	Security Deposit:	\$27,240.00	Inspection Fee:	\$389.00
Security Deposit:	\$27,240.00				
Inspection Fee:	\$389.00				
19.	<p>Dilapidation Report – Pre-Development – Minor</p> <p>Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.</p> <p>Reason: To ensure Council assets are protected.</p>				

20.	<p>Stormwater Drainage System – Minor Developments (OSD is required)</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:</p> <ul style="list-style-type: none"> a) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road/directly to Council's piped drainage system via the OSD/OSR tanks as necessary. b) Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP. c) Charged or pump-out stormwater drainage systems are not permitted including for roof drainage. d) The Drainage Plan must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes. e) The plans, including supporting calculations, must demonstrate that the post development flows for the 100-year ARI storm are restricted to the predevelopment flows for the 5-year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15litres/second (100year ARI). f) OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use. g) Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks. h) Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided. i) A 150mm step up must be provided between the finished surface level of the external area and the finished floor level of the internal room unless a reduced step is permitted by Part 3.3.3. of the National Construction Code for Class 1 buildings. j) Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design.
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	<p>k) No nuisance or concentration of flows to other properties.</p> <p>l) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.</p> <p>m) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm.</p> <p>n) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.</p> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
<p>21.</p>	<p>Street Numbering</p> <p>For the Torrens Title subdivision and construction of two-storey semi-detached dwellings on the current lot 1 DP 1287079, current address 22 Ellen Street ROZELLE NSW 2039, the new property addresses will be as follows:</p> <p>The new semi-detached dwelling on the left-hand side closest to the 18 Ellen Street ROZELLE NSW 2039 will keep the address of 22 Ellen Street ROZELLE NSW 2039; and</p> <p>The new semi-detached dwelling on the right-hand side will receive an address of 24 Ellen Street ROZELLE NSW 2039,</p> <p>These numbers ensure clarity from the surrounding properties and are allocated in accordance with the NSW Government Address Policy and NSW Addressing User Manual. Please include the addresses for each lot to your Torrens Title plan administration sheet for the registration with NSW Land Registry Services. The new proposed addresses will be valid from the date of the Torrens Title plan registration in LRS. Please display the street numbers on the property frontage and letterboxes.</p> <p>If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to Street Numbering Application</p> <p>Reason: To ensure occupancies are appropriately numbered.</p>
<p>22.</p>	<p>Resource Recovery and Waste Management Plan - Demolition and Construction</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a "Waste and Recycling Waste Management Plan - Demolition and Construction" in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>

<p>23.</p>	<p>Bin Storage Area</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Waste and Recycling Management Plan.</p> <p>The submitted Waste and Recycling Management Plan must demonstrate that that the bin storage area will accommodate the number of bins required for all waste and recycling generated by a development of this type and scale. The number of bins required must be calculated based on a fortnightly collection of garbage, a weekly collection of organics which includes food and garden organics (FOGO), and a fortnightly collection of mixed recycling.</p> <p>The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.</p> <p>The bin storage area is to meet the design requirements detailed in the Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected.</p>
<p>24.</p>	<p>Public Domain Works – Prior to Construction Certificate</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the Roads Act 1993 incorporating the following requirements:</p> <ul style="list-style-type: none"> a. The public domain along all frontages of the site must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme. b. New concrete footpath and kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determine by the Council Engineer. c. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary. d. Installation of a stormwater outlet to the kerb and gutter. <p>All works must be completed prior to the issue of an Occupation Certificate.</p> <p>Reason: To ensure public domain works are constructed to Council's standards</p>
<p>25.</p>	<p>Long Service Levy</p> <p>Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.</p> <p>Reason: To ensure the long service levy is paid.</p>

26.	<p>Sydney Water – Tap In</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure relevant utility and service provides requirements are provided to the certifier.</p>														
27.	<p>Fibre-ready Facilities</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that arrangements have been made for:</p> <p>The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.</p> <p>The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises the development demonstrated through an agreement with a carrier.</p> <p>Reason: To ensure relevant utility and service provides' requirements are provided to the certifier.</p>														
28.	<p>Section 7.11 Contribution</p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:</p> <table border="1" data-bbox="435 1182 1145 1489"> <thead> <tr> <th>Contribution Category</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Open Space & Recreation</td> <td>\$14,300.00</td> </tr> <tr> <td>Community Facilities</td> <td>\$2,650.00</td> </tr> <tr> <td>Transport</td> <td>\$1,880.00</td> </tr> <tr> <td>Plan Administration</td> <td>\$184.00</td> </tr> <tr> <td>Drainage</td> <td>\$986.00</td> </tr> <tr> <td>TOTAL</td> <td>\$20,000.00</td> </tr> </tbody> </table> <p>At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p> $C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$	Contribution Category	Amount	Open Space & Recreation	\$14,300.00	Community Facilities	\$2,650.00	Transport	\$1,880.00	Plan Administration	\$184.00	Drainage	\$986.00	TOTAL	\$20,000.00
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	<p>Where:</p> <p>Cpayment = is the contribution at time of payment</p> <p>Cconsent = is the contribution at the time of consent, as shown above</p> <p>CPIconsent = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 139.7 for the December quarter 2024.</p> <p>CPIpayment = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment</p> <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) <u>if the development is for subdivision – prior to the issue of the subdivision certificate</u>, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p> <p><u>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</u></p> <p>Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres at council@innerwest.nsw.gov.au or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution.</p>
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29.	<p>Housing and Productivity Contribution</p> <p>a. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition (b), is required to be made</p> <table border="1" style="margin-left: 40px;"> <thead> <tr> <th style="text-align: center;">Housing and productivity contribution</th> <th style="text-align: center;">Amount</th> </tr> </thead> <tbody> <tr> <td>Total housing and productivity contribution</td> <td style="text-align: right;">\$8,498.91</td> </tr> </tbody> </table> <p>b. The amount payable at the time of payment is the amount shown in condition (a) as the total housing and productivity contribution adjusted by multiplying it by:</p> <p style="text-align: center;"><i>Highest PPI number</i></p> <p style="text-align: center;"><i>Consent PPI number</i></p> <p>Where:</p> <p><i>highest PPI number</i> is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and</p> <p><i>consent PPI number</i> is the PPI number last used to adjust HPC rates when consent was granted, and</p> <p><i>June quarter 2023</i> and <i>PPI</i> have the meanings given in clause 22 (4) of the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.</p> <p>c. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:</p> <table border="1" style="margin-left: 40px;"> <thead> <tr> <th style="text-align: center;">Development</th> <th style="text-align: center;">Time by which HPC must be paid</th> </tr> </thead> <tbody> <tr> <td>Development consisting only of residential subdivision within the meaning of the HPC Order</td> <td>Before the issue of the first subdivision certificate</td> </tr> <tr> <td>High-density residential development within the meaning of the HPC Order for which no construction certificate is required</td> <td>Before the issue of the first strata certificate</td> </tr> <tr> <td>Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential</td> <td>Before the issue of the first strata certificate</td> </tr> </tbody> </table>	Housing and productivity contribution	Amount	Total housing and productivity contribution	\$8,498.91	Development	Time by which HPC must be paid	Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate	High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate	Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential	Before the issue of the first strata certificate
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	strata subdivision and a change of use of an existing building		
	<p>Manufactured home estate for which no construction certificate is required</p> <p>In the Table, <i>HPC Order</i> means the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>d. The HPC must be paid using the NSW planning portal (http://pp.planningportal.nsw.gov.au/).</p> <p>e. If the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:</p> <ul style="list-style-type: none"> a. the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out, b. the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out. <p>If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition (b.) at the time of payment.</p> <p>f. Despite condition (a.), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the <i>Environmental Planning and Assessment Act 1979</i> to the development, or the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.</p> <p>Reason: To ensure payment of the required development contribution.</p>	Before the installation of the first manufactured home	

BEFORE BUILDING WORK COMMENCES

Condition	
30.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
31.	<p>Tree Protection</p> <p>No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent. Prescribed trees protected by Council's Tree Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent. Any public tree within 5 metres of the development must be protected in accordance with AS4970—<i>Protection of trees on development sites</i> and Council's Development Fact Sheet—<i>Trees on Development Sites</i>. No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.</p> <p>Reason: To ensure that trees to be retained are protected.</p>
32.	<p>Project Arborist</p> <p>Prior to the commencement of any demolition or construction works within close proximity to protected trees a Project Arborist (a person holding a minimum Australian Qualification Framework (AQF) Level 5, Diploma of Arboriculture), must be engaged for the duration of the site preparation, demolition, construction and landscaping to supervise works. Details of the Project Arborist must be submitted to the Certifying Authority before work commences.</p> <p>Reason: To protect and retain trees.</p>
33.	<p>Waste Management Plan</p> <p>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.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>

<p>34.</p>	<p>Erosion and Sediment Control</p> <p>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.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
<p>35.</p>	<p>Standard Street Tree Protection</p> <p>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.</p> <p>Reason: To protect and retain trees.</p>
<p>36.</p>	<p>Verification of Levels and Location</p> <p>Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
<p>37.</p>	<p>Dilapidation Report</p> <p>Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified property (18 Ellen Street) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
<p>38.</p>	<p>Construction Fencing</p> <p>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.</p> <p>Reason: To protect the built environment from construction works.</p>

DURING BUILDING WORK

	Condition
<p>39.</p>	<p>Tree Protection</p> <p>No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent. Prescribed trees protected by Council's Tree Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent. Any public tree within 5 metres of the development must be protected in accordance with AS4970—<i>Protection of trees on development sites</i> and Council's Development Fact Sheet—<i>Trees on Development Sites</i>. No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.</p> <p>Reason: To ensure that trees to be retained are protected.</p>
<p>40.</p>	<p>Inspections by Project Arborist</p> <p>The Project Arborist must oversee various stages of work within the root zones of Trees 1 and 2 listed for removal. The Arborist must certify compliance with each key milestone detailed below:</p> <ul style="list-style-type: none"> a. The removal of all roots and soil that as required to remove the Phytophthora effected area; b. Apply soil treatment to manage the Phytophthora as required prior to new landscaping; <p>An Arboricultural Compliance Report which includes photographic evidence and provides details on the health and structure of tree/s must be submitted to and acknowledged by certifying authority at each hold-point listed below:</p> <ul style="list-style-type: none"> a. Certification that the soil fungal spread mitigation measures have been undertaken in accordance with all relevant consent conditions; b. Certification of compliance with each key milestone listed above within 48 hours of completion; c. A final compliance report must be submitted to and approved by certifying authority prior to the issue of any Occupation Certificate. <p>Reason: To protect and retain trees</p>

41.	<p>Works to Trees</p> <p>Approval is given for the following trees to be removed, after the issue of a Construction Certificate:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Tree No.</th> <th style="width: 60%;">Botanical/Common Name</th> <th style="width: 25%;">Location</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td><i>Callistemon viminalis</i> (Weeping Bottlebrush)</td> <td>Rear</td> </tr> <tr> <td style="text-align: center;">2</td> <td><i>Araucaria heterophylla</i> (Norfolk Island Pine)</td> <td>Side</td> </tr> <tr> <td style="text-align: center;">-</td> <td>2 x <i>Jacaranda mimosifolia</i> (Jacaranda), <i>Magnolia grandiflora</i> 'Little Gem' (Little Gem Magnolia)</td> <td>Side</td> </tr> </tbody> </table> <p>All tree works shall be undertaken by an arborist with minimum Australian Qualification Framework (AQF) Level 3, Certificate of Arboriculture, as defined by the Australian Qualification Framework and in compliance with Australian Standard AS 4373—<i>Pruning of amenity trees</i> and Safe Work Australia's Guide to Managing Risks of Tree Trimming and Removal Work.</p> <p>The trees to be removed must be included on all Construction Certificate plans shown in red.</p> <p>NOTE: Reference should be made to the Arboricultural Impact Assessment Report prepared by Advanced Arborist Reporting dated 23 September 2024 for numbering and locations.</p> <p>Reason: To identify trees permitted to be removed.</p>	Tree No.	Botanical/Common Name	Location	1	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	Rear	2	<i>Araucaria heterophylla</i> (Norfolk Island Pine)	Side	-	2 x <i>Jacaranda mimosifolia</i> (Jacaranda), <i>Magnolia grandiflora</i> 'Little Gem' (Little Gem Magnolia)	Side
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42.	<p>Ausgrid Overhead Powerlines are in the vicinity of the development</p> <p>The developer should refer to SafeWork NSW Document - Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected to be entering and leaving the site.</p> <p>The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au. It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost. Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/your-safety/Working-Safe/Clearance-enquiries</p>												

	<p>For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: https://www.ausgrid.com.au/Connections/Get-connected</p> <p>Reason: To ensure safe separation from utilities & Infrastructure assets</p>
43.	<p>Advising Neighbours Prior to Excavation</p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>
44.	<p>Construction Hours – Class 1 and 10</p> <p>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.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
45.	<p>Survey Prior to Footings</p> <p>Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
46.	<p>Dust Control Measures</p> <p>All practicable measures must be taken to prevent, control and minimise the impact of dust and other debris from the site to neighbours, during demolition, excavation and construction works.</p> <p>Reason: To ensure dust emissions from the development are controlled in accordance with the Protection of the Environment Operations Act 1997 and NSW EPA requirements.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
47.	<p>No Encroachments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>

<p>48.</p>	<p>Works as Executed – Site Stormwater Drainage System</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:</p> <p>The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and</p> <p>Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.</p> <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>
<p>49.</p>	<p>Operation and Management Plan</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:</p> <ul style="list-style-type: none"> a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc. <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>
<p>50.</p>	<p>Notice to Council to deliver Residential Bins</p> <p>Council is to be notified of bin requirements three weeks prior to the occupation of the building to ensure timely delivery.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
<p>51.</p>	<p>Certification of Tree Planting</p> <p>Prior to the issue of any Occupation Certificate a Final Landscape Inspection must be carried out and a certificate issued by Council's Tree Assessment Officer. This certificate is required to ensure that all tree protection measures, landscaping works, replacement tree planting and the deep soil percentage requirements have been carried out in accordance with the conditions of this consent. To arrange a Final Landscape Inspection please phone 9392-5000 a minimum of 48 hours prior to the</p>

	<p>required inspection date. An inspection fee will be charged in accordance with the current schedule of rates listed on Council's website. Any secondary inspections will incur a reinspection fee.</p> <p>A minimum of 2 x 100 litre size trees, which will attain a minimum mature height of 7 metres and a minimum mature canopy spread of 5 metres have been planted in suitable locations within the property (at least 1.5 metres from any boundary and 1.5 metres from any structure) and allowing for future tree growth. The tree must meet the requirements of AS2303—<i>Tree stock for landscape use</i>. Trees listed as exempt species from Council's Tree Management Development Control Plan and species recognised to have a short life span, will not be accepted as suitable.</p> <p>Trees required by this condition must be maintained and protected until they are protected by Council's Tree Management DCP. Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month with all costs to be borne by the owner.</p> <p>Note - The Landscape Plan prepared by Ecodesign (Rev B) dated 14/10/24 may require amendment to facilitate the required tree locations.</p> <p>Reason: To ensure appropriate landscaping is undertaken.</p>
<p>52.</p>	<p>Project Arborist Certification</p> <p>Prior to the issue of an Occupation Certificate, the Certifying Authority is to be provided with certification from the Project Arborist that the requirements of the conditions of consent related to the landscape plan/approved tree planting plan and the role of the project arborist have been complied with.</p> <p>Reason: To ensure the protection and ongoing health of trees to be retained.</p>
<p>53.</p>	<p>Public Domain Works</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the Roads Act 1993 including:</p> <ul style="list-style-type: none"> a. The existing concrete footpath across the frontage of the site must be reconstructed; and b. Other works subject to the Roads Act 1993 approval. <p>All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>

54.	<p>Dilapidation Report</p> <p>Prior to the issue of an Occupation Certificate, the Certifying Authority and owners of identified properties must be provided with a second colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified property (18 Ellen Street) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To determine potential construction impacts.</p>
------------	--

OCCUPATION AND ONGOING USE

Condition	
55.	<p>Operation and Management Plan</p> <p>The Operation and Management Plan for the on-site detention and/or on-site retention/re-use approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.</p> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

Condition	
56.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>

SUBDIVISION WORK

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

	Condition
57.	<p>Separate Drainage Systems</p> <p>Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with a plan detailing that separate drainage systems must be provided to drain each proposed lot.</p> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
58.	<p>Subdivision Plan Amendment</p> <p>Prior to the issue of a Subdivision Certificate, the Principal Certifier must verify that:</p> <ul style="list-style-type: none"> a. A common drainage easement in favour of the parcels of land to be drained must be created over the full length of all existing and proposed inter-allotment drainage systems within the site of the proposed development; and b. Proof of registration of the easement and a written statement signed by the Registered Surveyor that the as-built pipeline is totally within the proposed easement. <p>Reason: To ensure easements are registered.</p>
59.	<p>Civil Engineer Verification</p> <p>Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with written verification from a suitably experienced Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) 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.</p> <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>
60.	<p>Section 73 Certificate</p> <p>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.</p> <p>Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>
61.	<p>Release of Subdivision Certificate</p> <p>Prior to the release of a Subdivision Certificate, the Certifying Authority must be provided with a copy of the Final Occupation Certificate.</p> <p>Reason: To ensure development is completed before the subdivision certificate is released.</p>

Attachment B – Plans of proposed development


22 ELLEN STREET, ROZELLE NSW 2039

DEVELOPMENT APPLICATION FOR 2 x NEW TWO STOREY SEMI-DETACHED DWELLINGS

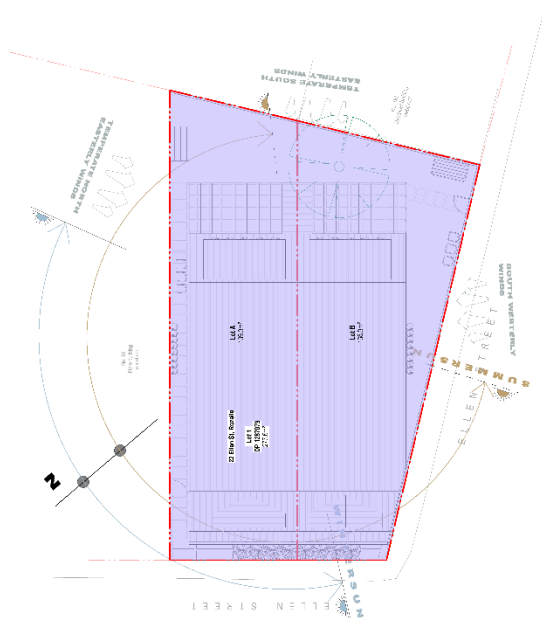
Client: Mr. John Murray
 Date: August 2024
 Council: Inner West Council
 Lot & DP: 1/-DP1287079
 Zoning: R2 General Residential
 Site Area: 600.2m²

Drawing Schedule

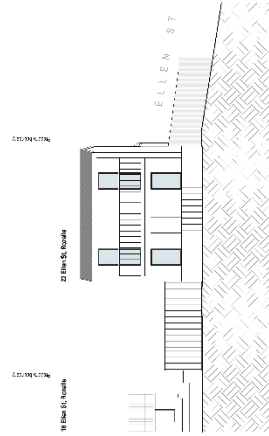
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01A-02	Coverage	C	21.01.24
01A-03	General Notes	C	21.01.24
01A-04	Site Plan	C	21.01.24
01A-05	Plan View	C	21.01.24
01A-06	Elevation North	C	21.01.24
01A-07	Elevation South	C	21.01.24
01A-08	Elevation East	C	21.01.24
01A-09	Elevation West	C	21.01.24
01A-10	Site Plan	C	21.01.24



habitat housing



1 Site Analysis
1 : 50



2 Existing Streetscape Elevation
1 : 50

Notes:

- 1. All dimensions are in metres unless otherwise stated.
- 2. All setbacks are measured from the boundary line unless otherwise stated.
- 3. All easements are shown in red.
- 4. All easements are shown in red.
- 5. All easements are shown in red.
- 6. All easements are shown in red.
- 7. All easements are shown in red.
- 8. All easements are shown in red.
- 9. All easements are shown in red.
- 10. All easements are shown in red.

SYMBOL	DESCRIPTION
[Red line]	Easement
[Green line]	Setback
[Blue line]	Boundary
[Yellow area]	Proposed Development
[Green area]	Existing Vegetation
[Blue area]	Water
[Red area]	Other

FILE NAME: DEVELOPMENT APPLICATION FOR APPROVAL

DATE: 11/01/2023

PROJECT: Rozelle Semi-Detached Dwellings

CLIENT: Rozelle Pty Ltd

DESIGNER: habitat housing

SCALE: 1:50

DATE: 11/01/2023

PROJECT: Rozelle Semi-Detached Dwellings

CLIENT: Rozelle Pty Ltd

DESIGNER: habitat housing

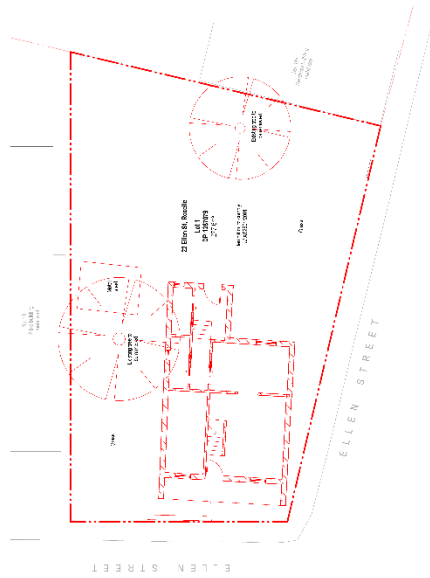
habitat housing

11/01/2023 11:00 AM

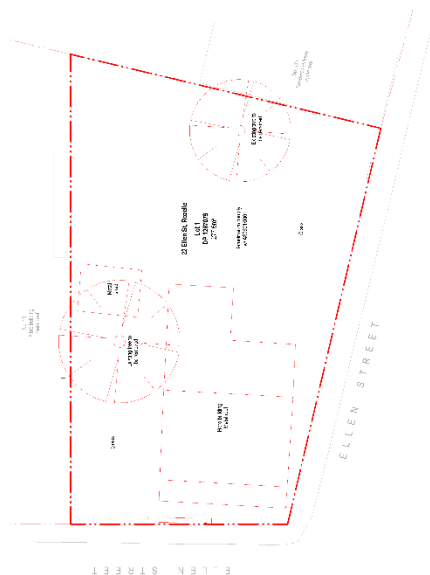
Project: Rozelle Semi-Detached Dwellings

Client: Rozelle Pty Ltd

Designer: habitat housing



1 Demolition - Roof Plan
 1:100



2 Demolition - Floor Plan
 1:100

Legend:

- Proposed Demolition
- Existing Structure
- Site Boundary
- Proposed Structure
- Proposed Retention
- Proposed Deletion
- Proposed New Structure
- Proposed New Retention
- Proposed New Deletion
- Proposed New Structure (Hatched)
- Proposed New Retention (Hatched)
- Proposed New Deletion (Hatched)

Notes:

- 1. All demolition works shall be carried out in accordance with the relevant AS/NZS standards and the NSW Planning Act 2009.
- 2. All demolition works shall be carried out in accordance with the relevant AS/NZS standards and the NSW Planning Act 2009.
- 3. All demolition works shall be carried out in accordance with the relevant AS/NZS standards and the NSW Planning Act 2009.
- 4. All demolition works shall be carried out in accordance with the relevant AS/NZS standards and the NSW Planning Act 2009.
- 5. All demolition works shall be carried out in accordance with the relevant AS/NZS standards and the NSW Planning Act 2009.
- 6. All demolition works shall be carried out in accordance with the relevant AS/NZS standards and the NSW Planning Act 2009.
- 7. All demolition works shall be carried out in accordance with the relevant AS/NZS standards and the NSW Planning Act 2009.
- 8. All demolition works shall be carried out in accordance with the relevant AS/NZS standards and the NSW Planning Act 2009.

Approved by: **habitatousing**
 14/02/2018

Scale:

1:100

North Arrow

DATE: 14/02/2018

DRAWN BY: [Name]

CHECKED BY: [Name]

PROJECT: [Name]

SHEET: [Name]

OF: [Name]

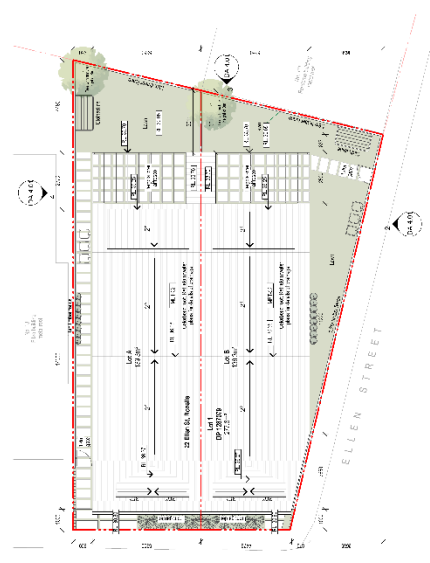
DEVELOPMENT APPLICATION
 FOR APPROVAL

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 Address: [Name]
 Applicant: [Name]

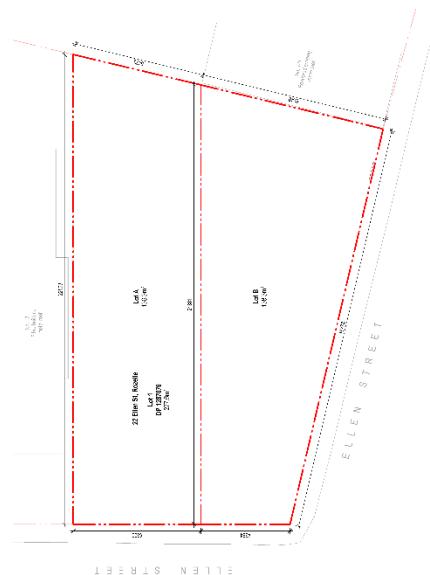
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 TIME: [Time]
 LOCATION: [Location]
 SCALE: [Scale]

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3.0	3.0	12/12/2019	WJ	WJ
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5.0	5.0	12/12/2019	WJ	WJ
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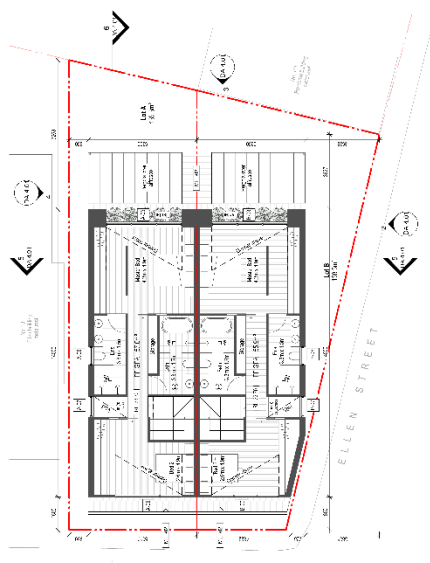
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 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
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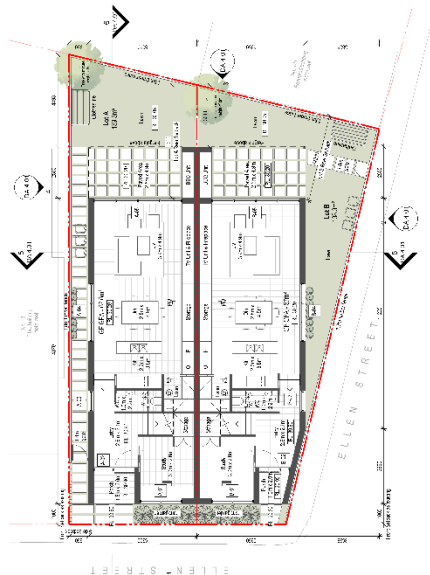
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1:100



1. Subdivision Plan
1:100



4. First Floor
1:100



3. Ground Floor
1:100

NOTES:
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 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

NOTES:
 1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

DRAWN BY: **LOVELLY**
 CHECKED BY: **LOVELLY**
 DATE: **12/12/2019**
 PROJECT: **Rozele Semi-Detached Dwellings**
 SHEET: **Floor Plans C**
habitathousing
 www.habitathousing.com.au 083 358 3539 481 077291504

SCALE: **1:100**
 TOTAL: **1:100**
 DATE: **12/12/2019**
 PROJECT: **Rozele Semi-Detached Dwellings**
 SHEET: **Floor Plans C**
 DRAWN BY: **LOVELLY**
 CHECKED BY: **LOVELLY**
 DATE: **12/12/2019**

SCALE: **1:100**
 TOTAL: **1:100**
 DATE: **12/12/2019**
 PROJECT: **Rozele Semi-Detached Dwellings**
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 CHECKED BY: **LOVELLY**
 DATE: **12/12/2019**

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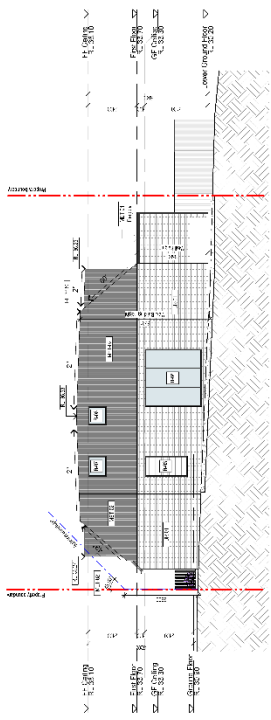
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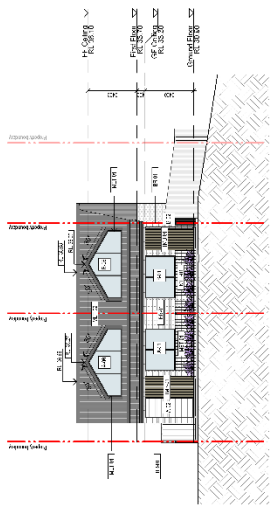
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 SHEET: **Floor Plans C**
 DRAWN BY: **LOVELLY**
 CHECKED BY: **LOVELLY**
 DATE: **12/12/2019**

VIEW NO.	VIEW NAME	SCALE	DATE	BY
1	North West Elevation	1:100	12/12/2023	ML
2	South West Elevation	1:100	12/12/2023	ML
3	North East Elevation	1:100	12/12/2023	ML
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6	Section B	1:100	12/12/2023	ML

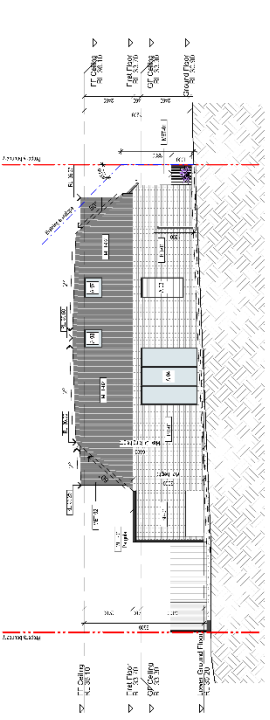
NOTES:
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 2. All elevations are to finished ground level unless otherwise stated.



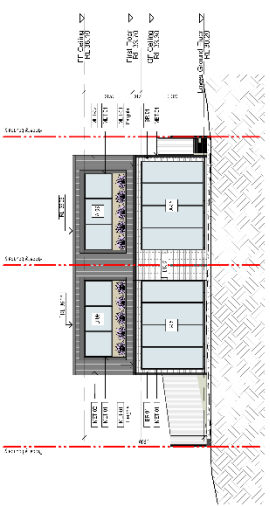
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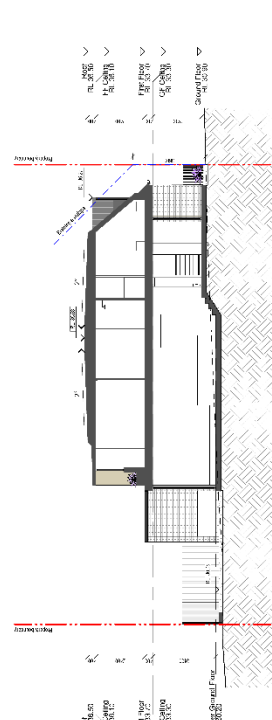
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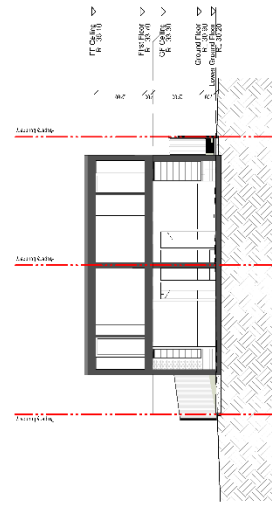
4. North East Elevation
1:100



3. South East Elevation
1:100



6. Section B
1:100



5. Section A
1:100

REVISIONS:
 1. Initial design and elevation drawings.
 2. Revisions to elevations based on client feedback.
 3. Final design and elevation drawings.
 4. Revisions to elevations based on council feedback.
 5. Final design and elevation drawings for council submission.

NOTES:
 1. All dimensions are in millimetres unless otherwise stated.
 2. All elevations are to finished ground level unless otherwise stated.
 3. All materials are to be as specified in the schedule of materials.
 4. All work is to be in accordance with the relevant Australian Standards.

PROJECT NAME
 Rozelle Semi-Detached Dwellings
 27-29 R. Rozelle NSW 2059
 DATE
 12/12/2023
 DRAWN BY
 ML

SCALE
 1:100

DATE
 12/12/2023

PROJECT
 Rozelle Semi-Detached Dwellings
 27-29 R. Rozelle NSW 2059
 DATE
 12/12/2023
 DRAWN BY
 ML

habitat housing
 ARCHITECTS & DESIGNERS
 10/100 RIVERVIEW AVENUE, ROZELLE NSW 2059
 PH: 02 9550 1234
 WWW.HABITATHOUSING.COM.AU

FILE NAME
 DEVELOPMENT APPLICATION
 PRELIMINARY

DATE
 12/12/2023

SCALE
 1:100

DATE
 12/12/2023

LEGEND

Materials:
 - Brickwork
 - Concrete
 - Gypsum Board
 - Insulation
 - Timber Decking
 - Glass
 - Metal Roofing
 - Render
 - Stone Cladding
 - Terrazzo
 - Tiles
 - Veneer
 - Wallpaper

Levels:
 - Finished Ground Level
 - Finished Floor Level
 - Ceiling Level
 - Roof Level

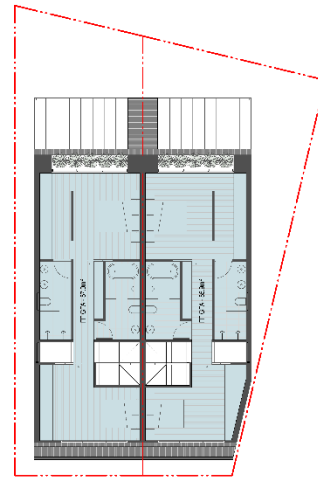
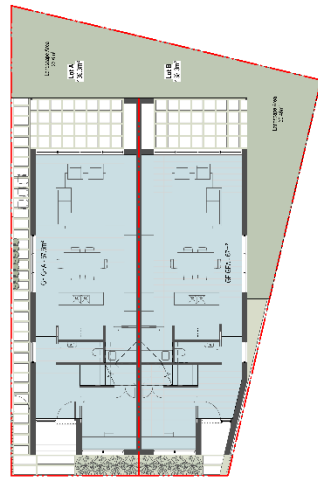
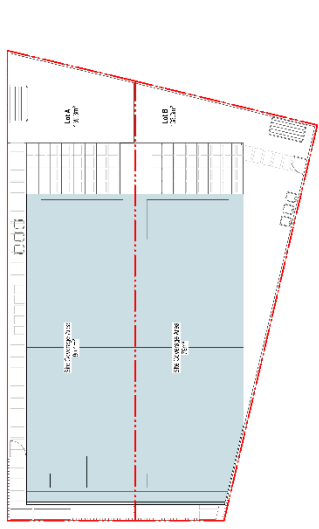
Other:
 - Section Line
 - Section Cut
 - Section Through
 - Section Through (1:100)

Site Data

Inner West Council
 I1/DP128/079
 R1 General Residential
 Site Area
 277.6m²

Compliance Table

	Proposed	Allowable	Proposed	Allowable
LOT A				
Site Area	139.3m ²	200m ²	138.3m ²	200m ²
FSR	0.89:1	0.9:1	0.88:1	0.9:1
GFA	124.6m ²	124.4m ²	122.9m ²	124.4m ²
Max Building Height	6.7m	N/A	6.8m	N/A
Max Wall Height	2.9m	3.6m	3.05m	3.6m
Front Setback	1m	As existing	1m	As existing
Rear Setback	5.5m	4.5m	4.2m	N/A
Side Setback (Northern)	0.95m	0.9m	Party Wall	N/A
Side Setback (Southern)	Party Wall	N/A	0.15m - 2.8m	0.9m
Private Open Space	>16m ²	16m ²	>16m ²	16m ²
Landscaped Area	23.6m ² (16%)	Min. 20.9m ² (15%)	39.46m ² (28.5%)	Min. 20.7m ² (15%)
Site Coverage Area	80.1m ² (57%)	Max. 83.8m ² (60%)	79m ² (57%)	Max. 82.9m ² (60%)
LOT B				
Site Area	138.3m ²	200m ²	138.3m ²	200m ²
FSR	0.88:1	0.9:1	0.88:1	0.9:1
GFA	122.9m ²	124.4m ²	122.9m ²	124.4m ²
Max Building Height	6.8m	N/A	6.8m	N/A
Max Wall Height	3.05m	3.6m	3.05m	3.6m
Front Setback	1m	As existing	1m	As existing
Rear Setback	4.2m	N/A	4.2m	N/A
Side Setback (Northern)	Party Wall	N/A	Party Wall	N/A
Side Setback (Southern)	0.15m - 2.8m	0.9m	0.15m - 2.8m	0.9m
Private Open Space	>16m ²	16m ²	>16m ²	16m ²
Landscaped Area	39.46m ² (28.5%)	Min. 20.9m ² (15%)	39.46m ² (28.5%)	Min. 20.7m ² (15%)
Site Coverage Area	79m ² (57%)	Max. 83.8m ² (60%)	79m ² (57%)	Max. 82.9m ² (60%)



DEVELOPMENT APPLICATION FOR APPROVAL

Project Name: Rozelle Semi-Detached Dwellings
 Applicant: SPT Pty Ltd, Rozelle NSW 1520
 Date: 12/01/2020
 Pre-App: P19

SCALE
 1:100

LEGEND

- Site Boundary
- Proposed Building Footprint
- Proposed Building Height
- Proposed Building Volume
- Proposed Building Area
- Proposed Building Coverage
- Proposed Building Setback
- Proposed Building Height
- Proposed Building Volume
- Proposed Building Area
- Proposed Building Coverage
- Proposed Building Setback

NOTES

- Refer to the Development Application for further details.
- Refer to the Site Coverage plan for further details.
- Refer to the Ground Floor - GFA plan for further details.
- Refer to the First Floor - GFA plan for further details.

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 48/1, 1/27/2019

C G I - S T R E E T S C A P E P E R S P E C T I V E



F I N I S H E S

	Material: Metropolis Code: 2017 Application: Central walls		Material: Composite Timber Final American Oak Code: Timber Application: Floor, eaves, roof		Material: Birch, maple, oiled, fir, pine Code: TBC 11 Application: Kitchen, living, hall, stairs & porch		Material: UPVC, asphalt roof Code: N2102 Application: Roof, flat, boarding
--	---	--	--	--	---	--	---

Notes:

- 1. All finishes are to be applied in accordance with the manufacturer's instructions.
- 2. All finishes are to be applied in accordance with the manufacturer's instructions.
- 3. All finishes are to be applied in accordance with the manufacturer's instructions.
- 4. All finishes are to be applied in accordance with the manufacturer's instructions.
- 5. All finishes are to be applied in accordance with the manufacturer's instructions.

DATE: 10/10/2023
DRAWN: [Name]
CHECKED: [Name]
PROJECT: [Name]

Legend:

- Green: Green
- Blue: Blue
- Yellow: Yellow
- Orange: Orange
- Red: Red
- Grey: Grey
- White: White
- Black: Black

Final Scale:
DEVELOPMENT APPLICATION
FOR APPROVAL

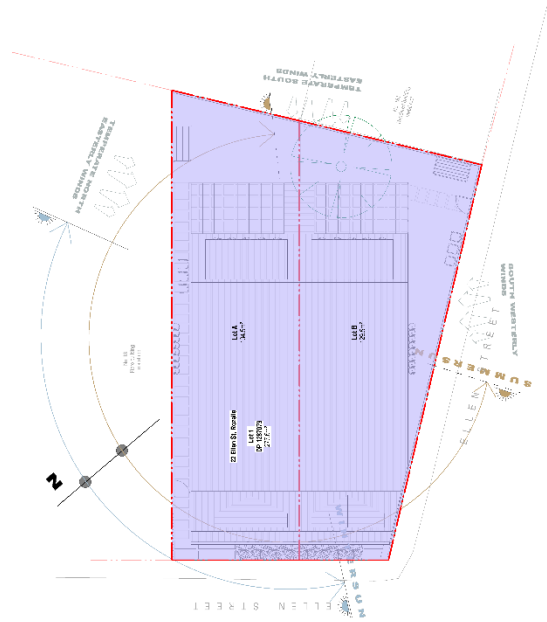
TABLE 10: Rationale
Rationale Semi-Detached Dwellings
2018 Final R. Review: 02/2020
DATE: 10/10/2023
BY: [Name]

SYMBOLS:

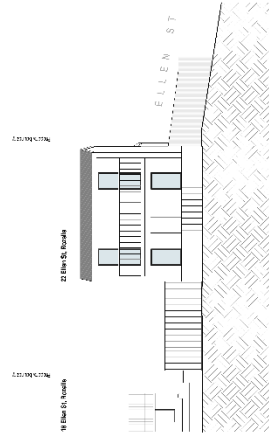
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- Scale: 1:100
- Orientation: 0° 90° 180° 270°

SYMBOLS:
DATE: 10/10/2023
DRAWN: [Name]
CHECKED: [Name]
PROJECT: [Name]

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1 Site Analysis
1 : 50



2 Existing Streetscape Elevation
1 : 50

NOTES:

- 1. All dimensions are to the face of the wall unless otherwise stated.
- 2. All elevations are to the finished floor level unless otherwise stated.
- 3. All levels are to the finished floor level unless otherwise stated.
- 4. All levels are to the finished floor level unless otherwise stated.
- 5. All levels are to the finished floor level unless otherwise stated.
- 6. All levels are to the finished floor level unless otherwise stated.
- 7. All levels are to the finished floor level unless otherwise stated.
- 8. All levels are to the finished floor level unless otherwise stated.
- 9. All levels are to the finished floor level unless otherwise stated.
- 10. All levels are to the finished floor level unless otherwise stated.

LEGEND:

- Proposed Development
- Existing Buildings
- Proposed Planting
- Existing Trees
- Proposed Fencing
- Proposed Driveway
- Proposed Parking
- Proposed Access
- Proposed Boundary
- Proposed Easement
- Proposed Right of Way
- Proposed Road
- Proposed Footpath
- Proposed Cycleway
- Proposed Watercourse
- Proposed Power Line
- Proposed Gas Line
- Proposed Sewer Line
- Proposed Stormwater Line
- Proposed Telephone Line
- Proposed Cable Line
- Proposed Boundary
- Proposed Easement
- Proposed Right of Way
- Proposed Road
- Proposed Footpath
- Proposed Cycleway
- Proposed Watercourse
- Proposed Power Line
- Proposed Gas Line
- Proposed Sewer Line
- Proposed Stormwater Line
- Proposed Telephone Line
- Proposed Cable Line

SCALE:

1 : 50

DATE:

10/10/2023

PROJECT:

Rozelle Semi-Detached Dwellings

CLIENT:

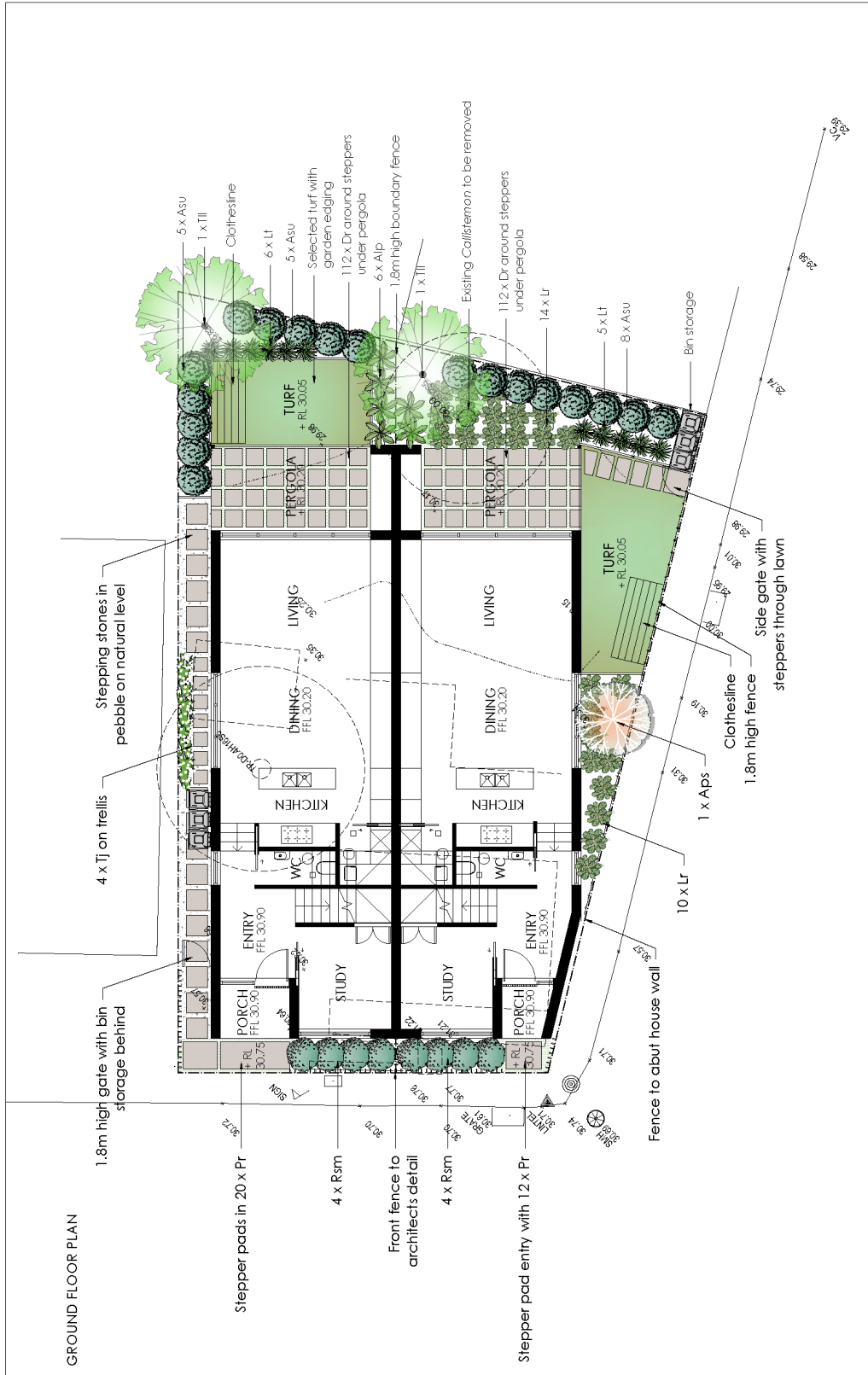
Mr. John P. W.

DESIGNER:

habitat housing

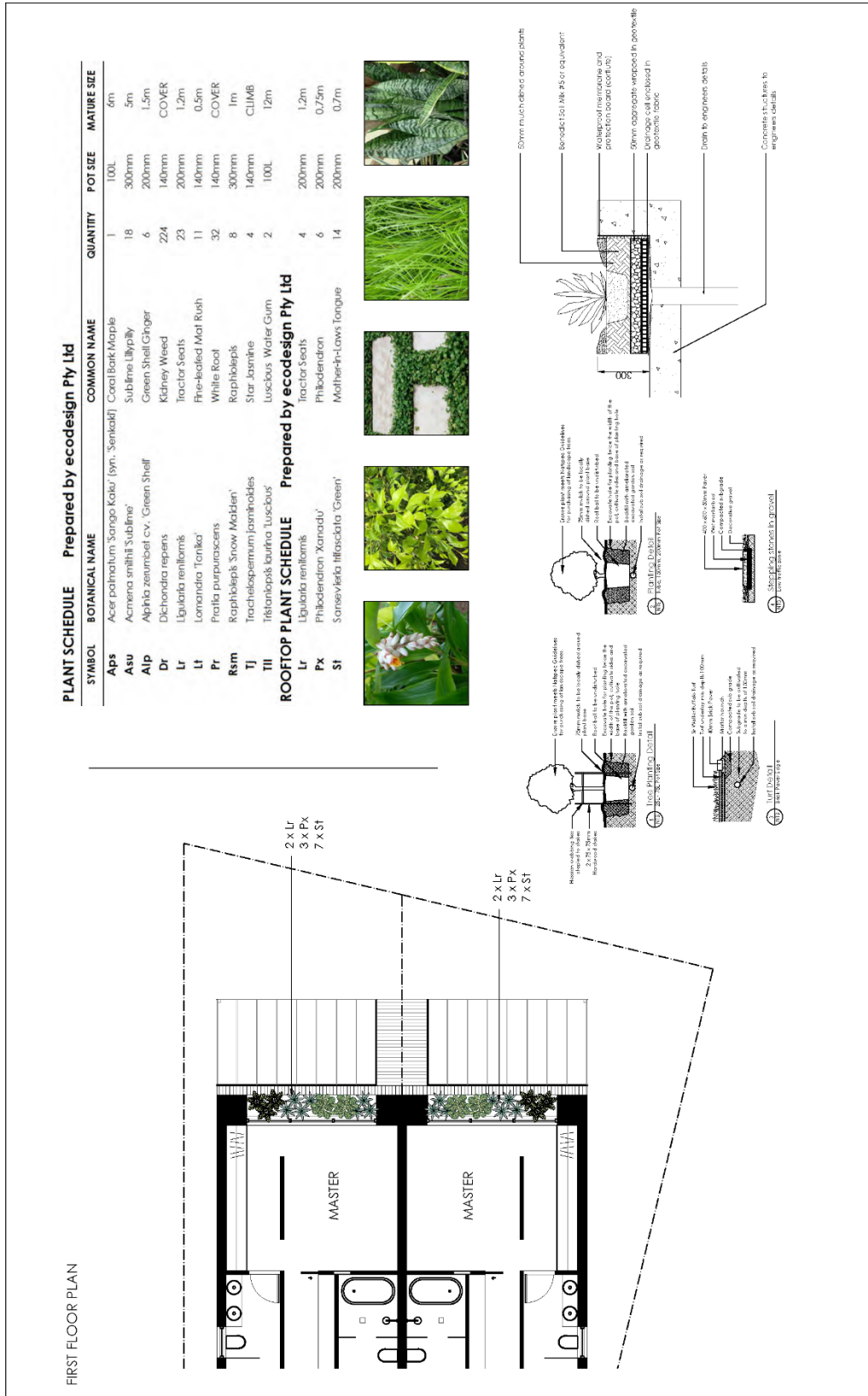
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<p>PROPOSAL REFERENCE</p> <p>A B</p> <p>PROJECT REFERENCE</p> <p>NEW RESIDENCE LANDSCAPE PLAN</p>	<p>DATE</p> <p>14-10-24</p>	<p>SCALE</p> <p>AS</p>	<p>PROJECT</p> <p>22 ELLEN STREET, ROZELLE</p>	<p>CLIENT</p> <p>MR JOHN MURRAY</p>	<p>DATE</p> <p>14-10-24</p>
<p>PROPOSAL DESCRIPTION</p> <p>LANDSCAPE PLAN</p>	<p>DATE</p> <p>14-10-24</p>	<p>SCALE</p> <p>AS</p>	<p>PROJECT</p> <p>22 ELLEN STREET, ROZELLE</p>	<p>CLIENT</p> <p>MR JOHN MURRAY</p>	<p>DATE</p> <p>14-10-24</p>
<p>PROPOSAL REFERENCE</p> <p>A B</p>	<p>DATE</p> <p>14-10-24</p>	<p>SCALE</p> <p>AS</p>	<p>PROJECT</p> <p>22 ELLEN STREET, ROZELLE</p>	<p>CLIENT</p> <p>MR JOHN MURRAY</p>	<p>DATE</p> <p>14-10-24</p>
<p>PROPOSAL DESCRIPTION</p> <p>LANDSCAPE PLAN</p>	<p>DATE</p> <p>14-10-24</p>	<p>SCALE</p> <p>AS</p>	<p>PROJECT</p> <p>22 ELLEN STREET, ROZELLE</p>	<p>CLIENT</p> <p>MR JOHN MURRAY</p>	<p>DATE</p> <p>14-10-24</p>

Document Set ID: 20241002026
Version: 1, Version Date: 20/10/2024



C G I - S T R E E T S C A P E P E R S P E C T I V E



F I N I S H E S

	Material: Metropolis Dover White Code: 2017 Application: Central walls		Material: Composite Timber Final American Oak Code: Timber Application: Floor, eaves, roof		Material: Birch, maple, oiled, fir, pine Code: TFC 51 Application: Kitchen, living, hall, stairs & porch		Material: UPVC, asphalt roof Code: N2102 Application: Roof, flat, boarding
--	---	--	--	--	---	--	---

Notes:

- 1. All finishes are to be applied in accordance with the manufacturer's instructions.
- 2. All finishes are to be applied in accordance with the manufacturer's instructions.
- 3. All finishes are to be applied in accordance with the manufacturer's instructions.
- 4. All finishes are to be applied in accordance with the manufacturer's instructions.
- 5. All finishes are to be applied in accordance with the manufacturer's instructions.

DATE: 10/10/2023
DRAWN: J. SMITH
CHECKED: M. JONES
PROJECT: 22/0101
SCALE: 1:100

	Roof: N2102 Walls: 2017, Timber Floors: TFC 51
--	---

ITEM	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	Roofing	1	m ²	10000	10000
2	Walls	1	m ²	5000	5000
3	Floors	1	m ²	3000	3000
4	Roofing	1	m ²	10000	10000
5	Walls	1	m ²	5000	5000
6	Floors	1	m ²	3000	3000
7	Roofing	1	m ²	10000	10000
8	Walls	1	m ²	5000	5000
9	Floors	1	m ²	3000	3000
10	Roofing	1	m ²	10000	10000
11	Walls	1	m ²	5000	5000
12	Floors	1	m ²	3000	3000
13	Roofing	1	m ²	10000	10000
14	Walls	1	m ²	5000	5000
15	Floors	1	m ²	3000	3000
16	Roofing	1	m ²	10000	10000
17	Walls	1	m ²	5000	5000
18	Floors	1	m ²	3000	3000
19	Roofing	1	m ²	10000	10000
20	Walls	1	m ²	5000	5000
21	Floors	1	m ²	3000	3000
22	Roofing	1	m ²	10000	10000
23	Walls	1	m ²	5000	5000
24	Floors	1	m ²	3000	3000
25	Roofing	1	m ²	10000	10000
26	Walls	1	m ²	5000	5000
27	Floors	1	m ²	3000	3000
28	Roofing	1	m ²	10000	10000
29	Walls	1	m ²	5000	5000
30	Floors	1	m ²	3000	3000
31	Roofing	1	m ²	10000	10000
32	Walls	1	m ²	5000	5000
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34	Roofing	1	m ²	10000	10000
35	Walls	1	m ²	5000	5000
36	Floors	1	m ²	3000	3000
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45	Floors	1	m ²	3000	3000
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49	Roofing	1	m ²	10000	10000
50	Walls	1	m ²	5000	5000
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95	Walls	1	m ²	5000	5000
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97	Roofing	1	m ²	10000	10000
98	Walls	1	m ²	5000	5000
99	Floors	1	m ²	3000	3000
100	Roofing	1	m ²	10000	10000

TABLE 10
Rozelle Semi-Detached Dwellings
Site Plan, 20/01/2023
DATE: 10/10/2023
DRAWN: J. SMITH
CHECKED: M. JONES

TABLE 11
Rozelle Semi-Detached Dwellings
Site Plan, 20/01/2023
DATE: 10/10/2023
DRAWN: J. SMITH
CHECKED: M. JONES

TABLE 12
Rozelle Semi-Detached Dwellings
Site Plan, 20/01/2023
DATE: 10/10/2023
DRAWN: J. SMITH
CHECKED: M. JONES

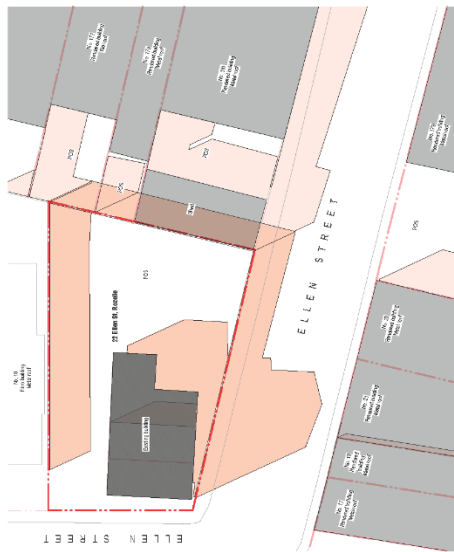
TABLE 13
Rozelle Semi-Detached Dwellings
Site Plan, 20/01/2023
DATE: 10/10/2023
DRAWN: J. SMITH
CHECKED: M. JONES



1. Existing Shadow Diagram - 8am, June 21st



2. Existing Shadow Diagram - 10am, June 21st



3. Existing Shadow Diagram - 11am, June 21st



4. Existing Shadow Diagram - 12pm, June 21st

DEVELOPER
 RAZELLE
 PROJECT
 Existing Shadow Diagram (2 C)

DATE
 20/06/2025

SCALE
 1:100

PROJECT NO.
 2025/0018

DRAWN BY
 J. JONES

CHECKED BY
 M. JONES

habitat
 housing

PROJECT TITLE
Rozelle Semi-Detached Dwellings

PROJECT NO.
 2025/0018

DATE
 20/06/2025

DRAWN BY
 J. JONES

CHECKED BY
 M. JONES

FOR APPROVAL

NO.
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NO. OF COPIES
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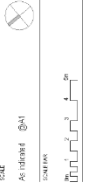
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NO. OF COPIES
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NO. OF COPIES
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LEGEND
 Existing Shadow Diagram
 Existing Shadow Diagram

Document Set ID: 4014565
 Version: 1, Version Date: 13/02/2025



PROJECT TITLE:
DEVELOPMENT APPLICATION
 FOR APPROVAL

PROJECT NO:
 PROJECT NAME:
 PROJECT ADDRESS:
 CLIENT:

NO. OF SHEETS:
 SHEET NO.:

DATE:
 TIME:
 SCALE:

PROJECT TITLE:
DEVELOPMENT APPLICATION
 FOR APPROVAL

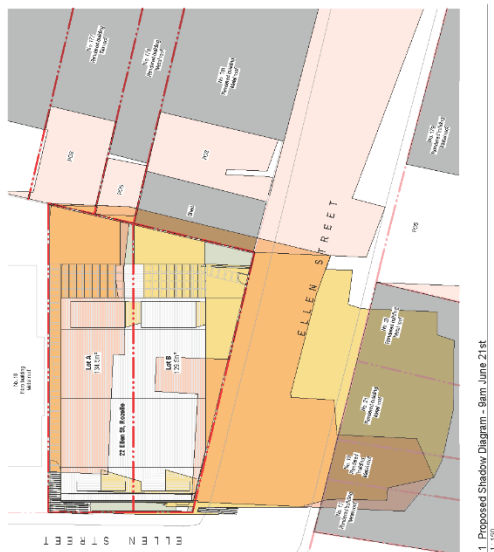
PROJECT NO:
 PROJECT NAME:
 PROJECT ADDRESS:
 CLIENT:

NO. OF SHEETS:
 SHEET NO.:

DATE:
 TIME:
 SCALE:

LEGEND
 EXISTING SHADOWS
 EXISTING TREES

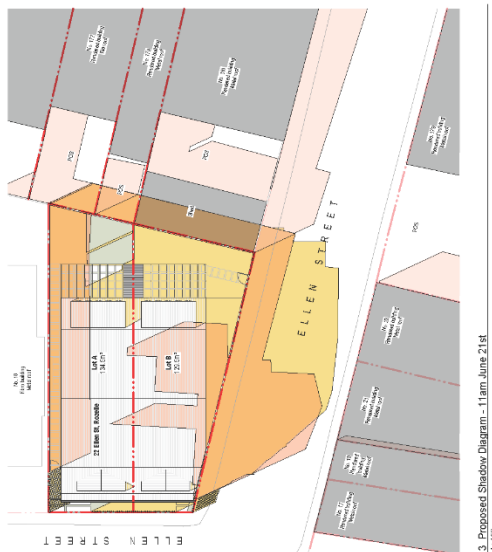
Document Set ID: 40145855
 Version: 1, Version Date: 13/02/2025



1. Proposed Shadow Diagram - 8am June 21st
1:100



2. Proposed Shadow Diagram - 10am June 21st
1:100



3. Proposed Shadow Diagram - 11am June 21st
1:100



4. Proposed Shadow Diagram - 12pm June 21st
1:100

habitat housing

PROJECT TITLE: Proposed Shadow Diagrams 1/2C

CLIENT: Habitat Housing

PROJECT NO: 2021/18-2021/2020

DATE: 2021/06/21

SCALE: 1:100

PROJECT TYPE: DEVELOPMENT APPLICATION

PROJECT NO: 2021/18-2021/2020

FOR APPROVAL: NORTH DART

PROJECT TITLE: Rosette Semi-Detached Dwellings

CLIENT: NORTH DART

DATE: 2021/06/21

SCALE: 1:100

PROJECT TYPE: DEVELOPMENT APPLICATION

PROJECT NO: 2021/18-2021/2020

FOR APPROVAL: NORTH DART

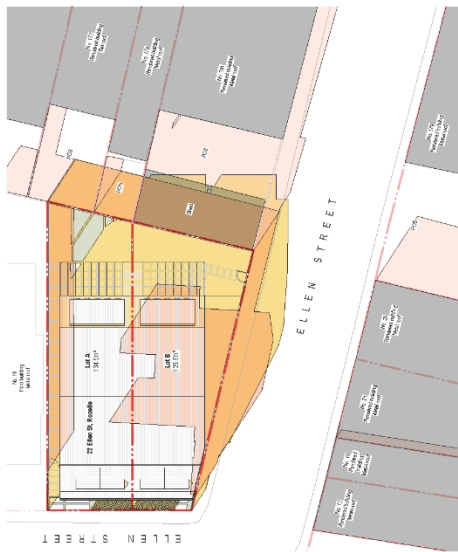
LEGEND:

- Existing Footprint / Walls
- Existing On Site Trees
- Proposed On Site Trees

Document Set ID: 40145855
Version: 1, Version Date: 13/02/2025



2. Proposed Shadow Diagram - 20m June 21st
1 : 100



1. Proposed Shadow Diagram - 1pm June 21st
1 : 100



3. Proposed Shadow Diagram - 3pm June 21st
1 : 100

DATE: 20/06/2025
PROJECT: Proposed Shadow Diagram 20C
habitat housing
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SCALE: AS SHOWN
CONTENTS: [Diagram Symbols]

PROJECT NO: 22/2025
PROJECT: Rozelle Semi-Detached Dwellings
SUBJECT: 22/2025 RL, Rozelle NSW 2020
OWNER: MCHMURPHY

PROJECT TITLE: DEVELOPMENT APPLICATION
FOR APPROVAL

NO: 0
NO. OF COORDINATES: 0
NO. OF COORDINATES: 0
NO. OF COORDINATES: 0

LEGEND:
Hatched: Existing Footprint
Solid: Existing Footprint
Hatched: Proposed Footprint

Document Set ID: 40145855
Version: 1, Version Date: 13/02/2025

Attachment C – Section 4.6 Exception to Development Standards**CLAUSE 4.6 VARIATION TO CLAUSE 4.1 – MINIMUM SUBDIVISION LOT SIZE
OF THE INNER WEST LOCAL ENVIRONMENTAL PLAN 2022****22 ELLEN STREET, ROZELLE****REVISION 2.0
FEBRUARY 2025****1. Introduction**

This submission seeks a variation to Clause 4.1 of the Inner West Local Environmental Plan 2022, which relates to minimum subdivision lot size.

This submission has been prepared in relation to a development application for the demolition of the existing dwelling and associated outbuildings; Torrens Title subdivision of the land into two allotments; and the construction of two semi-detached dwellings at No. 22 Ellen Street, Rozelle.

As detailed in this written request for a variation to minimum subdivision lot size being a development standard under the Inner West Local Environmental Plan 2022, the development meets the requirements prescribed under Clause 4.6 of the Inner West Local Environmental Plan (LEP) 2022.

2. Site Background

The subject site is commonly referred to as No. 22 Ellen Street, Rozelle, and is legally defined as Lot 1 in Deposited Plan 1287079. It is a corner allotment and is located on the south eastern corner of Ellen Street, forming part of an established residential area. To the north and north-east of the site are commercial properties located along Victoria Road.

The subject site is an irregularly shaped allotment with the following dimensions: a primary frontage of 10.67m to Ellen Street; a rear boundary width of 15.24m; a northern side boundary depth of 22.25m; and a southern side boundary depth of 19.355m to Ellen Street. Overall, the site provides an area of 277.6m². The subject site has a minimal slope of less than 1m from the front boundary to the rear boundary of the site.

Currently located on the subject site is a free-standing two-storey fibro dwelling with a metal roof and metal shed with sparse vegetation (Figure 2). The existing dwelling house includes a front verandah entry of the dwelling as well as a balcony on the upper level facing Ellen Street.

The locality is characterised by a mix of commercial, and residential uses, consisting of an assortment of single storey and two storey dwelling houses, semi-detached dwellings, terrace houses, flat residential buildings, and local centres within B2 zoning.

The subject site is located in proximity to areas of public open space with Easton Park located approximately 700m (walking distance) to the south, King Georges Park and Balmain Road Sporting Ground are located further to the northwest. To the southeast is O'Connor Reserve, approximately 150m walking distance, and to the east is Stimson Reserve, approximately 350m walking distance. These spaces are suitable for facilitating a range of both active and passive recreation opportunities for residents within the community.

The site is also located nearby to local schools including Rozelle Public School (750m to the northeast), Balmain Public School (1.9km to the northeast), Inner Sydney Montessori School (1.1km to the northeast), and Father John Therry Catholic Primary School (1.9km to the

northeast). Smaller scale retail and commercial premises are also accessible along nearby Victoria Road and Evans Street with Balmain Hospital located to the northeast of the site.

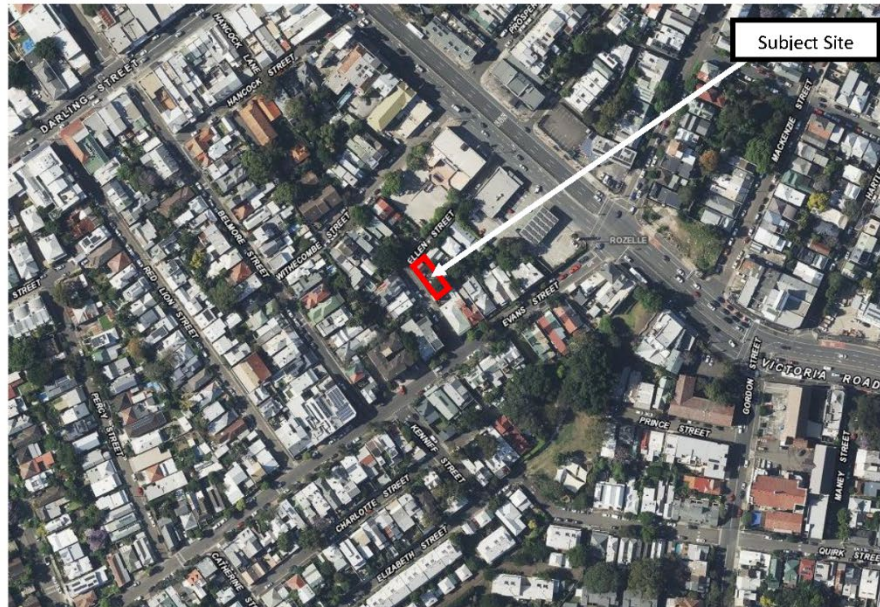


Figure 1: Site Location Map (Source: Mecone Mosaic)

In terms of public transport, bus services are available on nearby Darling Street and Victoria Road. The site is also close to the future Bays West Metro offering connections to a more expansive public transport network and nearby suburbs.

The site is zoned R1 General Residential as demonstrated in Figure 2 below.

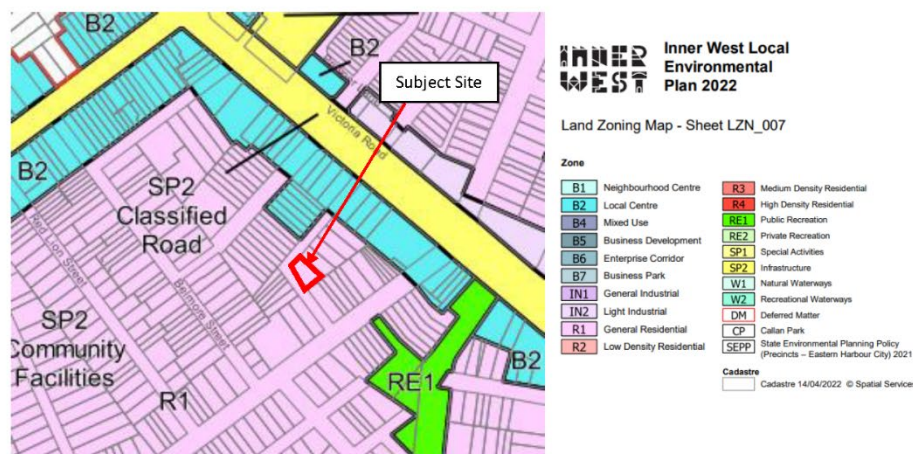


Figure 2: Zoning Map (Source: NSW Legislation IWLEP 2022)

3. Variation Sought: Clause 4.1 Minimum Lot Size

The Environmental Planning Instrument to which this variation relates is the IWLEP22. The development standard to which this variation relates is Clause 4.1 Minimum Lot Size, which reads as follows:

“4.1 Minimum Lot Size

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

- (a) *to ensure lot sizes cater for a variety of development,*
- (b) *to ensure lot sizes do not result in adverse amenity impacts,*
- (c) *to ensure lot sizes deliver high quality architectural, urban and landscape design,*
- (d) *to provide a pattern of subdivision that is consistent with the desired future character, to ensure lot sizes allow development to be sited to protect and enhance riparian and environmentally sensitive land.*

(2) *This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*

(3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

- (a) *by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or,*
- (b) *by any kind of subdivision under the Community Land Development Act 2021.”*

As demonstrated in Figure 3 below, the subject site is prescribed a minimum lot size of 200m².

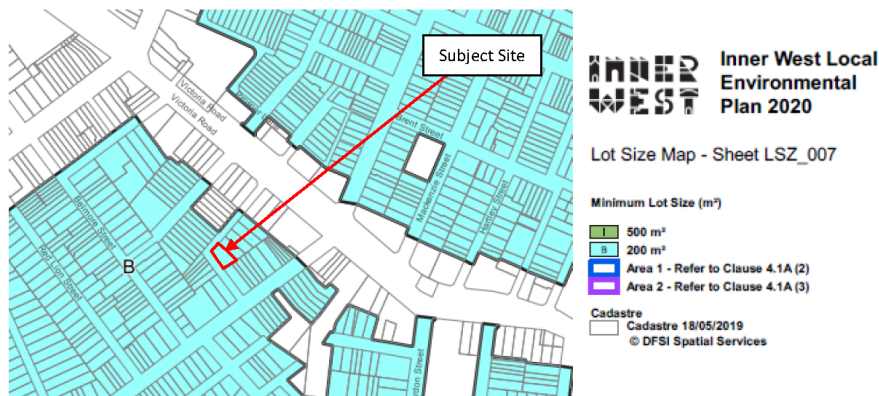


Figure 3: Minimum Lot Size Map (Source: NSW Legislation IWLEP 2022)

4. Extent of Non-Compliance

As noted above, Clause 4.1 of the Inner West LEP 2022 states that the minimum subdivision lot size for the site is 200m².

The subject site has a total area of 277.6m². It is sought to Torrens title subdivide the property to facilitate semi-detached dwellings.

The proposed Torrens title lots will provide for the following areas:

- Lot A: 139.3m²

- Lot B: 138.3m²

Given the minimum lot size of 200m², the proposal seeks a variation to the requirements as summarised below.

- Lot A: 60.7m² or 30.35%
- Lot B: 61.7m² or 30.85%

It is our submission that the variation is in keeping with the subdivision pattern of the area. The breach of the minimum subdivision lot size will not unreasonably impact the capacity of the lots to provide dwellings with appropriate amenity or compromise the amenity of adjoining properties. Compliance with the standard is therefore unreasonable in this instance.

5. Clause 4.6

This submission is made under Clause 4.6 of the Inner West LEP 2022 – Exceptions to development standards. Clause 4.6 states the following:

“4.6 Exceptions to development standards

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

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

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

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Note—

The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(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

C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 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.*
- (7) (Repealed)*
- (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,*
 - (caa) clause 5.5,*
 - (ca) clause 6.27(4),*
 - (cb), (cc) (Repealed)*
 - (cd) clause 6.31.”*

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

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

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

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

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (‘Four2Five No 1)*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (‘Four2Five No 2)*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 (‘Four2Five No 3)*
- *Micaul Holdings Pty v Randwick City Council [2015] NSWLEC 1386;*

- *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7; and*
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.*

The Environmental Planning Instrument to which these variations relate to is the Inner West LEP 2022.

The development standard to which this variation relates to is Clause 4.1 – Minimum Subdivision Lot Size which reads as follows:

- (1) *The objectives of this clause are as follows—*
 - (a) *to ensure lot sizes cater for a variety of development,*
 - (b) *to ensure lot sizes do not result in adverse amenity impacts,*
 - (c) *to ensure lot sizes deliver high quality architectural, urban and landscape design,*
 - (d) *to provide a pattern of subdivision that is consistent with the desired future character,*
 - (e) *to ensure lot sizes allow development to be sited to protect and enhance riparian and environmentally sensitive land.*
- (2) *This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*
- (3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*
- (4) *This clause does not apply in relation to the subdivision of any land—*
 - (a) *by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or*
 - (b) *by any kind of subdivision under the Community Land Development Act 1989.*

Council's maps identify a minimum subdivision lot size on the site of 200m². Refer to Figure 3.

Under the proposed Torrens title subdivision, the proposed lot sizes are as follows:

- Proposed Lot A: 139.3m²
- Proposed Lot B: 138.3m²

A written justification is required for the proposed variation to the minimum subdivision lot size development standard, in accordance with Clause 4.6 of the Inner West LEP 2022.

6. Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

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

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

“...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the

analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1.”

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

First	<i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable. (applicable)</i>
Second	<i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. (not applicable)</i>
Third	<i>A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable. (not applicable)</i>
Fourth	<i>A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. (not applicable)</i>
Fifth	<i>A fifth way is to establish that “the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary. (not applicable)</i>

In respect of the minimum subdivision lot size standard, the first method is invoked.

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

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

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

(a) to ensure lot sizes cater for a variety of development,

The proposed semi-detached dwellings are a permissible form of development in the zone and are consistent with the residential character of the locality. As a broadly applicable standard across the locality, the proposed residential use of the land fulfills the intended purpose and function to provide a variety of developments.

(b) to ensure lot sizes do not result in adverse amenity impacts,

The proposed semi-detached dwellings and the associated Torrens title subdivision are a type of development that is consistent with the character of the immediate area. The dwellings will be of a scale and form that is consistent with the built form and character of the street, noting that

development is of single and two storey scale. The design of the dwellings has presented the first floor within an attic-style level, orientating larger windows to the front and rear of the site which minimises the potential for privacy impacts to adjoining properties.

Although the development will result in overshadowing, the shadows will fall on the site itself, rather than impacting on living rooms or private open space of adjoining properties. The overshadowing is a result of the orientation of the site.

The amenity of adjoining and adjacent properties will not be compromised by the proposed development.

(c) to ensure lot sizes deliver high quality architectural, urban and landscape design,

The proposed semi-detached dwellings have been architecturally designed to be compatible with the prevailing architectural character of development in the Easton Park Distinctive Neighbourhood. A simplicity in detailing is adopted, transposing key elements such as the former windows above the ground floor level, while maintaining a contemporary design approach.

A front garden is proposed that is consistent with the streetscape. The rear yard, though not visible from the street, generally aligns with the pattern of the rear yards along the south-eastern side of Ellen Street. The development provides both dwellings with suitable privacy open space and landscape areas.

The variation to the minimum subdivision lot size development standard has not precluded a positive development outcome on the site.

(d) to provide a pattern of subdivision that is consistent with the desired future character,

The proposed lot sizes of 139.3m² and 138.3m² are considered to be consistent with the desired future character, which is informed by the existing pattern of development. The proposed lot widths of 6.3m and 4.394m are also considered to be consistent with the future character, which is informed by the existing pattern of development.

Figure 4 below shows the cadastral pattern of Ellen Street, with the site identified by the red star. The properties identified by the blue stars are under 200m² and have a boundary presenting to Ellen Street.



Figure 4: Cadastral Pattern of Ellen Street (Source: Six Maps)

The properties at 12, 14 and 16 Withecombe Street (marked by the green star) also have a lot size below 200m² and a lot width of approximately 5 metres, although these properties do not have a boundary directly presenting to Ellen Street.

The table below details the existing lot sizes and frontages in the immediate vicinity of the subject site.

Street Number	Approx. Lot Size (m ²)	Lot Width (m)
15 Ellen Street	113	5
17 Ellen Street	88	4
19 Ellen Street	102	3
21 Ellen Street	138	7
23 Ellen Street	167	6
14 Ellen Street	260	9
16 Ellen Street	227	9
18 Ellen Street	202	10
2 Withecombe Street	173	5
4 Withecombe Street	175	5
6 Withecombe Street	176	5
8 Withecombe Street	176	5
10 Withecombe Street	173	5
AVERAGE (for lots below 200m²)	148.1m ²	5m

Nos. 21-23 Ellen Street are examples of recent approvals by Inner West Council for Torren Title Subdivision which falls short of the 200m² minimum lot size. These properties have a width of between 6 and 7 metres each.

As detailed above, the properties to the east of the site at 14, 16 and 18 Ellen Street are the largest lots, being over 200m² in size. The remainder of the properties within Ellen Street, including those at 2 to 10 Withecombe Street which have their rear boundary facing the subject site, are below 200m². Therefore, the prevailing character within Ellen Street is one where the lot sizes are well below 200m².

The average of the allotments noted in the table above is 148.1m². The proposed 139.3m² and 138.3m² allotments are consistent with the prevailing lot size for this section of Ellen Street. Reference is specifically made to development immediately opposite the subject site, to the south, being Nos. 15-23 Ellen Street which are semi-detached dwellings. The lots provide for semi-detached dwellings in keeping with the character of the proposed development being sought on the subject site. As demonstrated in Figure 4 above, a large range of existing allotments are under 200m², as marked by the blue stars symbols.

The subject site is an anomaly in the street providing for a substantial 10.670 metre width. Lots in the area generally range from 3m - 10m, as seen in the table above. Under the proposed subdivision, the proposed lots will align with the existing character, through the approximate width along Ellen Street being 5m, as shown in the table above. Semi-detached dwellings and smaller allotments are prevalent in the surrounding streets, particularly on Ellen Street, Withecombe Street and Evans Street, noting Council has recently approved the subdivision of 21-23 Ellen Street which provides for lot sizes of 138m² and 167m².

In view of this, it is submitted that the subdivision of this property would create allotments that reinforce the subdivision pattern, which is consistent with the desired future character.

(e) to ensure lot sizes allow development to be sited to protect and enhance riparian and environmentally sensitive land.

The site is not identified as being proximate to or containing any riparian or environmentally sensitive land.

It is submitted that the above demonstrates that the development will maintain consistency with the objectives of the development standard, satisfying the first method of *Wehbe*. As such, compliance with the development standard is unreasonable and unnecessary.

7. Are there Sufficient Environmental Planning Grounds?

The assessment above, and in the Statement and Environmental Effects and within the supporting documentation, demonstrates that the resultant environmental impacts of the proposal will be satisfactory.

As required by Clause 4.6 (3)(b), it must be demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposed minimum subdivision lot size variation will not result in a diminished residential amenity outcome as a result of the non-compliance. Further, the variation has not compromised the development by way of additional breaches of development standards or key DCP controls.

Consequently, despite the proposed lot sizes being below the minimum required under the development standard, each proposed lot is capable of accommodating a dwelling that is not undersized or in any other way diminished in amenity.

As has been established in the previous section, the character of the locality includes numerous lot sizes below the development standard. These examples are of varying ages, but the character of the area is for smaller lots which contain semi-detached dwellings.

In view of the above, the proposal has addressed the site constraints, streetscape character, and architectural and aesthetic characteristics, and is consistent with the objectives of the development standard.

The proposal results in a development that provides for an orderly and economic use of the land.

In this case, strict compliance with the development standard for minimum lot size under the Inner West LEP 2022 is unnecessary and unreasonable and there are sufficient environmental planning grounds to support contravention of the standard.

8. Is the Variation Well Founded?

It is considered that this has been adequately addressed in Parts 5 to 7 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the Inner LEP 2022 in that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of the development;
- There are sufficient environmental planning grounds to justify the departure from the standard;
- The development meets the objectives of the standard to be varied (minimum subdivision lot size) and objectives of the R1 General Residential zoning of the land;
- The breach does not raise any matter of State or Regional Significance; and
- The development submitted aligns with the predominantly residential nature of the neighbourhood.

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

9. General

Clause 4.6 also states that:

“(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 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.

(7) Repealed.

(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,

(caa) clause 5.5,

(ca) clause 6.27(4),

(cb) (cc) Repealed,

(cd) clause 6.31.”

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

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

The development proposed is not complying development.

A BASIX certificate is required for this application.

Clauses 5.4, 5.5, 6.27(4), and 6.31 are not relevant to this Clause 4.6 variation request.

10. Conclusion

The proposal does not strictly comply with the minimum subdivision lot size control as prescribed by Clause 4.1 of the Inner West LEP 2022. Having evaluated the likely effects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the Inner West LEP 2022 are satisfied as the breach of the development standard does not create any adverse environmental impacts.

Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular instance and the use of Clause 4.6 of the Inner West LEP 2022 to vary this development control is appropriate in the context of the case.

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

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

Corey Smith
Town Planner
GAT & Associates
Plan 5063