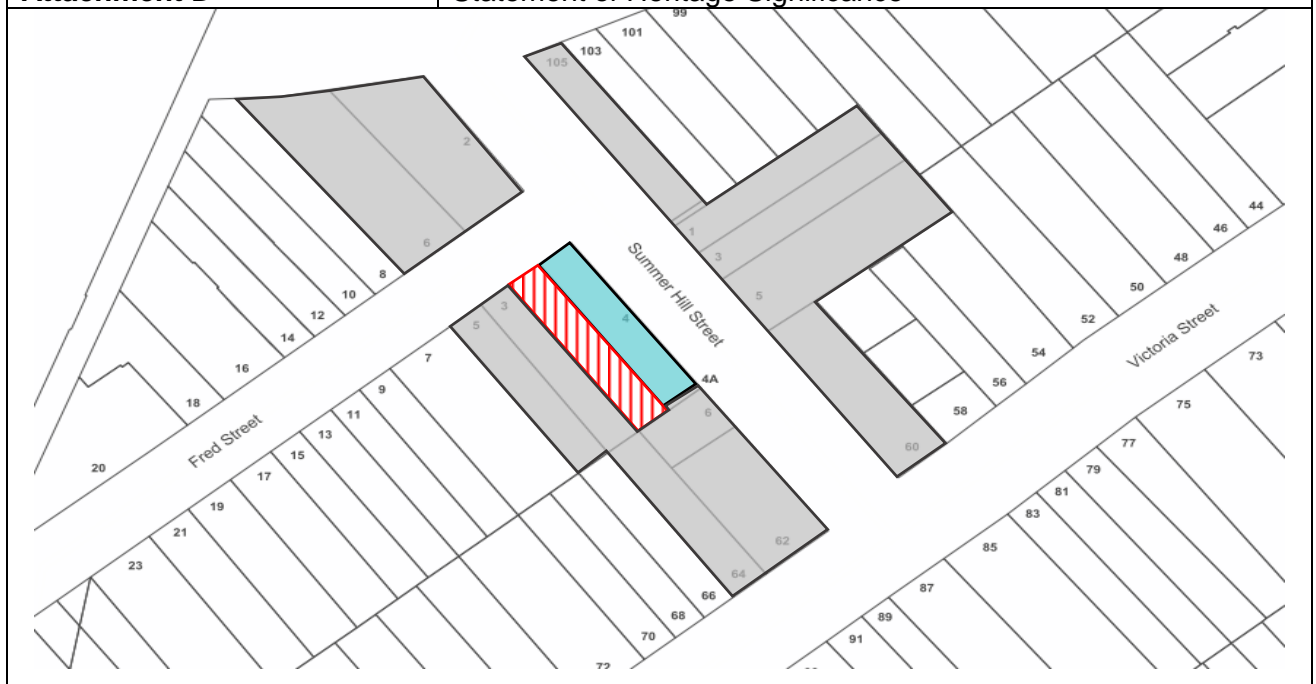









# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA201900005
<b>Address</b>	4 Summer Hill Street, Lewisham
<b>Proposal</b>	To demolish part of the premises including the garage and carry out ground and first floor alterations and additions to a dwelling house including the provision of a new garage/studio at the rear of the site
<b>Date of Lodgement</b>	4 January 2019
<b>Applicant</b>	Mrs M Grujic
<b>Owner</b>	Mrs M Grujic
<b>Number of Submissions</b>	One
<b>Value of works</b>	\$250,000.00
<b>Reason for determination at Planning Panel</b>	Heritage Item
<b>Main Issues</b>	Heritage, floor space ratio, parking
<b>Recommendation</b>	Approval with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards
<b>Attachment D</b>	Statement of Heritage Significance



**LOCALITY MAP**

Subject Site		Objectors		 N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council to demolish part of the premises including the garage and carry out ground and first floor alterations and additions to a dwelling house including the provision of a new garage/studio at the rear of the site at 4 Summer Hill Street, Lewisham. The application was notified to surrounding properties and one submission was received.

The main issues that have arisen from the application include:

- The proposed development involves substantial alterations to a Heritage Item listed under Marrickville Local Environmental Plan 2011;
- The proposed development exceeds the maximum floor space ratio permitted under Marrickville Local Environmental Plan 2011; and
- The proposed garage did not meet the minimum dimensions for an off-street parking space require by the Building Code of Australia.

Amended plans were received during the assessment process which adequately addressed the above concerns, subject to the imposition of appropriate conditions. The proposal generally complies with the aims and objectives of Marrickville Local Environmental Plan (MLEP) 2011 and Marrickville Development Control Plan (MDCP) 2011.

## 2. Proposal

Approval is sought to carry out ground and first floor alterations and additions to a dwelling house including the following works:

- Demolition of the existing ground floor to the rear and the existing garage;
- Reinstatement and refurbishment of the front façade of the dwelling;
- Internal reconfiguration;
- Extension of the existing ground floor to the rear of the property including an outdoor terrace area;
- Minor alterations to the rear of the existing first floor;
- Construction of a new timber sliding gate to allow a car parking space in the rear yard;
- Construction of a single storey studio/storage area at the rear of the site; and
- Landscaping works.

## 3. Site Description

The subject site is located on the western side of Summer Hill Street, between Fred Street and Victoria Street, Lewisham. The site has a total area of 203.9sqm and is legally described as Lot 1 DP 984239.

The site has a frontage to Summer Hill Street of 32.6 metres and a secondary frontage of approximate 6.2 metres to Fred Street. The site is affected by a 1 metre wide right of way at the rear of the site.

The site supports a two storey residential dwelling. The adjoining properties generally support single and two storey residential dwellings. The subject site is listed as a heritage item, namely No.59 "Former shop and residence, including interiors". The adjoining property at 1 Fred Street is listed as a heritage item, namely Item No.53 "Victorian style terrace –

'Hobart', including interiors". The subject property is also within the Lewisham Estate Heritage Conservation Area (C26).



*Image 1: Site as viewed from the corner of Summer Hill Street and Fred Street*



*Image 2: Site as viewed from Summer Hill Street*



## 4. Background

### 4(a) Site history

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

#### Subject Site

Application	Proposal	Decision & Date
DA200300104	Alterations to convert the premises into a dual occupancy	Approved – 30 September 2003
DA200700307	Demolish part of the premises and carry out ground floor alteration and additions	Approved – 25 September 2007

### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
4 January 2019	Application lodged with Council
15 March 2019	Site inspection undertaken
23 April 2019	Additional information request sent to applicant (detailed below)
15 May 2019	Amended plans submitted to Council

A request for additional information was sent to the applicant on 23 April 2019 which required the following:

- The proposed garage parking space be increased in size to meet the minimum dimensions required by the Building Code of Australia or the parking component be deleted from the structure;
- The existing door and window in the wall between Bedroom 1 and the proposed bathroom be retained;
- The wall between the proposed living area addition to the rear and the courtyard be relocated so that it is flush with the end of the south western corner of the existing wall to the proposed kitchen;
- The parapet wall and height of the rear studio be reduced to be just above the top of the roller door;
- A certificate from a Structural Engineer be prepared detailing how the chimney above the existing dining room will be retained and supported;
- The new window proposed in the south western wall of Bedroom 3 on the first floor be amended to be timber framed;
- A Schedule of Colours and Finishes be submitted which includes the proposed design, materials and colours for the proposed sliding gate. A pre-coloured traditional corrugated steel shall be used for the roofing over the addition and studio, finished in a colour equivalent to Colorbond colours “Windspray” or “Wallaby”; and
- Historical research into the original window arrangement of the former shopfront be undertaken and where possible reinstated.

Amended plans were submitted to Council on 15 May 2019 which included the following:

- Deleted the car parking component of the studio;
- Amended the Bedroom 3 window to be timber framed; and
- Provided a Schedule of Colours and Finishes. The colours proposed in the schedule are inconsistent with the colour scheme of the heritage item and as such, a condition of consent is recommended which requires the schedule be amended.

A condition of consent has been imposed which requires amended plans be submitted to and approved by Council which satisfy the remaining additional information requests. Given the proposed garage parking space has been deleted, the condition requests that the roller shutter door be deleted, the footpath made good and the studio be no greater in height than the existing structure.

## 5. Assessment

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

### 5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Marrickville Local Environment Plan 2011 (MLEP 2011)*

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. MDCP 2011 provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that the site “is, or can be made, suitable for the proposed use” prior to granting its consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with SEPP 55.

#### 5(a)(ii) *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

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

**5(a)(iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities.

**5(a)(iv) State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)**

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 concerns the protection/removal of vegetation identified under the SEPP and gives statutory weight to the tree protection provisions contained in MDCP 2011. There are no trees located on the site protected under MDCP 2011 that will be impacted by the proposed development.

**5(a)(v) Marrickville Local Environment Plan 2011 (MLEP 2011)**

The application was assessed against the following relevant clauses of the *Marrickville Local Environmental Plan 2011*:

- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio
- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 6.1- Acid Sulfate Soils

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

Standard	Proposal	Non compliance	Complies
<b>Height of Building</b> Maximum permissible: 9.5 metres	9.3 metres (no change)	N/A	Yes
<b>Floor Space Ratio</b> Maximum permissible:0.9:1 (183.5sqm)	0.97:1 (198.3sqm)	15.8sqm (8.6%)	No

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

The property is zoned R2 – Low Density Residential under the provisions of MLEP 2011. Dwelling houses are permissible with consent under the zoning provisions applying to the land. The development is considered acceptable having regard to the objectives of the zone.

(ii) Demolition (Clause 2.7)

Clause 2.7 of MLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council’s standard conditions relating to demolition works are included in the recommendation.

(iii) Height (Clause 4.3)

The site is located in an area where the maximum height of buildings is 9.5 metres as indicated on the Height of Buildings Map that accompanies MLEP 2011. The development has a height of approximately 9.3 metres, which complies with the height development standard.

(iv) Floor Space Ratio (Clause 4.4)

Clause 4.4(2A) of MLEP 2011 specifies a maximum floor space ratio for a dwelling house on land labelled “F” on the Floor Space Ratio Map that is based on site area as follows:

Site area	Maximum floor space ratio
>200sqm but ≤250sqm	0.9:1

The property has a site area of 203.9sqm. The development has an FSR of 0.97:1 which does not comply with the FSR development standard.

A written request, in relation to the development’s non-compliance with the FSR development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. The submission is discussed later in this report under the heading “Exceptions to Development Standards (Clause 4.6)”.

(v) Clause 4.6 Exceptions to Development Standards

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

- Clause 4.4 - Floor space ratio

The applicant seeks a variation to the floor space ratio development standard under Clause 4.4 of the MLEP 2011 by 8.6% (15.8sqm).

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

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

The applicant has submitted a written request to Council justifying the proposed contravention of the development standard, which is summarised as follows:

- The built form of the rear extension matches the rear of the adjoining semi-detached dwelling at 1 Fred Street;

- The built form does not compromise the integrity of the pair of heritage listed items;
- There are no adverse impacts on the adjoining property and the single storey additions are acceptable having regard to bulk, scale, mass, privacy and overshadowing;
- The proposal will not detract from the aesthetic qualities of the conservation area and is not highly visible;
- The site area exceeds a higher permitted floor space ratio development standard by only 2.4sqm; and
- The proposal complies with the objectives of the zone and the development standard.

The applicant's written rationale adequately demonstrates that compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R2 – Low Density Residential zone in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The development provides for the housing needs of the community within a low density residential environment; and
- The development enables other land uses that provides facilities or services that meet the day to day needs of residents.

It is considered the development is in the public interest because it is consistent with the objectives of the floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The development is of a density and bulk that is consistent with and achieves the desired future character of the surrounding area; and
- The development is of minimal adverse environmental impacts on adjoining properties and the public domain.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. The concurrence of the Secretary may be assumed for Local Planning panel matters.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3) of the applicable local environmental plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from floor space ratio and it is recommended the Clause 4.6 exception be granted.

## 5(b) Draft Environmental Planning Instruments

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

*Draft Environment State Environmental Planning Policy (SEPP)*



The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

#### *Draft Marrickville Local Environmental Plan 2011 (Amendment 4)*

Draft Marrickville Local Environmental Plan 2011 (Amendment 4) (the Draft LEP Amendment) was placed on public exhibition commencing on 3 April 2018 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The amended provisions contained in the Draft LEP Amendment are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft LEP Amendment.

### 5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011.

<b>Part</b>	<b>Compliance</b>
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Yes
Part 2.16 – Energy Efficiency	Yes
Part 2.18 – Landscaping and Open Spaces	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 4 – Low Density Residential Development	Yes
Part 8 – Heritage	Yes
Part 9 – Strategic Context	Yes

The following provides discussion of the relevant issues:

#### **PART 2 - GENERIC PROVISIONS**

##### (i) Urban Design (Part 2.1)

The development is considered acceptable having regard to the relevant aspects of the 12 urban design principles. The matter of urban design and streetscape is discussed in detail below under the heading “Part 4.1 – Low Density Residential Development”.

(ii) Site and Context Analysis (Part 2.3)

The applicant submitted a site and context analysis as part of the application that satisfies the controls contained in Part 2.3 of MDCP 2011.

(iii) Acoustic and Visual Privacy (Part 2.6)

The layout and design of the development ensures that the visual and acoustic privacy currently enjoyed by residents of adjoining residential properties are protected.

The development maintains adequate levels of acoustic and visual privacy for the surrounding residential properties and ensures an adequate level of acoustic and visual privacy for future occupants of the development.

Given the above, the development is reasonable having regard to the objectives and controls relating to visual and acoustic privacy as contained in MDCP 2011.

(iv) Solar Access and Overshadowing (Part 2.7)**Overshadowing**

The proposed additions are single storey in nature and minimal in height. Any additional overshadowing caused by the rear addition will fall on the rear blank wall at 1 Fred Street and the dwelling at 6 Summer Hill Street. The adjoining properties will continue to receive greater than two (2) hours of direct solar access between 9.00am and 3.00pm in mid-winter.

**Solar Access**

The alterations and additions to the dwelling house have been designed in an energy efficient manner for the following reasons:

- At least one habitable room has a window having an area not less than 15% of the floor area of the room, positioned within 30 degrees east and 20 degrees west of true north and will allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9:00am and 3:00pm on 21 June; and
- The private open space provided for the dwelling house receives a minimum two hours of direct sunlight over 50% of its finished surface between 9.00am and 3.00pm on 21 June.

Given the above, the development is reasonable having regard to the objectives and controls relating to solar access and overshadowing as contained in MDCP 2011.

(v) Community Safety (Part 2.9)

The development is reasonable having regard to community safety for the following reasons:

- The principal entrance to the dwelling house is visible from the street;
- The dwelling house has been designed to overlook the street; and
- The entrance to the dwelling house is well lit.

Given the above the development is reasonable having regard to the objectives and controls relating to community safety as contained in MDCP 2011.

(vi) Parking (Part 2.10)

Part 2.10 of MDCP 2011 requires one car parking space be provided for a dwelling house. One (1) hardstand car parking space is proposed in the rear yard. The proposal therefore complies with this requirement.

(viii) Landscaping and Open Spaces (Part 2.18)

The landscaped area and private open space is appropriate given:

- The entire front setback is to consist of pervious landscaping with the exception of the pathway and driveway;
- The Landscape Plan identifies that a minimum of 52qm, being 25.5% of the total site area, with no dimension being less than 3 metres is to be retained as private open space; and
- In excess of 50% of the private open space is to be maintained as pervious landscaping.

(ix) Site Facilities and Waste Management (Part 2.21)

A Recycling and Waste Management Plan (RWMP) prepared in accordance with Council's requirements should be submitted to the Principal Certifying Authority prior to the commencement of works. A condition to such effect has been included in the schedule of conditions.

**PART 4 – RESIDENTIAL DEVELOPMENT****Part 4 – Low Density Residential Development**(i) Good Urban Design Practice (Part 4.1.4)

The height, bulk and scale of the development complement existing developments in the street and the architectural style of the proposal is in keeping with the character of the area.

Given the above the development is reasonable having regard to the objectives and controls relating to good urban design contained in MDCP 2011.

(ii) Streetscape and Design (Part 4.1.5)

The development satisfies the streetscape and design controls outlined in MDCP 2011 in that:

- The development complements the uniformity and visual cohesiveness of the bulk, scale and height of the existing streetscape;
- The proposal is of a design that complements the character of the area;
- The dwelling house addresses the principal street frontage and is orientated to complement the existing pattern of development found in the street;
- The architectural treatment of the façade interprets and translates positive characteristics in the locality; and
- The front façade of the dwelling house has been divided into bays of an appropriate size that complements the scale of the building and surrounding dwelling houses.

(iii) Building Setbacks (Part 4.1.6.2)**Front Setback**

No change to the existing front setback is proposed

**Side Setback**

The development satisfies the side setback control outlined in MDCP 2011 in that:

- The proposal ensures adequate separation between buildings for visual and acoustic privacy, solar access and air circulation;
- The proposal integrates new development with the established setback character of the street and maintains established gardens, trees and vegetation networks;
- The proposal does not create an unreasonable impact upon adjoining properties in relation to overshadowing and visual bulk; and
- The proposal is satisfactory in relation to the street context.

**Rear setback**

The rear boundary setback is reasonable for the following reasons:

- The proposal will not create adverse impacts on the amenity of adjoining properties in relation to overshadowing and visual bulk;
- The proposal maintains adequate open space;
- The prominent form of development is terrace housing with access to a rear lane, and the proposal maintains the capacity for off-street parking;
- The proposal ensures adequate separation between buildings for visual and acoustic privacy, solar access and air circulation; and
- The proposal integrates new development with the established setback character of the street and maintains established gardens, trees and vegetation networks.

(iv) Site Coverage (Part 4.1.6.3)

The proposal complies with the site coverage requirements contained in MDCP 2011 in that it:

- Results in a site coverage that is consistent with the existing character of neighbouring dwellings; and
- Allows adequate provision for uses such as outdoor recreation, footpaths, deep soil tree planting, other landscaping, off-street parking (where appropriate), waste management, clothes drying and stormwater management.

The development is reasonable having regard to the objectives and controls relating to site coverage contained in MDCP 2011.

**PART 8 – HERITAGE**

The subject site is listed as a heritage item, namely No.59 “Former shop and residence, including interiors”. The adjoining property at 1 Fred Street is listed as a heritage item, namely Item No.53 “Victorian style terrace – ‘Hobart’, including interiors”. The subject property is also within the Lewisham Estate Heritage Conservation Area (C26).

The application was referred to Council's Heritage Advisor who requested the following amendments be made to retain significant original fabric and to ensure the proposed works are consistent with and sympathetic to the existing heritage item:

- The existing door and window in the wall between Bedroom 1 and the proposed bathroom be retained;
- The wall between the proposed living area addition to the rear and the courtyard be relocated so that it is flush with the end of the south western corner of the existing wall to the proposed kitchen;
- The parapet wall and height of the rear studio be reduced to be just above the top of the roller door;
- A certificate from a Structural Engineer be prepared detailing how the chimney above the existing dining room will be retained and supported;
- The new window proposed in the south western wall of Bedroom 3 on the first floor be amended to be timber framed;
- A Schedule of Colours and Finishes be submitted which includes the proposed design, materials and colours for the proposed sliding gate. A pre-coloured traditional corrugated steel shall be used for the roofing over the addition and studio, finished in a colour equivalent to Colorbond colours "Windspray" or "Wallaby"; and
- Historical research into the original window arrangement of the former shopfront be undertaken and where possible reinstated.

Amended plans were submitted to Council which amended the Bedroom 3 window and provided a Schedule of Colours and Finishes. The amended plans were referred to Council's Heritage Advisor who has requested that the outstanding matters which had not been addressed were imposed as conditions of consent. An appropriate condition has been included in the recommended consent.

#### 5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

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

The site is zoned R2 – Low Density Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

#### 5(f) Any submissions

The application was notified in accordance with Marrickville Development Control Plan 2011 for a period of 14 days to surrounding properties. A total of one submission was received.

The submission raised concerns regarding asbestos removal, notice of commencement of works, site fencing and damage to neighbouring structures during construction works. Council's standard conditions relating to asbestos removal, notice of commencement of works, site fencing and demolition/construction works have been included in the consent.



### 5(g) The Public Interest

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

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

*Heritage:* The application was referred to Council's Heritage Advisor and the issues raised in the referral have been discussed in Section 5(c) above.

*Engineering:* The application was referred to Council's Engineer who raised concern regarding the size of the garage parking space. The garage parking space has been deleted from the plan and a condition of consent has been included which requires the roller shutter door be deleted and the footpath made good.

## 7. Section 7.11 Contributions/7.12 Levy

A Section 7.12 Levy of \$2,500.00 would be required for the development under Marrickville Section 94A Contributions Plan 2014. A condition requiring that levy to be paid is included in the recommendation.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Marrickville Local Environmental Plan 2011* and *Marrickville Development Control Plan 2011*.

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.

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the *Marrickville Local Environmental Plan 2011*. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that the applicant has demonstrated compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
  
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No.201900005 to demolish part of the premises including the garage and carry out ground and first floor alterations and additions to a dwelling house including the provision of a new garage/studio at the rear of the site at 4 Summer Hill Street, Lewisham subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### Attachment A – Recommended conditions of consent

#### GENERAL

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
DA 01 Rev F	Site Plan	14/05/2019	Minimalist Max Design Studio	15/05/2019
DA 02 Rev H	Floor Plans	14/05/2019	Minimalist Max Design Studio	15/05/2019
DA 03 Rev E	Elevations	14/05/2019	Minimalist Max Design Studio	15/05/2019
DA 04 Rev E	Sections	14/05/2019	Minimalist Max Design Studio	15/05/2019
DA 05 Rev E	Garage Elevation Court Yard + Basix	14/05/2019	Minimalist Max Design Studio	15/05/2019
DA 06 Rev B	Landscape Plan	14/05/2019	Minimalist Max Design Studio	15/05/2019
Rev A	Materials and Finishes	10/05/2019	Minimalist Max Design Studio	15/05/2019

and details submitted to Council on 4 January 2019 and 15 May 2019 with the application for development consent and as amended by the following conditions.

- Where any plans and/or information forming part of a Construction Certificate issued in relation to this consent are inconsistent with:
  - the plans and/or information approved under this consent; or
  - any relevant requirements of this consent,

the plans, information and/or requirements of this consent (as the case may be) shall prevail to the extent of the inconsistency.

All development approved under this consent shall be carried out in accordance with the plans, information and/or requirements of this consent taken to prevail by virtue of this condition.
- All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

#### BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

- No work must commence until:
  - A PCA has been appointed. Where Council is appointed ensure all payments and paper work are completed (contact Council for further information). Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
  - A minimum of 2 days written notice given to Council of the intention to commence work.
- A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.

6. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.

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

7. The person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to include colour photographs and is to be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the property owner of the identified property, before work commences, on the buildings on the adjoining property at 1 Fred Street, if the consent of the adjoining property owner can be obtained. In the event that the consent of the adjoining property owner cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.
8. 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, before work commences.
9. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign is to be maintained at all times until all work has been completed. The sign must include:
  - a) The name, address and telephone number of the PCA;
  - b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
  - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
10. Sediment control devices must be installed before the commencement of any work and must be maintained in proper working order to prevent sediment discharge from the construction site.
11. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
  - a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
  - b) A concrete pump across the roadway/footpath
  - c) Mobile crane or any standing plant
  - d) Skip bins
  - e) Scaffolding/Hoardings (fencing on public land)
  - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
  - g) Awning or street verandah over footpath
  - h) Partial or full road closure
  - i) Installation or replacement of private stormwater drain, utility service or water supply

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

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

**BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

12. Evidence of payment of the building and construction industry Long Service Leave Scheme must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

**NOTE:** The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.

[http://www.lspc.nsw.gov.au/levy\\_information/?levy\\_information/levy\\_calculator.stm](http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm)

13. A levy of \$2,500.00 has been assessed as the contribution for the development under Section 7.12 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94/94A Contributions Plan 2014 (a copy of which may be inspected at the offices of the Council).

The Section 7.12 Levy referred to above is based on the estimated cost of the proposed development at time of lodgement of the application indexed quarterly in accordance with Marrickville Section 94/94A Contributions Plan 2014.

The Section 7.12 levy (as adjusted) must be paid to the Council in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Credit and/or Debit) before the issue of a Construction Certificate. Under Marrickville Section 94/94A Contributions Plan 2004 payment of Section 7.12 levies **CANNOT** be made by Personal Cheque or Company Cheque.

(LEVY PAYMENT Reference No. DC002613)

**NOTE:** Under Marrickville Section 94/94A Contributions Plan 2014, the proposed cost of carrying out development is adjusted quarterly at time of payment of the levy in line with the *Consumer Price Index: All Groups Index Number for Sydney* provided by the Australian Bureau of Statistics.

14. Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

**NOTE:** The application for the Construction Certificate must be accompanied by either the BASIX Certificate upon which development consent was granted or a revised BASIX Certificate issued no earlier than 3 months before the date of lodgement of the application for the Construction Certificate. (Refer to Clause 6A of Schedule 1 to the Regulation).

15. Before the issue of a Construction Certificate an amended plan must be submitted to and approved by Council indicating:

1. The existing door and window between bedroom 1 and the proposed bathroom are to be retained and incorporated into the proposal;
2. The north western end of the south western boundary wall must be reduced so it is in line with the existing wall between the proposed kitchen and living area (proposed to be demolished);



3. The Summer Hill Street elevation of the garage / studio is to be amended to a parapet wall and the height of the structure is to be lowered to just above the top of the roller door;
  4. A certificate from a Structural Engineer is to be submitted to Council prior to CC detailing how chimney above the existing dining room will be retained and supported. Documentation shall include certification that adequate internally sited supporting structures shall be incorporated into conserving the external chimney;
  5. The Colours and Materials Schedule is to be amended to the following:
    - a) Studio metal clad walls to be replaced with a weatherboard or FC sheeting, laid horizontally and painted in Watty! White Pepper;
    - b) The Colorbond Monument for the gutters and downpipes of the studio to be amended to Colorbond Dune; and
    - c) Painted blockwork walls of the studio are to be painted in Watty! White Pepper.
  6. The proposed studio roller door is to be replaced with a solid wall.
16. The existing building must be upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke detection systems in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
  17. Prior to the commencement of demolition works or before the issue of a Construction Certificate (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$2,152.50
Inspection fee (FOOTI)	\$230.65

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

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

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

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

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

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

18. Sediment control devices must be constructed and maintained in proper working order to prevent sediment discharge from the construction site. Sediment control plans and

specifications must be submitted to the Principal Certifying Authority before the issue of a Construction Certificate.

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

#### SITE WORKS

20. All excavation, demolition, construction, and deliveries to the site necessary for the carrying out of the development, must be restricted to between 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above no work must be carried out on any Saturday that falls adjacent to a Public Holiday.
21. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
22. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy – 'Placement of Waste Storage Containers in a Public Place'.
23. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
  - a) after excavation for, and prior to the placement of, any footings;
  - b) prior to pouring any in-situ reinforced concrete building element;
  - c) prior to covering of the framework for any floor, wall, roof or other building element;
  - d) prior to covering waterproofing in any wet areas;
  - e) prior to covering any stormwater drainage connections, and
  - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
24. All demolition work must be carried out in accordance with the following:
  - a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
  - b) all works involving the demolition, removal, transport and disposal of material containing asbestos must be carried out by suitably qualified persons in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
  - c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
  - d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
  - e) the generation of dust and noise on the site must be controlled;
  - f) the site must be secured to prohibit unauthorised entry;

- g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
  - h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
  - i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
  - j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
  - k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.
25. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:
- a) protect and support the adjoining premises from possible damage from the excavation;
  - b) where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents shall be obtained prior to the required works commencing; and
  - c) at least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received shall be forwarded to the PCA before work commences.

26. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled.
27. If the proposed work is likely to cause obstruction of the public place and/or is likely to endanger users of the public place, a suitable hoarding or fence approved by Council must be erected between the work site and the public place.
28. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.
29. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.

#### **BEFORE OCCUPATION OF THE BUILDING**

30. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate

and forward the following documents to Council within 2 days of the date of the Certificate being determined:

- a) A copy of the determination;
  - b) Copies of any documents that were lodged with the Occupation Certificate application;
  - c) A copy of Occupation Certificate, if it was issued;
  - d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
  - e) A copy of any missed inspections;
  - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
31. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved plan, and must be maintained at all times to Council's satisfaction.
32. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
33. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au).
34. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed before the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
35. All redundant vehicular crossings to the site must be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before occupation of the site and at no cost to Council.

#### USE OF THE BUILDING

36. The premises must be used exclusively as a single dwelling house and must not be adapted for use as a residential flat building or boarding house and must not be used for any industrial or commercial purpose.

#### ADVISORY NOTES

- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- Any natural light or ventilation gained by windows within 900mm of the boundary will not be taken into consideration in the event that the adjoining property owner makes application to Council to carry out building works on their property. The window has been consented to on the basis that alternative sources of light and ventilation are available to the room.
- Buildings built or painted before 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 before occupation of the room or building.

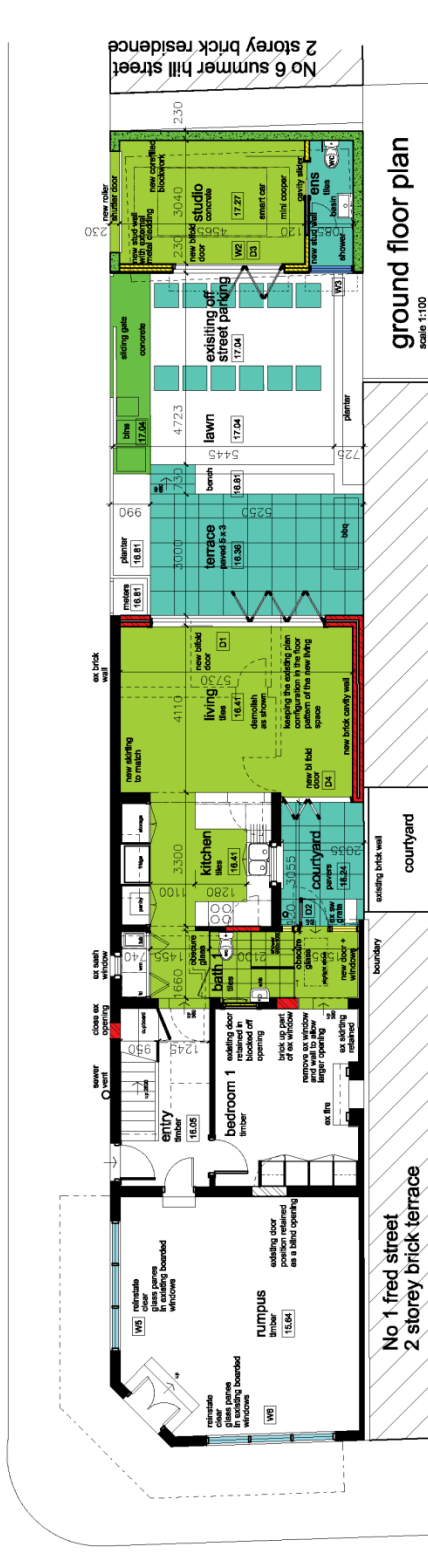
- Contact "Dial Before You Dig" before commencing any building activity on the site.

- Useful Contacts

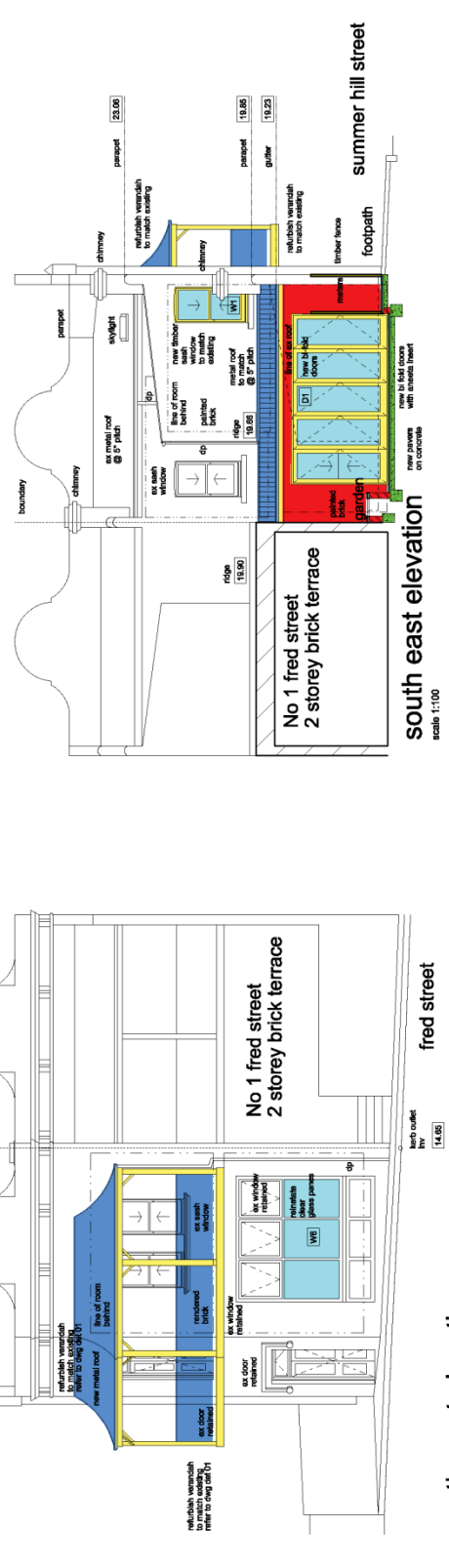
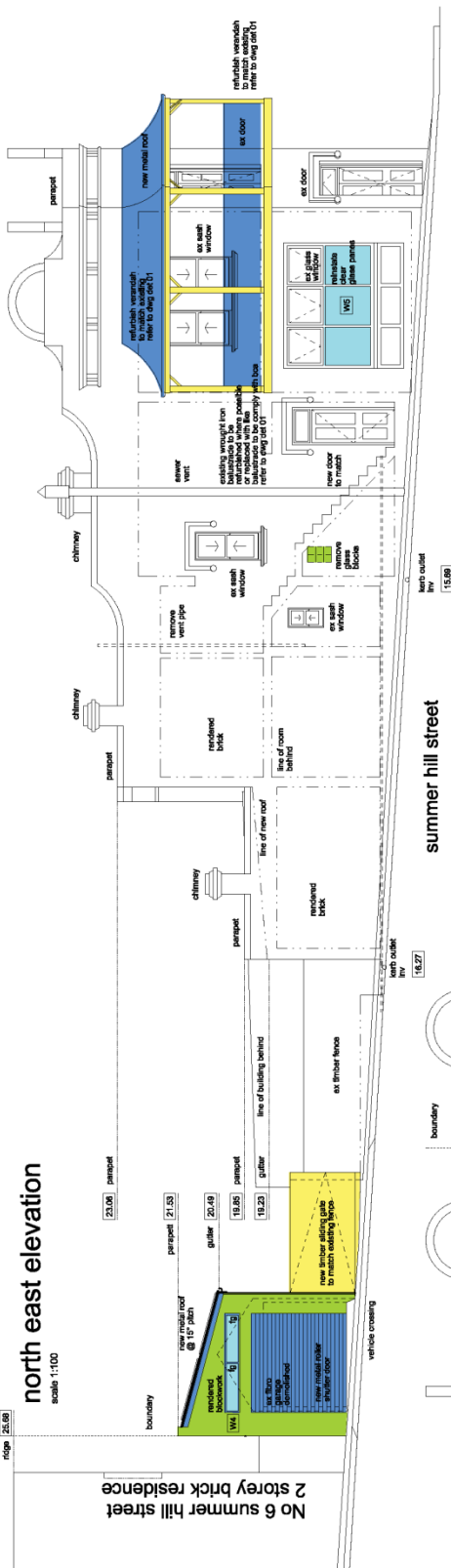
BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	☎ 13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 <a href="http://www.dialbeforeyoudig.com.au">www.dialbeforeyoudig.com.au</a>
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	☎ 13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	☎ 1300 651 116 <a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)	<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	☎ 13 10 50 <a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> Enquiries relating to work safety and asbestos removal and disposal.



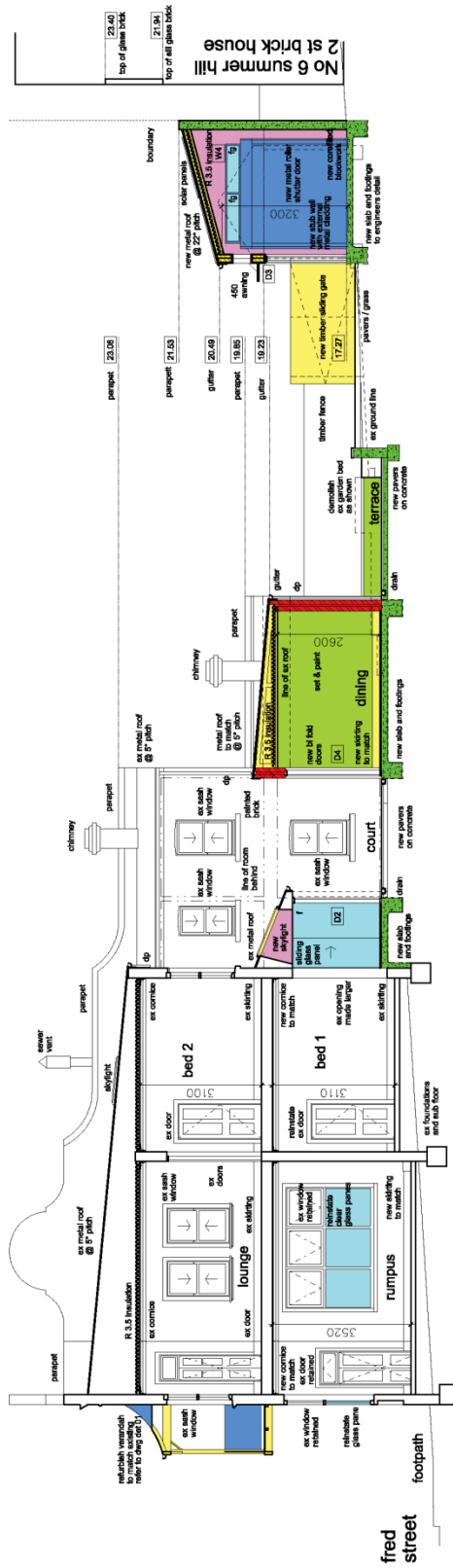




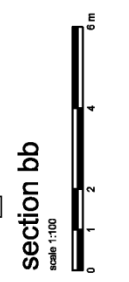
<p><b>minimalist max design studio</b>                  ABN15 769 831 264                  4 Summer Hill Street                  Lewisham                  NSW 2049</p> <p>Phone : (02) 9594 3495                  Mobile : 0403 881 778                  e mail : max@maxdesignstudio.com.au                  NSW Arch Board registration # 7552</p>	<p><b>Client :</b> Maja Grujic</p> <p><b>Project :</b> Alterations + additions to existing house</p> <p><b>Address :</b> Lot 1 D.P. 984239 4 Summer Hill Street Lewisham 2049</p>	<p><b>Drawing title :</b> floor plans</p> <p><b>Date drawn :</b> Feb 2018</p> <p><b>Scale :</b> 1 : 100 at A3</p> <p><b>Job number :</b> SUM 01</p>	<p><b>Drawn :</b> MG</p> <p><b>Plot date :</b> 26 04 2019</p> <p><b>Drawing Number :</b> DA 02</p> <p><b>H</b></p>
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Client: <b>Maja Grujic</b> Project: <b>Alterations + additions to existing house</b> Address: <b>Lot 1 D.P. 994239</b> <b>4 Summer Hill Street Lewisham 2049</b>		Drawing title: <b>Elevations</b> Date drawn: <b>Feb 2018</b> Scale: <b>1:100 at A3</b> Job number: <b>SUM 01</b>	
minamalist max design studio ABN15 789 837 284 4 Summer Hill Street Lewisham NSW 2049 Phone: (02) 9594 3495 Mobile: 0403 981 778 Email: m.grujic@maxdesignstudio.com.au NSW Arch Board registration # 7652		Drawn: <b>MG</b> Plot date: <b>14.05.2019</b> Drawing Number: <b>DA 03</b> <b>E</b>	



Client:	Maja Grujic	Drawing title:	Sections
Project:	Alterations + additions to existing house	Date drawn:	Feb 2018
Address:	4 Summer Hill Street Lewisisham 2049	Scale:	1:100 at A3
Phone:	(02) 9594 3495	Job number:	SUM 01
Mobile:	0403 881 778	Drawing Number:	DA 04
Email:	max@minimalistmax.com.au		
NSW Arch Board registration #	7552		



**Certificate number : A327131\_03**  
**BASIX requirements - DA stage**

lighting : a minimum of 45% of rear or elevated light fixtures are fitted with  
LED lighting; a maximum of 40% of rear or elevated light fixtures are fitted with  
fluorescent, compact fluorescent or LED lighting.

fixtures : a maximum of 40% of rear or elevated light fixtures are fitted with  
LED lighting; a maximum of 40% of rear or elevated light fixtures are fitted with  
fluorescent, compact fluorescent or LED lighting.

water : a flow rate no greater than 6L per minute / min. 3 star water rating  
at all additional lavatories required.

roof : a minimum of 40% of rear or elevated light fixtures are fitted with  
LED lighting; a maximum of 40% of rear or elevated light fixtures are fitted with  
fluorescent, compact fluorescent or LED lighting.

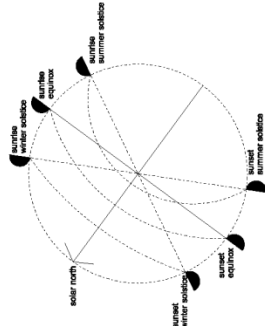
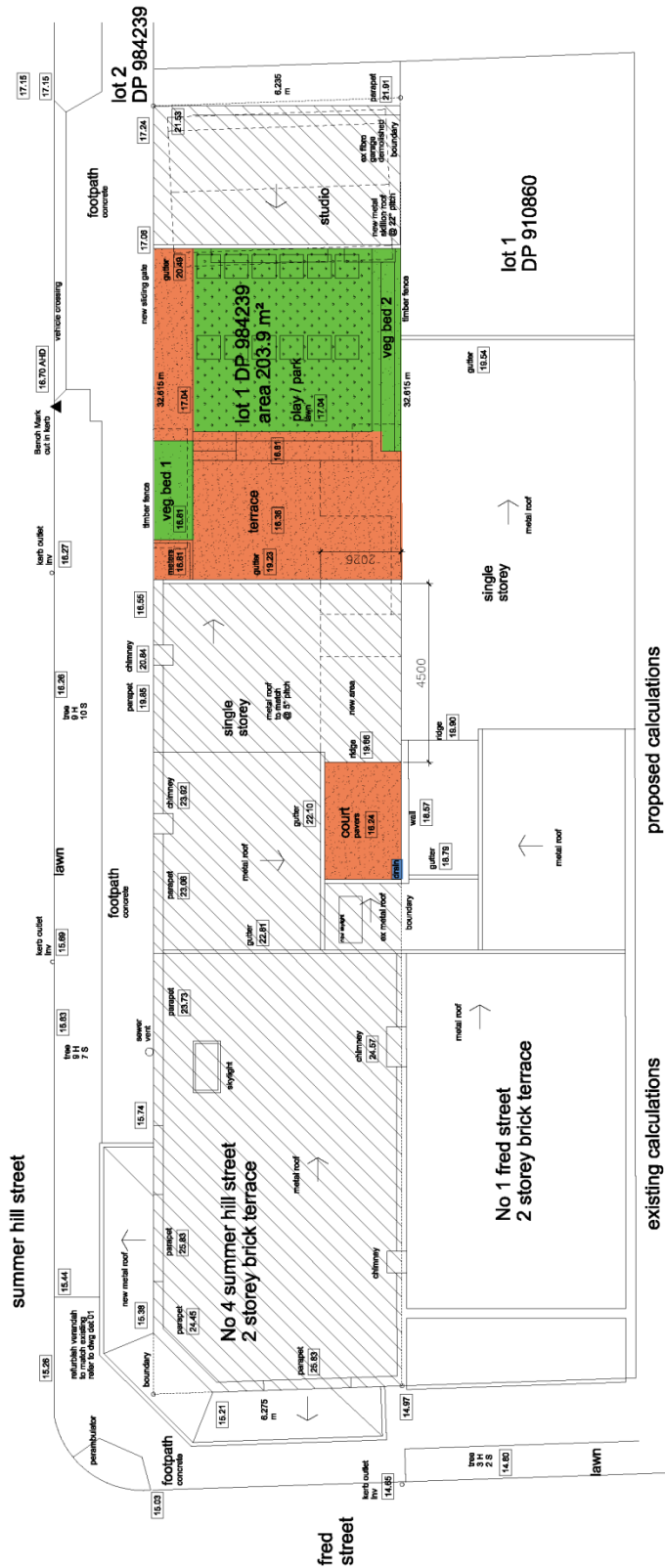
no.	orientation	location	area (m <sup>2</sup> )	frame and glass type
D1	SE	living	10.0 m <sup>2</sup>	none
D2	SW	deck 1	4.2 m <sup>2</sup>	timber or uPVC, angle clear (U value: 5.71, SHGC: 0.65)
V1	SW	deck 3	1.8 m <sup>2</sup>	none
D3	NW	studio	5.8 m <sup>2</sup>	450 mm pergola overhanging top (U value: 4.71, SHGC: 0.65)
V2	SW	studio	1.38 m <sup>2</sup>	none
V3	SW	studio	2.27 m <sup>2</sup>	none
V4	NE	studio	0.84 m <sup>2</sup>	timber or uPVC, angle clear (U value: 5.71, SHGC: 0.65)
V5	NE	lounge	3.3 m <sup>2</sup>	timber or uPVC, angle clear (U value: 5.71, SHGC: 0.65)
V6	NW	lounge	3.8 m <sup>2</sup>	timber or uPVC, angle clear (U value: 5.71, SHGC: 0.65)
S1	SW	deck 1	0.67 m <sup>2</sup>	none
DA	NW	living	4.2 m <sup>2</sup>	overhanging top (U value: 4.71, SHGC: 0.65)

boundary

**studio elevation\_nw**  
scale 1:100

minimalist max design studio ABN15 769 831 264 4 Summer Hill Street Lewisham NSW 2049 Phone : (02) 9594 3495 Mobile : 0403 881 778 e mail : max@minimalistmax.com.au NSW Arch Board registration # 7652		Client : Maja Grujic	Drawing title : Garage elevation court yard + basis
		Project : Alterations + additions to existing house	Date drawn : Aug 2018 Drawn : MG
		Address : Lot 1 D.P. 984239 4 Summer Hill Street Lewisham 2049	Scale : 1:100 at A3 Plot date : 14.05.2019
		Job number : SUM 01	Drawing Number : DA 05
			E





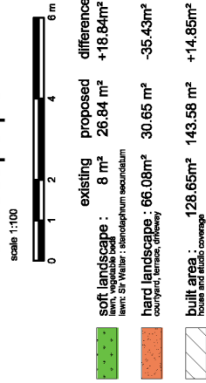
existing calculations

- site area : 203.9 m<sup>2</sup>
- house ground floor : 100.6 m<sup>2</sup>
- house first floor : 73 m<sup>2</sup>
- gross floor space : 173.6 m<sup>2</sup> (excludes garage)
- garage area : 14 m<sup>2</sup>
- allowable FSR : 0.9 : 1 (183.51 m<sup>2</sup>)
- existing FSR : 0.85 : 1
- max site coverage : 111.67 (house) + 16.98 (garage) = 128.65 m<sup>2</sup> (63 %)
- 0 to 300 m<sup>2</sup> is on merit
- open space landscaped area : 53 m<sup>2</sup>
- landscaped area : 8 m<sup>2</sup>

proposed calculations

- site area : 203.9 m<sup>2</sup>
- house ground floor : 108.32 m<sup>2</sup>
- house first floor : 73 m<sup>2</sup>
- gross floor space : 181.32 m<sup>2</sup>
- studio area : 17.5 m<sup>2</sup>
- gross floor space : 198.82 m<sup>2</sup> (includes studio)
- allowable FSR : 0.9 : 1 (183.51 m<sup>2</sup>)
- proposed FSR : 0.97 : 1 (198.82 m<sup>2</sup>)
- for site 150 < 200m<sup>2</sup> (lep)
- max site coverage : 120.8 (house) + 21.7 (studio) = 142.5 m<sup>2</sup> (69 %)
- 0 to 300 m<sup>2</sup> is on merit
- open space the greater of 45m<sup>2</sup> or 20% of site area (40.78 m<sup>2</sup>)
- 50% of pvt space to be pervious
- open space landscaped area : 51 m<sup>2</sup>
- landscaped area : 26.84 m<sup>2</sup>

landscape plan



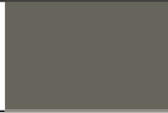



- soft landscaping : 8 m<sup>2</sup>
- existing : 26.84 m<sup>2</sup>
- proposed difference : +18.84m<sup>2</sup>
- hard landscaping : 66.08m<sup>2</sup>
- existing : 30.65 m<sup>2</sup>
- proposed difference : +35.43m<sup>2</sup>
- built area : 128.65m<sup>2</sup>
- house and studio coverage : 143.58 m<sup>2</sup>
- proposed difference : +14.85m<sup>2</sup>

Client : Maja Grujic Drawing title : Landscape plan	
minimalist max design studio ADR15 768 831 264 4 Summer Hill Street Lewisham NSW 2046	Date Drawn : Oct 2018 Scale : 1 : 100 at A3 Job number : SUM 01 Drawing Number : DA 06
Project : Alterations + additions to existing house Phone : (02) 9594 3495 Mobile : 0403 881 778 Email : m.grujic@maxdesignstudio.com.au NSW Arch Board registration # 7552	Drawn : MG Plot date : 14.05.2019

minimalist max design studios ABN 15 769 831 264  
 4 summer hill street lewisham nsw 2049  
 Tel: (02) 95643495 mob: 0403 881 778  
 e-mail : majagrujic2803@gmail.com

**Materials and Finishes for new works to 4 Summerhill Street Lewisham**

Revision A: 10 May 2019: updated as per Council request (revision shown in Bold and Italics)

Element	Material and Finish	Colour		Sample
<b>Main house</b>				
Roof	Colorbond steel <b><i>Traditional corrugated</i></b>	<b><i>Colorbond Windspray or Wallaby</i></b>	<b><i>As per Council request dated 23 April</i></b>	
Gutter	ACE Gutters Old Style Quad	Colorbond Woodland Grey	to match existing	
Fascia	Timber painted	Colorbond Woodland Grey		
Downpipes	ACE Gutters Standard rectangular	Colorbond Dune		
Windows/ doors	Timber painted	Dulux Whisper White	to match existing	
New walls	Brick work painted	Wattyl White Pepper		
<b>Studio</b>				
New roof	Colorbond steel <b><i>Traditional corrugated</i></b>	<b><i>Colorbond Windspray or Wallaby</i></b>	<b><i>As per Council request dated 23 April</i></b>	
New metal clad walls	Colorbond steel Matt	Colorbond Monument Matt		
Gutters	ACE Gutters	Colorbond Monument		
Downpipes	Old Style Quad Standard rectangular			
Roller shutter garage door	Metal roller shutter garage door			
New walls	Blockwork painted	Dulux Monument		
<b><i>New sliding gate</i></b>	<b><i>Timber paling</i></b>	<b><i>To match existing timber fence</i></b>		

## Attachment C- Clause 4.6 Exception to Development Standards

4 Summer Hill Street, Lewisham – Statement of Environmental Effects

6

### 4. CONSIDERATION OF PLANNING ISSUES

#### 4.1 Marrickville LEP 2011.

Planning control MLEP 2011	Designation
Zoning	R2 Residential
Floor space ratio	0.9:1
Height of buildings	9.5m
Reservation/acquisition	No
Heritage item/conservation area	Yes/Yes
Flood planning area	No
Acid Sulphate soils	No
Key site	No
Foreshore building line	No
Natural habitat -Bio diversity	Yes

#### Compliance table for development standards

	Required	Existing	Proposed	Compliance
FSR	0.9:1	0.88:1	1.01:1	No
HOB	9.5m	9.3m	9.3m (existing)	NA –no change.

A breakdown of the floor areas is provided below.

	Ground floor	First floor	Garage /studio	Total	FSR
Existing	100.6m <sup>2</sup>	79m <sup>2</sup>	14m <sup>2</sup>	179.6m <sup>2</sup> Excludes garage	0.88:1
Proposed	109.8m <sup>2</sup>	79m <sup>2</sup>		188.8m <sup>2</sup>	0.93:1
			17.5m <sup>2</sup>	206.3m <sup>2</sup> Includes studio	1.01:1

#### Clause 4.6 Submission - Exception to development standard (floor space ratio)

##### Criteria

Clause 4.6 allows consent to be granted for development that would contravene a development standard if

- the applicant has made a written request seeking to justify the contravention and
- the consent authority is satisfied that the written request has adequately addressed the matters required to be addressed by subclause (3); that is
  - (3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard and

the consent authority is satisfied that

(4)(a)(ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

- the concurrence of the Director-General has been obtained

In accordance with the guidelines provided by decisions of the Land and Environment Court and in particular the judgments in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Micaul Holdings Pty Ltd v Randwick City Council* [2015] NSWLEC 1386 and *Moskovich v Waverley Council* [2016] NSWLEC 1015, the submission in this Statement addresses the requirements of clause 4.6 in turn.

**Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

The judgment in *Wehbe v Pittwater Council* [2007] NSWLEC 827 identified five ways of establishing under *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) that compliance is unreasonable or unnecessary. The subsequent cases referred to above have confirmed that these ways are equally applicable under the clause 4.6 regime. The 5 matters to consider are whether:

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.*
2. *The objective is not relevant to the development.*
3. *The objective would be defeated or thwarted if compliance was required.*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.*
5. *The zoning of the land is unreasonable or inappropriate.*

These 5 matters are discussed below.

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The objectives of the FSR development standard are

- (a) *to establish the maximum floor space ratio,*
- (b) *to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,*
- (c) *to minimise adverse environmental impacts on adjoining properties and the public domain.*

These objectives are achieved despite the con-compliance with the numerical control because:

- The additional floor area is only 2.4m<sup>2</sup> over the standard for a 1:1 FSR.
- The built form of the rear wing matches the rear wing of the adjoining semi-detached house at 1 Fred Street. The built form does not compromise the integrity of the pair of heritage listed buildings.
- There are no adverse impacts on the adjoining property. .

2. *The objective is not relevant to the development.*

This contention is not applicable to the proposal.

3. *The objective would be defeated or thwarted if compliance was required.*

This contention is not applicable to the proposal.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.*

This contention is not applicable to the proposal.

5. *The zoning of the land is unreasonable or inappropriate.*

This contention is not applicable to the proposal.

**Why is compliance unreasonable or unnecessary?**

Strict compliance with the development standard is **unreasonable and unnecessary** because:

- The site area is 203.9m<sup>2</sup>. The FSR standard of 0.9:1 allows a GFA of 183.5m<sup>2</sup>. Under clause 4.4(2A) of MLEP, sites with an area >150≤200m<sup>2</sup> are allowed an FSR of 1:1. Thus a site of 200m<sup>2</sup> is allowed a GFA of 200m<sup>2</sup>. The additional site area of 3.9m<sup>2</sup> reduces the allowable GFA by 16.5m<sup>2</sup>. There is no logical reason for this disparity and this stepped approach to FSR is unreasonable. Whilst it is acknowledged that the proposal would not comply with the FSR of 1:1, the difference between the non-compliance would be 2.4m<sup>2</sup> (for an FSR of 1:1) rather than 22.8m<sup>2</sup> (for an FSR of 0.9:1).
- It is unnecessary to strictly comply with the development in the circumstances of this site. The proposed addition to the house is single storey. The new garage/studio is single storey. The bulk, scale and mass of the additions are acceptable.
- The proposal would be more compliant if the new garage/studio was labelled as a garage. However, the applicants want to use the building as a habitable space and have included the studio in the FSR calculation.

**Are there sufficient environmental planning grounds to justify contravening the development standard?**

The cases referred to above have established that the environmental planning grounds must be particular to the circumstances of the proposed development on its site.

The non-compliance with the standard of 22.8m<sup>2</sup> (more than 10%) is numerically significant however, there are no unreasonable amenity impacts arising from the proposal. There are no external impacts in terms of shading, privacy and visual scale and bulk. The proposal will not detract from the aesthetic qualities of the conservation area. The substantial component of the non-compliance is the inclusion of the studio floor area (17.5m<sup>2</sup>) in the FSR calculation.

The small addition of 9.2m<sup>2</sup> to the existing house will be only marginally visible from Summer Hill Street and will not be visible from the adjoining properties at 1 Fred Street and 6 Summer Hill Street.

**Will the proposed development be in the public interest because it is consistent with the objectives of the development standard?**

The objectives of the FSR standard have been addressed above. The proposal is consistent with the objectives. Further, strict compliance is considered to be unreasonable in the circumstances.

**Will the proposed development be in the public interest because it is consistent with the objectives of the zone?**

The objectives for development within the R2 Low Density residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for multi dwelling housing and residential flat buildings but only as part of the conversion of existing industrial and warehouse buildings.*
- *To provide for office premises, multi dwelling housing and residential flat buildings only as part of the conversion of existing industrial and warehouse buildings.*
- *To provide for office premises and retail premises in existing buildings designed and constructed for commercial purposes.*

The first objective is satisfied because the proposal will provide contemporary and ongoing accommodation for the current owner/occupants.

The other objectives are not relevant.

**Concurrence of the Director-General**

The concurrence of the Director-General may be assumed by Council.

Council must also consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning*
- (b) *the public benefit of maintaining the development standard*

**Any matter of significance for State or regional environmental planning**

There are no matters of significance for State or regional environmental planning

**Public interest**

The proposal is considered to be neutral in terms of the public interest.

## Attachment D – Statement of Heritage Significance

### Attachment D – Statement of Heritage Significance

#### Statement of significance:

This is one of the few local shops established as part of the suburban development in this area during the 1870's and 80's, which still retains much of its original external detailing at both ground and first floor levels.

4 Summer Hill Street, Lewisham, is a Victorian (c1883) corner shop/residence of local heritage significance to the Lewisham area. It was originally constructed and used as a corner shop/residence during the development of Lewisham as a residential area in the later decades of the nineteenth century. It is a fine example of the development of the retail industry in the Petersham/Lewisham area circa 1880s. It is one of the few remaining local shops established at this time and retains much of its original decorative detailing on both the ground and first floor (Paul Rappoport, 2003).

Date significance updated: 29 Nov 13

*Note: The State Heritage Inventory provides information about heritage items listed by local and State government agencies. The State Heritage Inventory is continually being updated by local and State agencies as new information becomes available. Read the OEH [copyright and disclaimer](#).*

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## Description

Designer/Maker: not known

Builder/Maker: not known

**Physical description:** Two storey shop and residence which, although now converted to a residence only, retains much of its original detailing to both the ground and first floors. The rendered facade includes a mixture of moulded detailing to the openings (both labels and decorative pediments), raised semi-circular parapets and bracketed 'eaves'. Cast iron panelling remains on the shop balcony.

Physical Description of 4 Summer Hill Street, Lewisham (Paul Rappoport, 2003)

The existing building at 4 Summer Hill Street, Lewisham, is a two-storey late Victorian corner shop and residence which is now used only for residential purposes. The building retains much of its original detailing and decorative elements on both the ground and first floors but particularly on the first floor.

The rendered facade of the building is characterised by moulded detailing to the door openings; decorative cornices and pediments on the upper section of the building; and a corrugated iron roofed first floor balcony with cast iron panelling.



**Physical condition and/or Archaeological potential:** The overall condition of 4 Summer Hill Street is reasonable. Externally, most of the original decorative elements remain. However, the large shopfront windows have been partially infilled for increased privacy for residential occupants. Internally, most of the original detailing and decorative elements remain intact. However, there has been some modifications in terms of bathroom finishes, floor coverings and installation of reversible fabric such as cupboards etc. Apart from some water damage to the wall of the first-floor bedroom in which the decorative cornices have also been removed, the original building is in reasonable condition. (Paul Rappoport, 2003)

**Date condition updated:** 29 Nov 13

**Modifications and dates:** The large shopfront windows have been partially infilled. Otherwise, there are minor modifications.

**Current use:** Residential / Flats

**Former use:** Commercial / Residential

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## History

**Historical notes:** (The following historical information is reproduced from a Heritage Impact Statement prepared by Paul Rappoport, 2003)

### Historical Development of Lewisham

By the 1830s, the Lewisham area consisted mainly of large country estates. At the time, transport was slow and the roads were poor, which meant that it remained an isolated settlement accessible only for country living by the affluent and their employees. From the 1830's onwards, however, these great estates began to be subdivided into smaller allotments and villages grew from areas where settlement and population services began to concentrate (Cashman & Meader, 1990, p.19).

The area known as Lewisham was originally encompassed by the village of Petersham, which was established by the 1850s and proclaimed a Borough on the 14 December 1871. Named after the Lewisham Estate founded in the area in 1834 by Joshua Frey Josephson, Lewisham was declared the fourth ward of the Borough of Petersham in 1885 (Cashman & Meader, 1990, p. 19).

Communication and transport to the area had been greatly improved by the establishment of the Sydney-Parramatta railway line in 1855, which made the suburbs more easily accessible from the city. Lewisham was actually the termination point for the first train journey from Sydney in 1855, although it did not yet have a station. In 1885 the Lewisham station was established, further opening up the area to settlement (Cashman & Meader, 1990, p. 51).

From 1871 to 1891, the population of Petersham grew from 750 to 10,369

(Cashman & Meader, 1990, p. 64). With the increasing population and suburban growth came the need for service providers, and the 1860s and 1870s saw a large increase in the appearance of retail outlets and service industries in the area. In the 1880s, corner shops began appearing in order to service the local neighbourhoods (Cashman & Meader, 1990, p.57).

Mostly general stores with residences attached, these corner stores fell in numbers significantly after the Second World War because of increasing competition from supermarkets and shopping centres (Cashman & Meader, 1990, p. 57). Today, few of these surviving stores remain in use as corner shops.

#### History of Summerhill Street, Lewisham

Summerhill Street is one of the oldest streets in Lewisham. It first appears in the Sand's Directory in 1883, one year before Lewisham was declared a ward of the Borough of Petersham and two years before the Lewisham train station was built (Sands).

The immediate area was significant since the 1830s, when affluent landowners used it as a central point for hunting. Toothill Street, directly parallel to Summerhill Street, is so named because the rallying cry to the huntsmen would be sounded from the top of its hill (Pollon, 1988, p. 205).

The residence at No.4 Summerhill Street, Lewisham is a late Victorian corner shop/residence. The adjoining residence at 1 Fred Street carries a date of 1883 on the pediment. These two residences appear to have been constructed at the same time as they are decorated with almost identical ornamentation, especially the cornices and pediment elements. Thus, the 4 Summerhill Street residence is likely to have been constructed in 1883, which is the same year Summerhill Street first appears in the Sand's Directory (Sands, 1883, p. 145). However, the residence itself is not recorded in the Sand's Directory until 1890, when Thomas W Fleeton is listed there as a grocer.

The reason the shop may have been unoccupied till 1890 may lie with the religious character of Lewisham in the late 1800s. George Crothers, a firm Methodist and temperance advocate who served as alderman on the Petersham Municipal Council from 1889-1890, was said to have bought every corner block between Lewisham railway station and New Canterbury Road in order to ensure Lewisham remained free of hotels (Pollon, 1988, p. 205). It is possible that he purchased the corner of Summerhill Street and Fred Street and ensured it remained unoccupied until 1890, which was his last year on the council.

From 1890 onwards, 4 Summerhill Street has been used as a corner shop for various mixed business that served the local surrounding streets. Simultaneously, the rear and upper floor of the building has been used as a residence. After the Second World War, the building has been used predominantly as a residence.

A distinctive characteristic of the Petersham area in which 4 Summerhill Street located, is the way in which street names were marked in pink lettering in the pavement in the late 1800s and early 1900s (Cashman & Meader, 1990, p. 48). Both Summerhill Street and the adjacent Fred Street still retain this lettering. The Summerhill Street name can be seen in the pavement directly outside the front corner entrance of 4 Summerhill Street.


The residence at 4 Summerhill Street is representative of the increasing suburbanisation and rapid increase in population in the Lewisham area in the last half of the 19th century, and, in particular, the Sydney land boom of the 1880s. It is typical of the corner stores which developed to serve the needs of the immediate neighbourhood, and which were very much in decline by the end of the Second World War.

## Assessment of significance

- SHR Criteria a)**  
[Historical significance]
- 4 Summer Hill Street, Lewisham is important in the course of the local area's cultural history and attains local significance for the following reasons:
- It provides evidence of the historical development of Summerhill Street, and the Lewisham local area in general, in particular the increasing population and developing retail service industry from circa 1880s. (Paul Rappoport, 2003)
- 4 Summerhill Street, Lewisham does not possess any strong association with the life and works of a person or group of persons of importance in the local area's cultural history - and so does not attain local significance under this particular criterion. (Paul Rappoport, 2003)
- SHR Criteria c)**  
[Aesthetic significance]
- 4 Summer Hill Street, Lewisham, is important in demonstrating aesthetic characteristics and attains local significance for the following reasons:
- It exemplifies the architectural style of two-storey shop/residences built in Lewisham during the Victorian era. (Paul Rappoport, 2003)
- SHR Criteria d)**  
[Social significance]
- 4 Summer Hill Street, Lewisham, is not strongly associated with a particular community group for social, cultural nor spiritual reasons and therefore does not attain local significance under this criterion. (Paul Rappoport, 2003)
- SHR Criteria e)**  
[Research potential]
- 4 Summer Hill Street, Lewisham, has the potential to yield new information that may contribute to an understanding of the local area's cultural history and attains local significance for the following reason:
- It is one of the very few local shops established in the local Lewisham area during the late 1800s that remains with the majority of its original detailing and decorative elements in tact. (Paul Rappoport, 2003)
- SHR Criteria f)**  
[Rarity]
- 4 Summer Hill Street, Lewisham, possesses endangered aspects of the local area's cultural history and attains local significance for the following reason:
- It provides relatively rare (intact) evidence of corner shop/residences which developed to serve the local area from the 1870s onwards, and whose usage as retail outlets were in decline by the end of the Second World War. (Paul Rappoport, 2003)
- SHR Criteria g)**  
[Representativeness]
- 4 Summer Hill Street, Lewisham, demonstrates the principal characteristics of a class of cultural places within the local area and so attains local significance for the following reasons:

- It is a fine example of the type of corner shop/residences constructed in the area during the circa 1870s-1880s period.
- It expresses attributes typical of corner shop/residences constructed in the Lewisham/Petersham area during later decades of the nineteenth century. (Paul Rappoport, 2003)

**Integrity/Intactness:** The building is relatively intact and retains the majority of its integrity.

**Assessment criteria:** Items are assessed against the  **State Heritage Register (SHR) Criteria** to determine the level of significance. Refer to the Listings below for the level of statutory protection.

### Recommended management:

General maintenance

### Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan	Marrickville Local Environmental Plan 2001		18 May 01	86	
Local Environmental Plan	Marrickville LEP 2011	159	12 Dec 11	2011/645	
Within a conservation area on an LEP	within draft cons. area Marrickville LEP 2001				
Heritage study					

### Study details

Title	Year	Number	Author	Inspected by	Guidelines used
Marrickville Heritage Study	1986	1.39	Fox and Associates	November 1984	No
Marrickville Heritage Study Review	1997	2030031	Tropman & Tropman Architects	1997-1999	Yes

**References, internet links & images**

Type	Author	Year	Title	Internet Links
Written	Cashman and Meader	1990	Marrickville: From Rural Outpost to Inner City	
Written	Rappoport Heritage Consultants	2003	Heritage Impact Statement	