

Council DA reference number	Lot number	DP number	Apartment/ Unit number	Street number	Street name	Suburb/Town	Postcode	Category of development	Environmental planning instrument	Zoning of land	Development standard to be varied	Justification of variation	Extent of variation	Concurring authority	Date DA determined dd/mm/yyyy
632.1/2015	4 & 5	714281		1016-1024	The Horsley Drive	Wetherill Park	2164		9 Fairfield Local Environmental Plan 2013	B2	4.3 – Height of buildings	Clause 4.3 of the Fairfield LEP, 2013 prescribes a maximum 14m height of building limit over 13-21 Rossetti Street.	2.4% to 7.14%	Council	20/05/2020
				13-21	Rossetti Street							Out of the five buildings proposed as part of this development, three of the buildings comply with the LEP and are less than 14m, and only two of the buildings comprising the four-storey northern and southern buildings exceed the standard. The proposed variation is illustrated in the Building Height Plan further below.			

													<ul style="list-style-type: none">The Applicant has stated that: “The proposed development must relate to the basement and ground floor levels of the existing shopping centre building. This creates a particular constraint which prevents the proposed development from being further lowered into the site at ground levels and below. As a consequence of that design constraint, a fully compliant design can only be achieved by reduction in a full residential level of the building. That in turn would cause significant harm to the attainment of relevant objectives of both the zone and the development standard. But for the constraints imposed by the existing shopping centre development, a fully compliant design could have been achieved. The above demonstrates that the proposed height exceedance does not constitute an over development of the site and nor is it a development outcome which is in any way different to the planned development potential and envisaged by the site specific DCP.”			
													<ul style="list-style-type: none">Given the site specific DCPs desire for pedestrian connections between the existing centre and the development, it is agreed with the Applicant that the existing floor levels of the existing centre present a constraint. The shopping centre is established at a higher level of RL 43.7 and is 1.5m higher than the proposed RL 42.2. In this regard, it is considered that the proposed floor levels of the building have been established relative to the existing centre and to minimise the extent of ramping to connect the two.			
													<ul style="list-style-type: none">It is agreed with the Applicant that a height compliant development would result in the unnecessarily loss of a floor level from each building. This would not achieve a better planning outcome when weighed up against any negative consequences of varying the height standard.			
													<ul style="list-style-type: none">The proposed lift overrun exceedances are considered inevitable given that the site specific DCP envisaged five storey buildings at this site and an LEP height limit of 14m. The exceedance has been reduced in the current amended plans when compared to the original proposal which sought an exceedance of up to 3.4m (i.e. 10% variation). The potential environment impacts of lifts exceeding the LEP limit are considered to be minimal and of no consequence given the minor structures and centrally located within the site.			
													<ul style="list-style-type: none">The variation to height does not result in any adverse environmental impacts as evident when considering the variation against the objectives of the height control.			
													<ul style="list-style-type: none">In this regard, despite the variation, the proposed development is consistent with the objectives of the height standard, as follows:			
													<ul style="list-style-type: none">The visibility of non-compliant roof elements from the north is screened by lower height street frontage buildings of the existing shopping centre and the proposed two-storey terrace units and shop-top housing fronting Rossetti Street, which will complement the streetscape character.			
													<ul style="list-style-type: none">The proposed buildings are generally consistent with the number of storeys as per the site-specific DCP including the location of taller elements to ensure there would be no significant impact on existing development.			

											<ul style="list-style-type: none">o The south and east elevations of the development will be visible from the church site, Rossetti Street and from Emerson Street Reserve. However these views are across a distance including an open car park of the southern adjoining church or across a parkland. They also represent vistas towards the development which are contextually removed from surrounding low-density detached dwelling houses. Given the considerable distance from which the buildings are separated from existing single and two-storey dwellings, the height non-compliance will not result in a significantly different perception of the site compared to a compliant development.				
											<ul style="list-style-type: none">o Given the significant separation distance which is provided between the taller building elements and existing low-density development, the additional height at the southern and eastern boundaries does not cause any adverse visual impact, nor disrupt any significant views, nor result in loss of privacy nor loss of solar access to existing development.				
											<ul style="list-style-type: none">• Despite the variation to the height standard, the proposed development is consistent with the zone objectives which are largely general in nature.				
											<ul style="list-style-type: none">• In this regard, insisting on compliance with the height standard is considered to be unreasonable given all of the above factors.				
											<ul style="list-style-type: none">• Given all the above factors, there are sufficient environmental planning grounds to justify the contravention. Building Height Plan showing the LEPs 14m building height limit as a plane across the site, and showing the components of the roof forms and lifts that breach the height standard.				
19.1/2020	154 & 155 Sec 3	1553		15	Lord Street	Cabramatta West	2166	13: Subdivision only	Fairfield Local Environmental Plan 2013	R2	Clause 4.1 minimum subdivision lot size	With reference to Clause 4.1 Minimum subdivision lot size, Subclause (3) stipulates that 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, which is 450m ² .	26.62% and 26.68%	Council	20/05/2020
	1	728488										The proposed subdivision provides for two (2) larger allotments with an area as follows: Proposed Lot 1 = 330.2m ² Proposed Lot 2 = 329.9m ²			
												The proposed development does not comply with the required minimum lot size requirement of 450m ² as stipulated within Clause 4.1 Minimum subdivision lot size of Fairfield LEP 2013.			
												The Applicant has submitted a written application justifying the minimum lot size variation of 26.62% & 26.68% respectively, pursuant to Clause 4.6 Exceptions to development standards for the following reasons:			
												<ul style="list-style-type: none">• The two (2) new lots are created from three (3) existing lots. The resultant lots are consistent with the existing subdivision pattern in the area, with evidence of previous examples of the consolidation of the rear access lot into the main bodies.			
												<ul style="list-style-type: none">• The subdivision currently contains an approved and constructed dual occupancy and will continue to operate as per their respective CDC.			

											<ul style="list-style-type: none">The inclusion of part of Lot 1 into each of the other lot creates a more useable lot allowing better economic use of that lot and providing rear private open space area for each new dwelling.The subdivision will not impact the streetscape, minimum landscape and urban design context.The subdivision will be consistent with adjoining and neighbouring lots.There are no unacceptable additional impacts arising from the variation. All other noticeable controls like setbacks, landscapes and heights will be consistent with adjoining dwellings.The proposal satisfies the objectives of the R2 Low Density Residential Zone. <p>It is considered that the non-compliance with the development standard does not raise any significant matters with respect to State or Regional Planning and no public benefit is obtained by adhering to the relevant planning controls. The variation pursuant to Clause 4.6 is considered acceptable and appropriate in this circumstance.</p>				
63.1/2020	50, 51, 52, Sec 6	1553		96	Water Street	Cabramatta West	2166	13: Subdivision only	Fairfield Local Environmental Plan 2013	R2	Clause 4.1 minimum subdivision lot size	Clause 4.1 Minimum subdivision lot size, Subclause (3) stipulates that 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, which is 450m2.	26.68%	Council	20/05/2020
	1	723649										<p>The proposed subdivision provides for 3 larger allotments with an area as follows:</p> <p>Proposed Lot 11 = 329.9m2</p> <p>Proposed Lot 12 = 329.9m2</p> <p>Proposed Lot 13 = 329.9m2</p> <p>The proposed development therefore does not comply with the minimum lot size requirement of 450m2 as stipulated within Clause 4.1 Minimum subdivision lot size of Fairfield LEP 2013.</p> <p>The Applicant has submitted a written application justifying the minimum lot size variation of 26.68%, pursuant to Clause 4.6 Exceptions to development standards for the following reasons:</p> <ul style="list-style-type: none">The Council has developed chapter 5C of the DCP, “Narrow Lots,” that acknowledges that there are multiple historically created smaller narrow lots in the Fairfield Local Government Area. The proposed lots in this case exceed the design lots in the DCP and as such it should be achievable to design and meet the day to day needs of the residents within a low density residential environment.The proposed development complies with the objectives of the zone as it provides for housing needs in the low density residential zone and represents orderly and efficient use of land and the lot pattern created represents suitable allotments in the context of the locality.The predominant subdivision in the area is for lots that are 7.62 m wide and with a lot area of 306.6m2. The proposal maintains this lot width and proposes lots that are 329.9 m2. This is consistent with the subdivision pattern of the area.			

												<ul style="list-style-type: none">The three lots that face Water Street can be developed via a development application or a complying development application. The addition of 3.05 metres in length to each lot does not change the development potential of the lots. Such future development would need to take into consideration the controls found in the Councils DCP or the building envelopes that are found in SEPP Exempt and Complying Development 2008. The increase in area and length of the lots does not impact on the possible future amenity of neighbouring properties. <ul style="list-style-type: none">The proposal reduces land fragmentation and is in line with objective 3 for lot size requirement in the FLEP2013It is both unreasonable and unnecessary to maintain the standard of lot size as the proposal is in line with the objectives of the standard and regularizes the subdivision of the area.There are sufficient environmental planning grounds in this instance to vary the standard.As the proposal is in line with the zone objectives it is in the public interest to vary the standard of lot size in this instance.The proposal is local and raises no matters of significance for state or regional planning. <p>It is considered that the non-compliance with the development standard does not raise any significant matters with respect to State or Regional Planning and no public benefit is obtained by adhering to the relevant planning controls. The variation pursuant to Clause 4.6 is considered acceptable and appropriate in this circumstance.</p>			
51.1/2020	1 & 2	120895		75	Margaret Street	Fairfield West	2165	13: Subdivision only	Fairfield Local Environmental Plan 2013	R2	Clause 4.1 minimum subdivision lot size	Clause 4.1 Minimum subdivision lot size, Subclause (3) stipulates that 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, which is 450m ² .	32.16% and 45.07%	Council	17/06/2020
	68, Sec 9	490										The proposed subdivision provides for 2 larger allotments with an area as follows: Proposed Lot 1 = 305.28 m ² Proposed Lot 2 = 247.19 m ² The proposed development therefore does not comply with the required minimum lot size requirement of 450m ² as stipulated within Clause 4.1 Minimum subdivision lot size of Fairfield LEP 2013. Accordingly, the Applicant has submitted a written application justifying the minimum lot size variation of 32.16% for Lot 1 and 45.07% for Lot 2, pursuant to Clause 4.6 Exceptions to development standards for the following reasons: <ul style="list-style-type: none">The proposed development proposes a density that will achieve the objectives of the R2 Low Density Residential zone that applies to the site;The development achieves the objective of the development standard by proposing lot sizes that are of sufficient size to accommodate attached dwellings or semidetached dwellings development, and will be consistent with the relevant and applicable planning provisions and will not cause any adverse impact to residential amenity;			

											<ul style="list-style-type: none">The new lots created will be wider than the existing lots at 7.723m wide (Lot 1) and 8.146m (Lot 2), but the planned subdivision will still be consistent with the narrow lot development pattern of the area, and at the same time will provide opportunity for higher quality housing development that will enhance and improve the residential character and lifestyle of the area. Furthermore, the proposed lot size and width will enable future dwellings the opportunity of having greater amenity.				
											<ul style="list-style-type: none">The proposed lot layouts will result in a better planning outcome for the site;Enforcing strict compliance with the numerical component of the development standard would result in the permitted development being unachievable for the site and would be superfluous and would not be relevant to achieving the objectives and purpose of the development standard; andThe development will enable the orderly and economic use and development of the land that would otherwise be compromised if strict compliance with the numerical development standard was enforced.				
											It is considered that the non-compliance with the development standard does not raise any significant matters with respect to State or Regional Planning and no public benefit is obtained by adhering to the relevant planning controls. The variation pursuant to Clause 4.6 is considered acceptable and appropriate in this circumstance.				
126.1/2020	219 & 220	6	1553	61	High Street	Cabramatta West	2166	13 - Subdivision only	Fairfield Local Environmental Plan 2013	R2	Clause 4.1 minimum subdivision lot size	Clause 4.1 Minimum subdivision lot size, Subclause (3) stipulates that 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, which is 450m2.	26.71%	Council	17/06/2020
	1		42676												
												The proposed subdivision provides for 2 larger allotments with an area as follows:			
												Proposed Lot 1219 = 329.8m2			
												Proposed Lot 1220 = 329.8m2			
												The proposed development therefore does not comply with the required minimum lot size requirement of 450m2 as stipulated within Clause 4.1 Minimum subdivision lot size of Fairfield LEP 2013.			
												Accordingly, the Applicant has submitted a written application justifying the minimum lot size variation of 26.71%, pursuant to Clause 4.6 Exceptions to development standards for the following reasons:			
												<ul style="list-style-type: none">The proposal represents a subdivision of existing allotments within R2 zoned land which will improve the overall amenity of the two recently completed detached dwellings in that more space is afforded between these dwellings and their western adjoining neighbour and better utilisation of the site that provides for additional private open space for these dwellings. Accordingly, it is contended that the proposal will result in allotments which reflect the character/pattern of subdivision of the area.			
												<ul style="list-style-type: none">The minor shortfall in allotment area will have no bearing on the level of residential amenity. The proposed subdivision pattern and size demonstrate that an acceptable level of residential amenity is achieved at the proposed densities.			

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