

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
203.1/2020	42 & 43 Sec 3	1553		84	Bold 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 <sup>2</sup> .	27.2% and 25.97%	Council	19/08/2020
	1	824036													
												The proposed subdivision provides for 2 larger allotments with an area as follows:			
												Proposed Lot 1 = 327.6m <sup>2</sup>			
												Proposed Lot 2 = 333.1m <sup>2</sup>			
												The proposed development therefore does not comply with the required minimum lot size requirement of 450m <sup>2</sup> as stipulated within Clause 4.1 Minimum subdivision lot size of Fairfield LEP 2013.			
												Pursuant to Clause 4.6 Exceptions to Development Standards within Fairfield LEP 2013, consent may be granted that contravenes a development standard if the Consent Authority is satisfied that compliance with the standard is unreasonable and unnecessary in the circumstances and that the proposed development would be in the public interest.			
												Accordingly, the Applicant has submitted a written application justifying the minimum lot size variation of 27.2% & 25.97% respectively, pursuant to Clause 4.6 Exceptions to development standards for the following reasons:			
												<ul style="list-style-type: none"><li>• The proposed development lot sizes are in accordance with similar sites within the area. It is noted that the subdivision results in each lot increasing in size.</li></ul>			
												<ul style="list-style-type: none"><li>• The proposed subdivision will not have any negative impact on the amenity of neighbouring properties.</li></ul>			
												<ul style="list-style-type: none"><li>• The proposed subdivision rectifies land fragmentation by consolidating the small parcel of land at the rear of the site into the two existing lots.</li></ul>			
												<ul style="list-style-type: none"><li>• The underlying objective or purpose of the Standard is relevant. As demonstrated above, the proposal retains consistency with the objectives of Clause 4.1 of The LEP, despite non-compliance.</li></ul>			

											<ul style="list-style-type: none"><li>The standard has not been abandoned or destroyed however it is noted from Council's Clause 4.6 Variations register that the Council has granted consent for development despite a non compliance with the Minimum lot size for residential developments under clause 4.1.</li><li>The zoning of the land is appropriate for the site.</li></ul> <ul style="list-style-type: none"><li>The proposed development is considered to appropriately address and respond to the relevant matters for consideration under S4.15(1) of the EP&amp;A Act 1979.</li><li>The proposed subdivision results in a better use for the land with the rear lot being amalgamated into the two street facing lots.</li><li>There is public benefit in maintaining a degree of flexibility in specific circumstances, particularly when site constraints warrant a variation and the development is still able to achieve the outcomes of the control. In the current case, strict compliance would limit the development potential of the site and limit the lifestyle of the occupants of the dwelling. As identified above, the development achieves the outcomes of the development standard and is considered to be in the public interest.</li></ul> <div></div> <div>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.</div>				
206.1/2020	243 & 244 Sec 6	1553		81	High 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 <sup>2</sup> .	26.70%	Council	19/08/2020
	1	45725										<div></div> <div>The proposed subdivision provides for 2 larger allotments with an area as follows:</div> <div></div> <div>Proposed Lot 1 = 329.8m<sup>2</sup></div> <div>Proposed Lot 2 = 329.8m<sup>2</sup></div> <div></div> <div>The proposed development therefore does not comply with the required minimum lot size requirement of 450m<sup>2</sup> as stipulated within Clause 4.1 Minimum subdivision lot size of Fairfield LEP 2013.</div> <div>Accordingly, the Applicant has submitted a written application justifying the minimum lot size variation of 26.7%, pursuant to Clause 4.6 Exceptions to development standards for the following reasons:</div> <div></div>			

											<ul style="list-style-type: none"><li>The lots have sufficient size and dimensions to satisfy the Complying Development requirements relating to setbacks, parking, open space, deep soil zone and landscaping. CDC 2019/0415 was issued on 29/11/20 and the two storey dwellings have been erected.</li><li>No adverse privacy or amenity impacts result from the subdivision.</li><li>The technical non-compliance raises no issue regarding State or Regional Planning.</li><li>Lot 1 DP 45725 is too small for any development on its own and is landlocked. Incorporation of lot 1 therefore makes planning sense.</li><li>There is no public benefit gained by enforcing compliance.</li><li>The 3 lots combined have a total site area of 659.6m2. The site is in “Area 1” on the Lot Size Map. Clause 4.1C of FLEP 2013 states:<ul style="list-style-type: none"><li>Despite clause 4.1, development consent may be granted to a single development application for development to which this clause applies that is both of the following—<ul style="list-style-type: none"><li>the subdivision of land into 2 or more lots,</li><li>(b) The erection of an attached dwelling or a semi-detached dwelling on each lot resulting from the subdivision, if the size of each lot is equal to or greater than 200 square metres.</li></ul></li></ul></li><li>The site could otherwise contain 2 dwellings and be subdivided into 2 lots. In effect the built form and site layout would be very similar to what exists. Lot sizes would be the same as proposed.</li></ul> <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>				
217.1/2020	98 & 99 Sec 6	1553		50	Water 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 <sup>2</sup> .	21.50%	Council	16/09/2020
	1	249408										The proposed subdivision provides for 2 larger allotments with an area as follows: <p>Proposed Lot 1 = 353m<sup>2</sup></p> <p>Proposed Lot 2 = 353m<sup>2</sup></p> <p>The proposed development therefore does not comply with the required minimum lot size requirement of 450m<sup>2</sup> as stipulated within Clause 4.1 Minimum subdivision lot size of Fairfield LEP 2013.</p>			

												<div>Accordingly, the Applicant has submitted a written application justifying the minimum lot size variation of 21.5%, pursuant to Clause 4.6 Exceptions to development standards for the following reasons:</div> <div></div> <div><div>• <i>Notwithstanding the contravention of the development standard, the proposed development is consistent with the relevant objectives of the development standard pursuant to cl4.1 of the FLEP 2013 and is consistent with the relevant objectives of the R2 Low Density Residential Zone and therefore, the proposed development is in the public interest;</i></div><div>• <i>Notwithstanding the contravention of the development standard, the proposal will not result in significant adverse environmental harm in that the environmental amenity of neighbouring properties will be preserved and adverse impacts on the amenity of the locality will be minimised to a reasonable level;</i></div></div> <div></div> <div><div><i>In addition, the written request outlines sufficient environmental planning grounds to justify the contravention of the minimum lot size development standard including:</i></div><div></div><div><div>• <i>a lack of adverse environmental amenity impacts;</i></div><div>• <i>allows for the orderly and economic development of residential land;</i></div><div>• <i>maintaining the existing local character and likely future character of the immediate area;</i></div><div>• <i>the subdivision creates the opportunity for the future development of compatible dwellings which are capable of being compliant with the FDCP provisions;</i></div></div><div></div><div><div>• <i>the variation is well absorbed within the context of the existing and surrounding built form and will not be readily perceptible.</i></div><div>• <i>there is no reasonable argument as to why strict application of the Minimum Lot Size standard should be applied for the subject site and the development given the circumstances outlined.</i></div></div><div><div>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.</div></div></div>			
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