



# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA201800242
<b>Address</b>	90 Neville Street Marrickville
<b>Proposal</b>	To demolish an existing garage at the rear of the site and to construct a double garage containing a laundry and storage area
<b>Date of Lodgement</b>	5 June 2018
<b>Applicant</b>	Dr Skender Haxhimolla & Mr Hodo Haxhimolla
<b>Owner</b>	Dr Skender Haxhimolla & Mr Hodo Haxhimolla
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$115,710
<b>Reason for determination at Planning Panel</b>	The extent of the departure from the Floor Space Ratio development standard exceeds staff delegation
<b>Main Issues</b>	Clause 4.6 variation for Floor Space Ratio
<b>Recommendation</b>	Consent subject to 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>Subject Site:</b>		<b>Objectors:</b>	
<b>Notified Area:</b>			

## 1. Executive Summary

This report concerns an application submitted to Council to demolish an existing garage at the rear of the site and to construct a double garage containing a laundry and storage area. The application was notified to surrounding properties and no submissions received.

The proposal generally complies with the aims, objectives and design parameters of Marrickville Local Environment Plan 2011 (MLEP 2011) with the exception that the proposal exceeds the maximum floor space ratio standard by 21% or 47sqm. A written request under Clause 4.6 of MLEP 2011 has been submitted by the applicant for the non-compliance and the request is considered to be well founded and worthy of support. The development generally complies with the provisions of Marrickville Development Control Plan 2011 (MDCP 2011). It is considered that the proposal will not result in any significant impacts on the streetscape or amenity of adjoining properties.

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development are considered to be acceptable given the context of the site and therefore the application is recommended for approval.

## 2. Proposal

Approval is sought to demolish an existing garage at the rear of the site and to construct a double garage containing a laundry and storage area. The works include:

- Constructing a double garage with nil side and rear setbacks with the car parking located on the southern side of the garage;
- Constructing a laundry and bathroom on the northern side of the garage;
- Installing a window, entry door and sliding doors on the south eastern elevation of the garage facing the area of private open space; and
- Constructing a deck in the rear yard.

During the assessment process the proposal was amended to address concerns raised by Council officers requiring the deletion of a waste storage area to provide a continued building alignment along the rear lane.

## 3. Site Description

The subject site is located on the north western side of Neville Street, between Addison Road and Norwood Lane, Marrickville. The site consists of two allotments with a total area of 437.4sqm and is legally described as Lots 1 and 2 in Deposited Plan 1044040.

The site has a frontage to Neville Street of 11.27 metres. Neville Lane adjoins the site along its rear north western boundary. Access to the site is obtained from the laneway adjoining the site.

The site contains a two storey dwelling house and a fibro garage at the rear of the site. The site is adjoined by 92 Neville Street which contains a two storey dwelling house and 88 Neville Street which contains a single storey dwelling house.

The following trees are located on the site:

- *Prunus persica* (Peach tree) - adjacent to the northern boundary of the subject site;
- *Olea europa* (olive) - adjacent to the northern boundary of the subject site. This tree has not been plotted on the survey; and
- *Citrus limon* (lemon) - adjacent to the southern boundary of the subject site.

Surrounding development is characterised by single and two storey dwelling houses.

A photo of the site as viewed from Neville Lane is featured below in Image 1:



Image 1: Site as viewed from Neville Lane

## 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
DA200600445	To demolish part of the premises and carry out ground and first floor alterations and additions to a dwelling house including a first floor balcony.	Deferred commencement consent dated 14 February 2007. Consent became operative 10 April 2007.

**Surrounding properties**

	<b>Proposal</b>	<b>Decision &amp; Date</b>
DA201400620 92 Neville Street	To demolish part of the premises and carry out ground and first floor alterations and additions to a dwelling house, erect a single storey garage and store at the rear of the site and install a pool in the rear yard.	Approved 23 January 2015. Modified on 26 October 2017.
DA201200349 86 Neville Street	To demolish the existing carport and shed and erect a new garage and shed at the rear of the site.	Approved 5 October 2012.
DA200400675 96 Neville Street	To partially demolish the existing dwelling house, detached garage and front fence to allow the erection of one and two storey alterations and additions to the dwelling house, the erection of a detached garage/rumpus room and alterations to the front fence	Deferred commencement consent 4 February 2005. Consent became operative 15 March 2005.
DA201200349 86 Neville Street	To demolish the existing carport and shed and erect a new garage and shed at the rear of the site	Approved 5 October 2012.

**4(b) Application history**

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

<b>Date</b>	<b>Discussion / Letter/ Additional Information</b>
6 July 2018	Request for additional information sent to applicant requesting deletion of waste storage area on rear boundary, deletion of the shower and submission of Clause 4.6 variation.
20 July 2018	Amended plans and Clause 4.6 exception submitted to Council.
13 August 2018	Request for additional information sent to applicant requesting GFA calculations.
24 August 2018	GFA calculations submitted.
6 September 2018	Updated GFA calculations and Clause 4.6 submitted.

**5. Assessment**

The following is a summary of the assessment of the application in accordance with Section 79C 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 (Vegetation in Non-Rural Areas) 2017;
- Marrickville Local Environmental Plan 2011; and
- Marrickville Development Control Plan 2011.

The following provides further discussion of the relevant issues:

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 concerns the protection of trees identified under Marrickville Development Control Plan 2011.

The application seeks consent for the removal of one tree from the site that is protected under MDCP 2011.

The application was referred to Council’s Tree Management Unit who advised that the removal of an existing peach tree on the northern boundary within the footprint of the proposed garage is permitted subject to appropriate compensatory tree planting. Two further trees including an olive tree on the northern boundary and a lemon tree on the southern boundary will be retained and tree protection measures must be put in place to ensure their protection.

Given the above, Council’s Tree Management Officer has agreed to the proposal subject to the imposition of appropriate conditions. Those conditions have been included in the recommendation. Subject to compliance with the conditions identified above, the proposal is considered acceptable having regard to the provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and Part 2.20 of MDCP 2011.

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 – Land Use Table and Zone Objectives;
- Clause 2.7 – Demolition;
- Clause 4.3 – Height;
- Clause 4.4 - Floor Space Ratio;
- Clause 4.6 - Exceptions to Development Standards;
- Clause 6.1 - Acid Sulfate Soils; and
- Clause 6.5 - Development in areas subject to Aircraft Noise.

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

Standard (maximum)	Proposal	% of non compliance	Compliance
<b>Floor Space Ratio</b> Required: 0.5:1 (217.35sqm)	0.61:1 (264.4sqm)	21%	No
<b>Height of Building</b> Required: 9.5 metres	3.95 metres	N/A	Yes

The following provides further discussion of the relevant issues:

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

The property is zoned R2 - Low Density Residential under the provisions of Marrickville Local Environmental Plan 2011 (MLEP 2011). The development is permissible with Council’s consent under the zoning provisions applying to the land.

The development is acceptable having regard to the objectives for development in the zone under Marrickville Local Environmental Plan 2011.



(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 3.95 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
>400sqm	0.5:1

The property has a site area of 434.7sqm.

The development has a FSR of 0.61:1 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) Exceptions to Development Standards (Clause 4.6)

As detailed earlier in this report, the development exceeds the maximum floor space ratio development standard prescribed under Clause 4.4 of MLEP 2011 by 21% (47sqm).

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.

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

1. The proposal maintains amenity for adjoining sites with no overshadowing or visual privacy impacts.

2. The additional area in the garage which includes a toilet/shower/storage area provides good amenity for the subject site.
3. The site contains two lots with two legal descriptions and therefore should have two car parking spaces.
4. The proposed garage is similar to garages of neighbouring properties where full width garages are common.
5. Properties in the surrounding area similarly exceed the prescribed FSR.
6. The proposed garage is consistent with the objectives of Clause 4.4 of MLEP 2011.

The applicant's written rational adequately demonstrates compliance with the development standard is unreasonable or 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 Low Density Residential zone, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The proposed garage structure is consistent with car parking structures on neighbouring sites and results in no adverse amenity impacts for the adjoining properties.
- In addition to the above, the 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. Clause 4.4(2A) of MLEP 2011 details that for the purposes of attached dwellings, bed and breakfast accommodation, dwelling houses and semi-detached dwellings on land labelled "F" the FSR is determined based upon the site area. Amendment 4 of MLEP 2011 seeks to increase the maximum FSR for sites with an area greater than 400sqm from 0.5:1 to 0.6:1.
- Having regard to Amendment 4 of MLEP 2011, the proposed development exceeds the proposed amended FSR of 0.6:1 by 1.96sqm which is considered nominal and the development would be consistent with the desired future character of lots of this size.

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 objectives of Clause 4.4 are as follows;

- (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.

The proposal is acceptable in this regard for the following reasons;

- The development is consistent in size with neighbouring garage structures; and
- The proposal presents little if any impact on neighbouring development

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the

Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of the applicable local environmental plan.

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

## 5(b) Draft Environmental Planning Instruments

### 5(b)(i) 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 following assessment considers the development having regard to the amendments to Clause 4.4(2A) - Floor Space Ratio contained in Draft LEP Amendment which are of relevance to the development.

Clause 4.4 (2A) of the Draft MLEP is proposed to be amended in accordance with the following:

*Deletion of:*

Site area	Maximum floor space ratio
>350sqm ≤ 400sqm	0.6:1
>400sqm	0.5:1

*And the insertion of:*

Site area	Maximum floor space ratio
>350sqm	0.6:1

Therefore amendments to Clause 4.4(2A) would result in the subject site under the Draft MLEP having an FSR of 0.6:1. The proposal results in an FSR of 0.61:1 and would therefore be marginally greater (1.96sqm) than the required FSR under the Draft MLEP 2011.

The amendments to Clause 4.4(2A) of Draft MLEP 2011 have been discussed above as part of the assessment under “Exceptions to Development Standards (Clause 4.6)”, and the proposal is considered acceptable in this regard.

## 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.

Part	Compliance
Part 2.6 Acoustic and Visual Privacy	Yes – See discussion
Part 2.7 Solar Access and Overshadowing	Yes
Part 2.9 Community Safety	Yes



Part 2.10 Parking	<b>Yes</b>
Part 2.18 Landscaping and Open Spaces	<b>Yes – See discussion</b>
Part 2.21 Site Facilities and Waste Management	<b>Yes</b>
Part 4.1 Low Density Residential	<b>No – See discussion on setbacks, site coverage and car parking.</b>
Part 9 – Strategic Context	<b>Yes</b>

The following provides discussion of the relevant issues:

(i) 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. The development includes new sliding doors and a window on the south eastern elevation of the proposed garage which are located at ground level and as views to neighbouring properties from these openings will be mitigated by the existing boundary fence.

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.

(ii) 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 110.8sqm, being 25% 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.

(iii) Building Setbacks (Part 4.1.6.2)

**Side and rear setbacks**

The proposed garage will result in nil side setbacks which is inconsistent with side setback controls contained in Part 4.1 of MDCP 2011 which stipulate a minimum side setback of 900mm for lots over 8 metres in width. The proposed garage is consistent with the setbacks of garages on surrounding properties. In addition the side setbacks of the proposed garage are considered acceptable for the following reasons:

- The proposal ensures adequate separation between buildings for visual and acoustic privacy, solar access and air circulation;
- Side setbacks to the garage would result in unitised narrow spaces bookended by neighbouring outbuildings constructed to the boundary;
- 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;
- The proposal is satisfactory in relation to the street context; and

- The proposal maintains adequate open space.

(iv) Site Coverage (Part 4.1.6.3)

The table below demonstrates that the proposal does not comply with the numerical requirement contained within MLEP 2011.

Site Area	Site Coverage Permitted (max.)	Site Coverage Proposed	Compliance
>400-500sqm	50%	61% (268sqm)	No

While the proposal does not comply with site coverage, the site coverage is considered acceptable for the following reasons:

- The proposal 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.

(v) Car Parking (Part 4.1.7)

The application was referred to Council's Development Engineer who advised that the proposed door on the south eastern elevation of the garage encroaches the car space. Council's Development Engineer has provided conditions to ensure the door does not encroach the car parking space and to ensure the proposal satisfies Australian Standard AS/NZS 2890.1-2004 *Parking Facilities: Off-street car parking*.

Notwithstanding the above non-compliance, the development satisfies the car parking controls outlined in MDCP 2011 in that:

- The garage is off a rear lane and is consistent with car parking structures in the surrounding area with regard to bulk, scale and location;
- The garage door has a height clearance of 2.3 metres;
- The garage door will not encroach over the rear lane during operation; and
- The car parking structure complements the architectural character of the existing building and does not become a dominant element on the site.

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

5(c)(i) Other Matters

The proposal includes installing a shower in the garage which lends itself to be used as a secondary dwelling. The application seeks approval for a garage with storage area and bathroom only and does not include a request for approval for a secondary dwelling. To ensure the garage is used only for the purposes sought in this application, during assessment of the application an amended plan indicating deletion of the shower in the garage was requested from the applicant. An amended plan to this effect was not submitted to Council. As such a condition has been included in the recommendation requiring the shower in the garage be deleted.

### 5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will not result in significant or unreasonable impacts 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 advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's Notification Policy. No submissions were received.

### 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 development is consistent with the aims, and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011 and other relevant Environmental Planning Instruments. As discussed throughout this report, the development will not result in any significant impacts on the amenity of adjoining premises and the streetscape and thus the development is considered to be in the public interest.

## 6 Referrals

### 6(a) Internal

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

- Development Engineer; and
- Tree Management Officer.

### 6(b) External

The application was not required to be referred to any external bodies.

## 7. Section 94 Contributions

Section 94a contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$578.55 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution 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 with the exception that the proposal exceeds the maximum floor space ratio development standard. The proposal is generally consistent with Marrickville Development Control Plan 2011.

The development will not result in any detrimental impacts on the amenity of adjoining premises and the streetscape.

The application is suitable for the issue of consent subject to appropriate terms and conditions.

## 9. Recommendation

- A. That the Inner West Local Planning Panel (IWLPP) approve a variation to Floor Space Ratio prescribed by clause 4.4 in the Marrickville Local Environmental Plan 2011, as it is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard, objectives for development within the zone and the desired future character for lots of its size.
- 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. 201800242 to demolish an existing garage at the rear of the site and to construct a double garage containing a laundry and storage area subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### GENERAL

- 1 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
Drawing No. A1 Issue A	Site Plan	19 July 2018	Right Angle Design & Drafting	20 July 2018
Drawing No. A2 Issue A	Ground Floor Plan	19 July 2018	Right Angle Design & Drafting	20 July 2018
Drawing No. A3	Elevations, Section A-A and Roof Plan	April 2018	Right Angle Design & Drafting	5 June 2018
Drawing No. A4 Issue A	Elevations and Section B-B	19 July 2018	Right Angle Design & Drafting	20 July 2018
Drawing No. MB1	Schedule of Finishes	April 2018	Right Angle Design & Drafting	5 June 2018

and details submitted to Council on 5 June 2018, 23 July 2018, 24 August 2018 and 6 September 2018 with the application for development consent and as amended by the following conditions.

- 2 Where any plans and/or information forming part of a Construction Certificate issued in relation to this consent are inconsistent with:

- a) the plans and/or information approved under this consent; or
- b) 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.

- 3 The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.
- 4 All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).
- 5 All prescribed trees shall be retained and protected in accordance with these conditions and with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 unless their removal, pruning or other works is explicitly approved under the terms of this consent. The *Prunus persica* (peach) may be removed.
- 6 The *Prunus persica* (peach) shall be removed no earlier than 2 weeks before the start of works.

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

- 7 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.
- Reason: To comply with the provisions of the Environmental Planning and Assessment Act.
- 8 A Recycling and Waste Management Plan (RWMP) being prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and submitted to and accepted by the PCA before work commences.
- Reason: To ensure the appropriate disposal and reuse of waste generated on the site.
- 9 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.
- 10 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.
- 11 The person acting on this consent is responsible for arranging and meeting the cost of dilapidation reports prepared by a suitably qualified person. The reports are to include colour photographs and are to be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the respective property owner(s) of the identified properties, before work commences, on the buildings on the adjoining properties at 92 Neville Street and 88 Neville Street, if the consent of the adjoining property owner(s) can be obtained. In the event that the consent of the adjoining property owner(s) 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.
- 12 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.
- 13 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:
- The name, address and telephone number of the PCA;
  - A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
  - A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
- 14 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.
- 15 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.

- 16 The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.
- 17 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.
- 18 The species and location of one new tree shall be notified to and approved by council before work commences. The species of tree shall have a minimum mature height of 8 metres and shall be located a minimum of 2.0 metres from any building and a minimum of 1.5 metres from any property boundary.

Note: Tree species may be selected from Appendix 6.7 of the Marrickville Street Tree Master Plan 2014 or from the preferred species list in Clause 2.18.13 of Marrickville Development Control Plan 2011. Alternatively either *Magnifera indica* (mango) or *Persea americana* (avocado) will be acceptable.

Reason: To ensure that the new tree provides adequate and appropriate compensation and is planted in a suitable location.
- 19 Tree protection measures shall be established for the trees being retained in accordance with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 before work commences.

Reason: To ensure the trees being retained are not impacted by development-related activities.

Note: Australian Standards can be purchased via the Standard Australia publisher SAI Global Limited at [www.saiglobal.com](http://www.saiglobal.com).

**BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- 20 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)

- 21 A levy of \$578.55 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 (Debit only) or credit card\* before the issue of a Construction Certificate. Under Marrickville Section 94/94A Contributions Plan 2014 payment of Section 7.12 levies **CANNOT** be made by Personal Cheque or Company Cheque.

\*NB A 1% credit card transaction fee applies to all credit card transactions.

**(LEVY PAYMENT REFERENCE NO. DC002407)**

**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.

- 22 Before the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction indicating the deletion of the shower in the garage.
- 23 Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (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	\$3295.45
Inspection fee	\$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.

- 24 Your development has been assessed as having increased the impervious area by more than 40 square metres and therefore On Site Detention of stormwater will be required. However, as the increase is less than 100 square metres the On Site Detention system may be designed generally in accordance with the Council's default design which requires a minimum storage volume of 1 cubic metre, a 50mm diameter low level pipe outlet (or orifice plate) with a 90mm diameter high level pipe outlet or overflow. A drainage plan including an On Site Detention system which incorporates the above design elements shall be submitted to and approved by Council before the issue of the Construction Certificate. The stormwater shall be designed to exclude charged lines and shall drain under gravity.
- 25 The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template (Figure C1) from Australian Standard AS/NZS 2890.1-2004 *Parking Facilities: Off-street car parking*. A long section, along both sides of the proposed vehicular crossing and ramp, drawn at a 1:20 natural scale, shall be submitted to and approved by Council before the issue of a Construction Certificate. The long section shall begin from the centreline of the adjacent road to 3 metres past the property boundary.
- 26 The entry door in the garage (near window) encroaches upon the car space and is not acceptable. The door shall either be relocated such that it does not encroach within the car space or be deleted or be converted to a sliding door. Amended plans demonstrating compliance shall be submitted to and approved by Council before the issue of the Construction Certificate.
- 27 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.

#### SITE WORKS

- 28 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.  
Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

- 29 The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

- 30 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'.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

- 31 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.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the National Construction Code (Building Code of Australia).

- 32 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.

Reason: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.

- 33 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.

- 34 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.
- 35 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.
- 36 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.
- 37 The person acting on this consent must comply with the requirements of the Dividing Fences Act in respect to the alterations and additions to the boundary fences.
- 38 Any new or replacement hot water system must have a minimum 3.5 energy star Greenhouse rating.
- 39 Fixtures for bathroom and kitchen taps, showerheads, dishwashers, toilet cisterns and urinals must have a minimum 3 Star WELS rating.  
Note: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: [www.waterrating.gov.au](http://www.waterrating.gov.au).
- 40 New or replacement toilets must have a minimum 3 Star WELS rating and being 6/3 litre dual flush or more efficient.  
Note: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: [www.waterrating.gov.au](http://www.waterrating.gov.au).
- 41 All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.

- 42 Tree protection measures detailed in Section 4 of Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 shall be implemented and complied with for the duration of works except where these conditions permit otherwise.  
Note: Australian Standards can be purchased via the Standard Australia publisher SAI Global Limited at [www.saiglobal.com](http://www.saiglobal.com).
- 43 Trees to be removed shall be removed by a practicing arborist who has a minimum qualification of Certificate 3 in Arboriculture, in compliance with the *Safe Work Australia Guide to Managing Risks of Tree Trimming and Removal Work*, July 2016.
- 44 No woody roots within 2.0 metres of the lemon tree (centre of trunk) shall be pruned, severed or otherwise damaged. Excavation for piers for the deck shall be located to avoid woody roots.
- 45 If the lemon tree needs to be pruned, it shall be pruned by a practicing arborist who has a minimum qualification of Certificate 3 in arboriculture, in accordance with the Australian Standard *Pruning of Amenity Trees* AS 4373—2007. No more than 30 percent of the crown shall be removed.
- 46 Following completion of construction and prior to the issue of the Occupation Certificate, one new tree shall be planted.
- 47 The new tree shall be planted in accordance with the following criteria:
- The new tree shall be planted in the location approved by Council before the commencement of works, being a minimum of 2.0 metres from any building and a minimum of 1.5 metres from any property boundary.
  - The species of the new tree shall be as approved by Council before the commencement of works, being a species of tree that has a minimum mature height of 8 metres.
  - The planting stock size shall be at least 75 litres or as otherwise approved in writing by Council.
  - The planting stock shall comply with the Australian Standard *Tree Stock for Landscape Use* AS 2303-2015.
  - The new tree shall be planted in accordance with the tree planting detail included in the Marrickville Street Tree Master Plan 2014. Note that planting holes for trees shall not be excavated deeper than the root ball and that new trees shall not be staked.
  - The new tree shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.
  - The new tree shall be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by Council's Development Control Plan (DCP).
  - If the tree dies or needs to be removed before that time it shall be replaced with a similar tree in accordance with these conditions at the expense of the applicant.

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

- 48 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 copy of the determination;
  - Copies of any documents that were lodged with the Occupation Certificate application;
  - A copy of Occupation Certificate, if it was issued;
  - A copy of the record of all critical stage inspections and any other inspection required by the PCA;
  - 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.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.

- 49 All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
- 50 Light duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be constructed at the vehicular access locations. Additionally the existing concrete footpath on Neville Lave shall be reconstructed in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" along the full frontage of the site on Neville Lane (except where the vehicle crossing is provided), at no cost to Council and before the issue of the Occupation Certificate.
- 51 Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.
- 52 You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
- 53 The Principal Certifying Authority shall certify in writing before the issue of the Occupation Certificate that the conditions relating to tree removal, tree pruning, tree protection and tree planting have been complied with, or if not, detail the nature of any departure from the conditions and shall report breaches of the conditions to Inner West Council.

#### USE OF THE BUILDING

- 54 The garage must be used exclusively in association with the dwelling house on the property and must not be adapted for habitable use 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.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of Vehicle Crossing and Public Domain Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
- 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.sydneypwater.com.au">www.sydneypwater.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.

B. THAT the Department of Planning and Environment be advised, as part of the quarterly review of the monitoring of Clause 4.6 of Marrickville Local Environmental Plan 2011 – Exceptions to Development Standards, that Council has agreed to the variation of the following development standard:

<u>Premises:</u>	90 Neville Street Marrickville
<u>Applicant:</u>	Dr Skender Haxhimolla & Mr Hodo Haxhimolla
<u>Proposal:</u>	To demolish an existing garage at the rear of the site and to construct a double garage containing a laundry and storage area
<u>Determination:</u>	Consent subject to conditions
<u>DA No:</u>	DA201800242
<u>Lot and DP:</u>	Lot 1 DP 1044040 & Lot 2 DP 1044040
<u>Category of Development:</u>	Residential

Environmental Planning Instrument: Marrickville Local Environmental Plan 2011  
Zoning of Land: R2- Low Density Residential  
Development Standard(s) varied: Clause 4.4 – Floor Space Ratio  
Justification of variation: Compliance unreasonable and unnecessary given site size, impact and context of surrounding development and Draft MLEP 2011 amendment.  
Extent of variation: 21% or 47sqm  
Concurring Authority: Council under assumed concurrence of the Secretary Department of Planning and Environment  
Date of Determination:

Attachment B – Plans of proposed development

**SPECIFICATION**

- CONFIRM ALL DIMENSIONS, SERVICES AND LEVELS ON SITE PRIOR TO STARTING WORK
- ALL BUILDING WORKS SHALL COMPLY WITH THE BUILDING CODE OF AUSTRALIA AND THE REQUIREMENTS OF THE LOCAL GOVERNMENT AUTHORITY
- THE BUILDERS TO CLEAR THE BUILDING SITE, REMOVE ALL RUBBISH AND SEPARATE TOP SOIL FROM TO BE RELOCATED AND GRASSES AND SOIL TO BE RELOCATED TO THE ORIGINAL PLACES AND FOOTING SHALL BE CAPABLE OF CARRYING ALL DEAD AND LIVE LOADS SUPERIMPOSED THERE ON. ALL CONCRETE WORK TO BE DONE WITH PROVISIONS FOR GOOD AND NEAT FINISHES. WALLS AND CEILING TO BE ACCURATELY BOUNDED AND CARRIED UP TRUE AND PLUMB IN LEVEL COURSES TO THE VARIOUS HEIGHTS AND MARKERS TO CONSIST OF FRESH PORTLAND CEMENT HYDRATED LIME OR LIME PUTTY AND LEAN SHARP SAND, NOMINALLY PROPORTIONED BY WEIGHT AS FOLLOWS: 1 PART CEMENT TO 2 PARTS SAND TO 3 PARTS SAND. ALL CONCRETE TO BE ACCURATELY BOUNDED AND CARRIED UP TRUE AND PLUMB IN LEVEL COURSES TO THE VARIOUS HEIGHTS AND MARKERS TO CONSIST OF FRESH PORTLAND CEMENT HYDRATED LIME OR LIME PUTTY AND LEAN SHARP SAND, NOMINALLY PROPORTIONED BY WEIGHT AS FOLLOWS: 1 PART CEMENT TO 2 PARTS SAND TO 3 PARTS SAND. ALL CONCRETE TO BE ACCURATELY BOUNDED AND CARRIED UP TRUE AND PLUMB IN LEVEL COURSES TO THE VARIOUS HEIGHTS AND MARKERS TO CONSIST OF FRESH PORTLAND CEMENT HYDRATED LIME OR LIME PUTTY AND LEAN SHARP SAND, NOMINALLY PROPORTIONED BY WEIGHT AS FOLLOWS: 1 PART CEMENT TO 2 PARTS SAND TO 3 PARTS SAND.
- ALL PLUMBING WORK TO BE PERFORMED IN ACCORDANCE WITH RULES AND REGULATIONS OF THE LOCAL GOVERNMENT AUTHORITY AND THE ELECTRICAL INSTALLATION SHALL BE CARRIED OUT BY A LICENSED ELECTRICIAN IN ACCORDANCE WITH THE REQUIREMENTS OF THE LOCAL ELECTRICAL AUTHORITY AND THE CURRENT WIRING CODES. THE ELECTRICAL INSTALLATION SHALL BE CARRIED OUT BY A LICENSED ELECTRICIAN IN ACCORDANCE WITH THE REQUIREMENTS OF THE LOCAL ELECTRICAL AUTHORITY AND THE CURRENT WIRING CODES. THE ELECTRICAL INSTALLATION SHALL BE CARRIED OUT BY A LICENSED ELECTRICIAN IN ACCORDANCE WITH THE REQUIREMENTS OF THE LOCAL ELECTRICAL AUTHORITY AND THE CURRENT WIRING CODES.
- ALL PAINT, ENAMEL, VARNISH ETC TO BE OF THE BEST QUALITY APPROVED BRANDS BROUGHT ON TO THE JOB IN UNOPENED CONTAINERS TO BE APPLIED ACCORDING TO MANUFACTURERS SPECIFICATIONS.
- THE DRAINERS TO PROVIDE A SEWERED DRAINAGE SYSTEM FROM ALL WASTES AND FITTINGS AND CONNECT TO THE EXISTING SEWER DISPOSAL SYSTEM. ALL DRAINAGE SYSTEMS SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL GOVERNMENT AUTHORITY FOR WATER SUPPLY AND SEWERAGE. PROVIDE MINIMUM ONE GULLY OUTSIDE THE BUILDING. THE AUTHORITIES APPROVAL TO BE OBTAINED AT COMPLETION OF THE WORK. LAID STORMWATER DRAINAGE SYSTEM SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL GOVERNMENT AUTHORITY FOR WATER SUPPLY AND SEWERAGE. PROVIDE MINIMUM ONE GULLY OUTSIDE THE BUILDING. THE AUTHORITIES APPROVAL TO BE OBTAINED AT COMPLETION OF THE WORK. LAID STORMWATER DRAINAGE SYSTEM SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL GOVERNMENT AUTHORITY FOR WATER SUPPLY AND SEWERAGE.
- BOUNDARY FENCING TO BE UPGRADED AS NECESSARY AND ALL POOL FENCING TO COMPLY WITH THE NEW SWIMMING POOL ACT 1992.
- SWIMMING POOLS AND SAUNAS TO BE INSTALLED TO THE SATISFACTION OF THE LOCAL GOVERNMENT AUTHORITY FOR WATER SUPPLY AND SEWERAGE. PROVIDE MINIMUM ONE GULLY OUTSIDE THE BUILDING. THE AUTHORITIES APPROVAL TO BE OBTAINED AT COMPLETION OF THE WORK. LAID STORMWATER DRAINAGE SYSTEM SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL GOVERNMENT AUTHORITY FOR WATER SUPPLY AND SEWERAGE.
- THIS POOL IS NOT DESIGNED FOR DIVING. INDEED, THE POOL IS NOT TO BE USED FOR DIVING. THE BUILDING IN ALL RESPECT TO BE LEFT CLEAN AND FIT FOR OCCUPATION. ALL SURPLUS MATERIALS ARE TO BE REMOVED BY THE BUILDER.
- FINISHING LEVEL
- FL = FLOOR LEVEL
- RL = REDUCED LEVEL
- E = EXISTING LEVEL

**SYMBOL LEGEND**

- NEIGHBOURING PRIVATE OPEN SPACE
- PREVAILING WINDS
- VEWS
- NOISE SOURCE

### SITE PLAN / SITE ANALYSIS PLAN

**DA COMPLIANCE TABLE**

ITEM	EXISTING	PROPOSED	ALLOWABLE/REQUIRED	COMPLIANT
SITE AREA	434.7 sq m	239.9 sqm (55%)	217.4 sqm (50% max)	NO
SITE COVERAGE	194.8 sqm / 45%	106 sqm	86.9 sqm min	YES
PRIVATE OPEN SPACE	142.9 sqm	213.4 sqm	43.5 sqm min	YES
LANDSCAPED AREA	222.6 sqm	237.6 sqm	0.54:1	NO
RESIDENCE	213.55 sqm	0.49:1		
FLOOR SPACE RATIO				

**NOTES**

- 1/ BOUNDARIES HAVE NOT BEEN MARKED.
- 2/ DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.
- 3/ NO INVESTIGATION HAS BEEN MADE OF UNDERGROUND SERVICES.
- 4/ GRIGNON OF LEVELS, YOUR INSTR. 15.04E (1/4)

**LANDSCAPE SURVEYS**  
 LANDSCAPE SURVEYS  
 (02) 45737165

**RIGHT ANGLE DESIGN & DRAFTING PTY LTD**  
 A 19/07/18 - RUBBISH ROOM REMOVED

**REVISIONS:**

NO.	DESCRIPTION	DATE
1	19/07/18 - RUBBISH ROOM REMOVED	

**PROPOSED GARAGE**  
 HAXHIMOLLA RESIDENCE  
 LOT 1 & 2 DP1044040  
 No. 90 NEVILLE STREET  
 MARRICKVILLE 2204

**DMG NAME**  
 SITE PLAN / SITE ANALYSIS PLAN

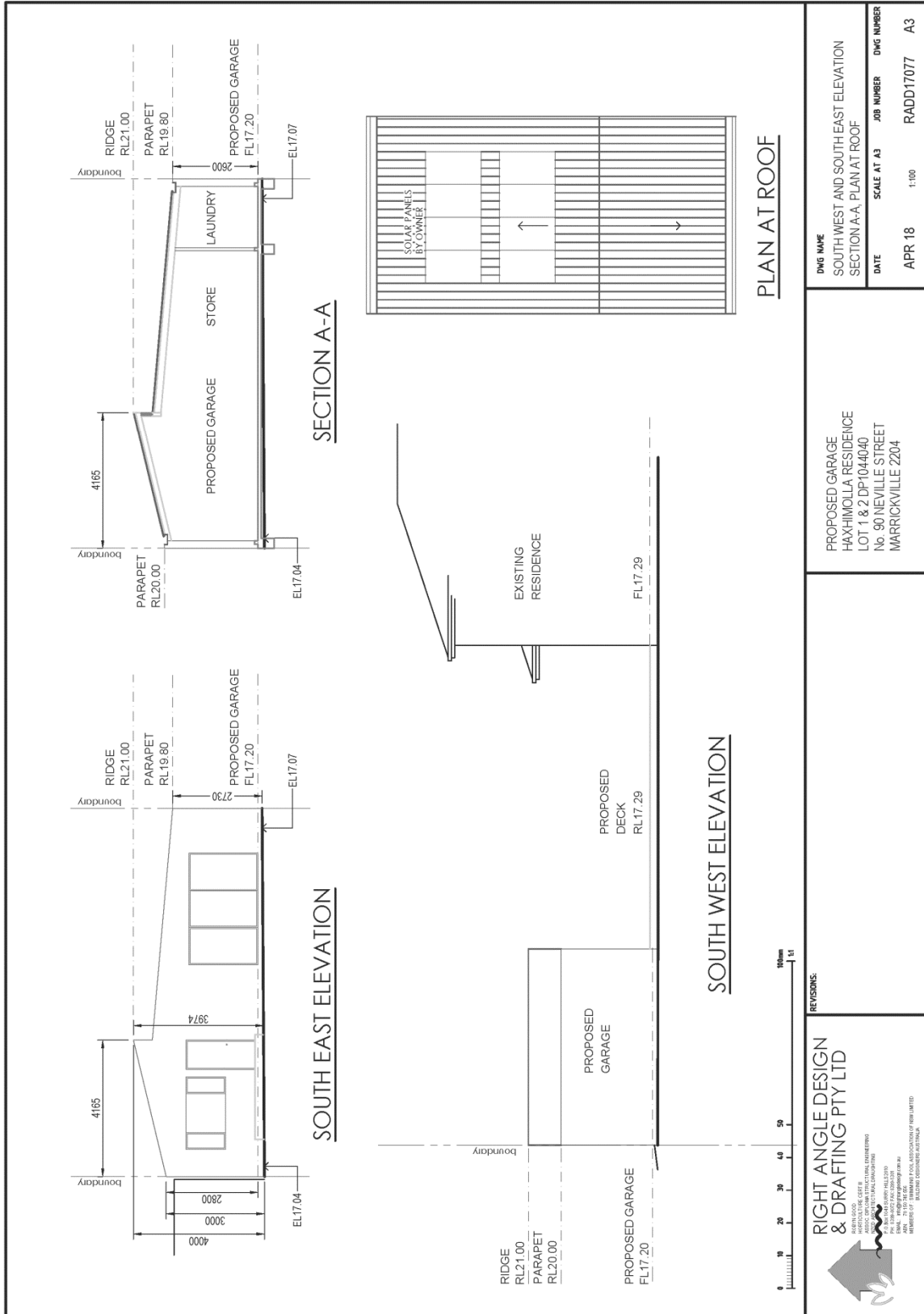
**DATE**  
 APR 18

**SCALE AT A3**  
 1:200

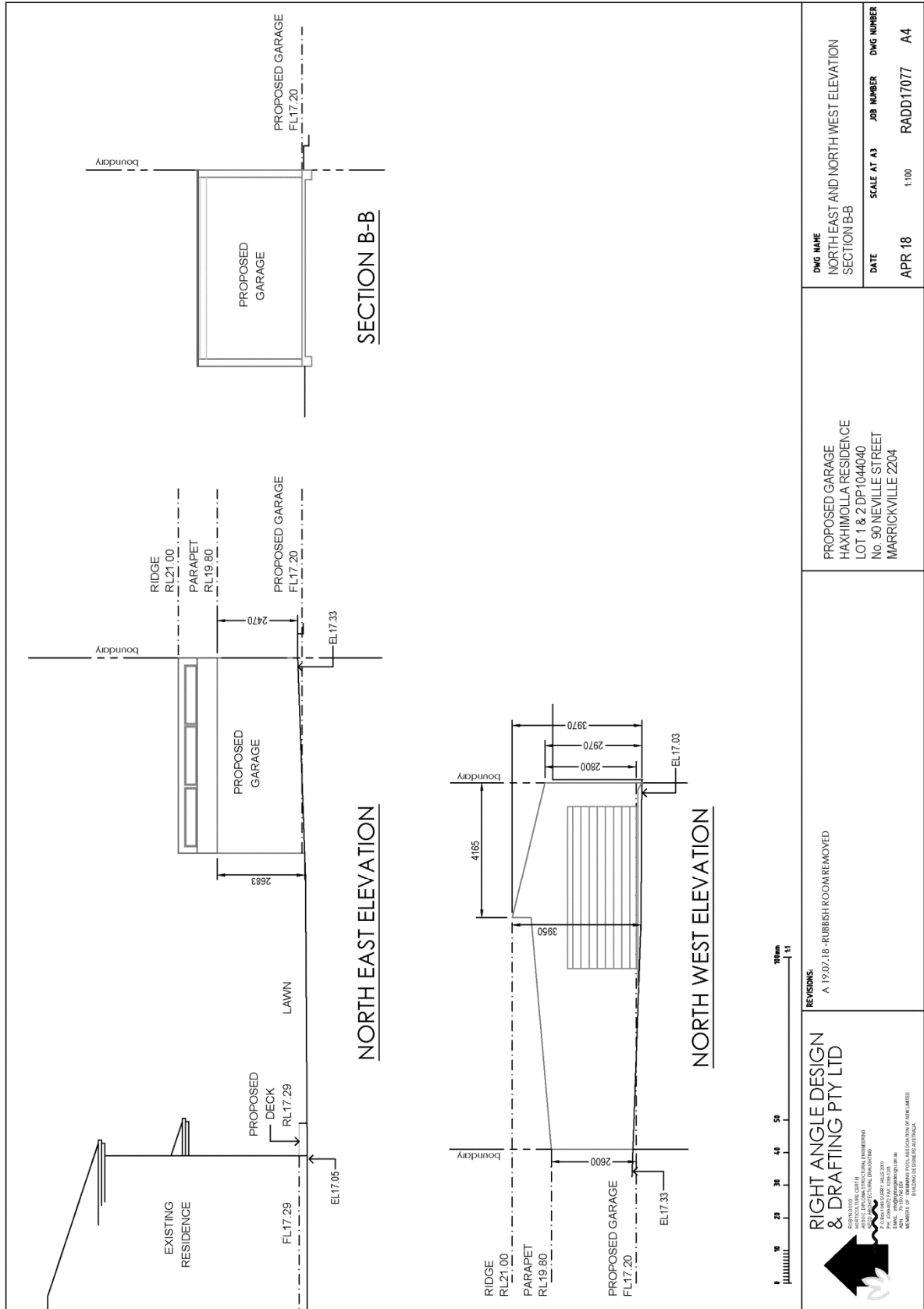
**JOB NUMBER**  
 RADD17077

**DMG NUMBER**  
 A1









<b>DWG NAME</b> NORTH EAST AND NORTH WEST ELEVATION SECTION B-B		
<b>DATE</b> APR 18	<b>SCALE AT A3</b> 1:100	<b>JOB NUMBER</b> RADD17077
		<b>DWG NUMBER</b> A4

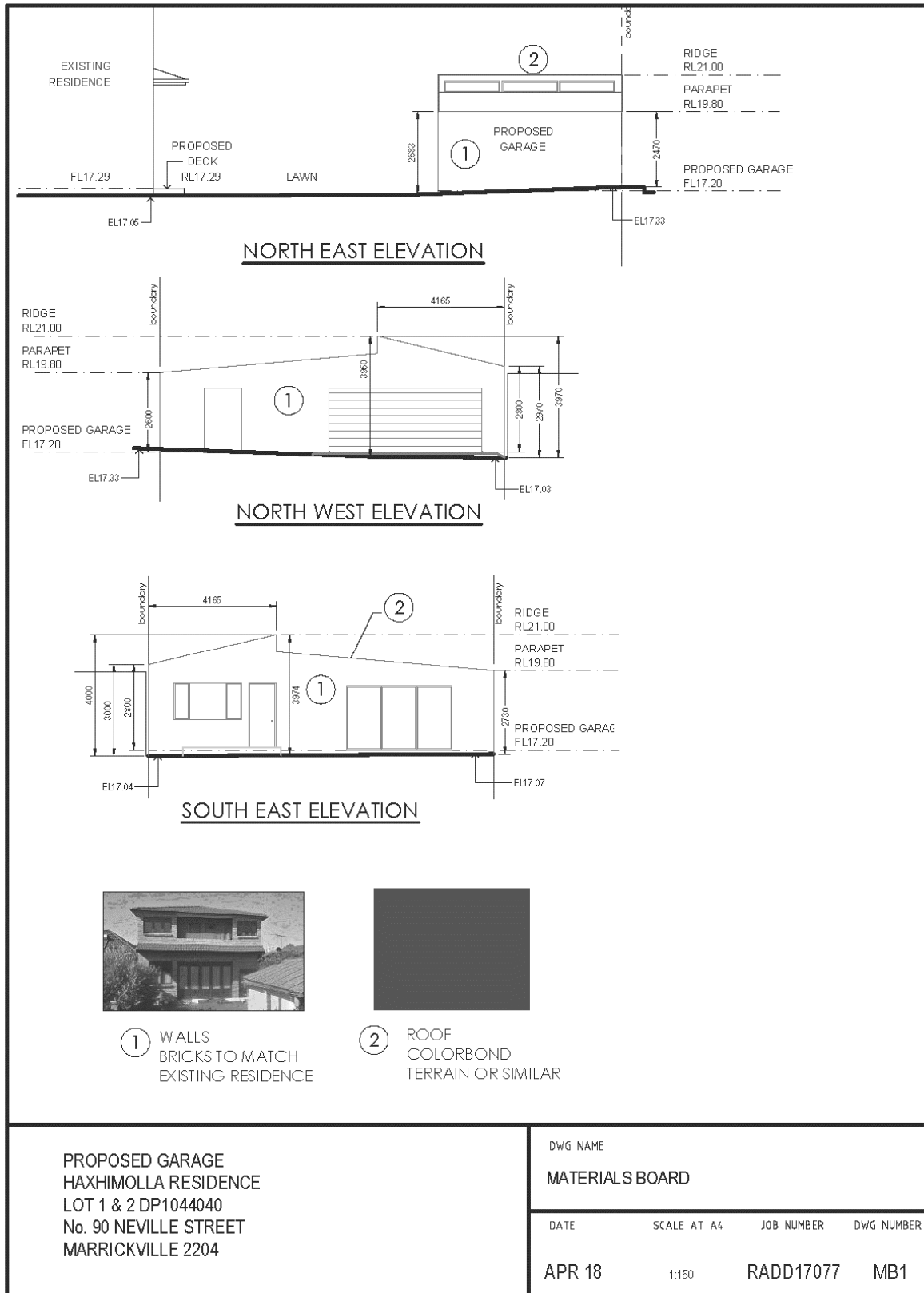
PROPOSED GARAGE  
 HAXHIMOLLA RESIDENCE  
 LOT 1 & 2 DP104040  
 No. 90 NEVILLE STREET  
 MARRICKVILLE 2204

**REVISIONS**

A 19.07.18 - RUBBER ROOM REMOVED

**RIGHT ANGLE DESIGN & DRAFTING PTY LTD**

12/150 WILSON STREET, WILSON PROMENADE, MARRICKVILLE NSW 2204  
 PHONE: (02) 9550 1234  
 EMAIL: info@rightangle.com.au  
 WEBSITE: www.rightangle.com.au  
 CHARTERED SURVEYORS  
 REGISTERED ARCHITECTS  
 REGISTERED ENGINEERS  
 REGISTERED DRAFTING TECHNICIANS  
 MEMBERS OF THE AUSTRALIAN PROFESSIONAL ARCHITECTS ASSOCIATION (AIA)  
 MEMBERS OF THE AUSTRALIAN PROFESSIONAL ENGINEERS ASSOCIATION (APEA)  
 MEMBERS OF THE AUSTRALIAN PROFESSIONAL DRAFTING ASSOCIATION (APDA)  
 MEMBERS OF THE AUSTRALIAN PROFESSIONAL SURVEYORS ASSOCIATION (APSA)



## Attachment C – Clause 4.6 Exception to Development Standards

5 September 2018

The Assessment Officer  
Planning and Development  
Inner West Council

**CLAUSE 4.6 OBJECTION TO A DEVELOPMENT STANDARD**  
**FLOOR SPACE RATIO**  
**PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING RESIDENCE**  
**INCLUDING REMOVAL OF EXISTING REAR GARAGE AND**  
**REPLACEMENT WITH NEW**  
**SKENDER HAXHIMOLLA**  
**LOT 1 AND 2 DP 1044040**  
**90 NEVILLE STREET, MARRICKVILLE 2204**

It is proposed to construct a new rear yard garage and the removal of the existing dilapidated garage for the property at 90 Neville St, Marrickville. The site will have a slight increase in the overall Floor Space Ratio as a portion of the proposed garage will not be used for parking. Due to the constraints of the site, floor space on the property will be outside of Council's recommended percentages. The Clause 4.6 application is for the Floor Space Ratio for the property.

The proposed garage and associated works have been designed having regard to the provisions of the Marrickville Local Environment Plan 2011

The LEP 2011 Part 4.4 states:

4.4 Floor space ratio

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

- (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.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

(2A) Despite subclause (2), development for the purposes of attached dwellings, bed and breakfast accommodation, dwelling houses and semi-detached dwellings on land labelled "F" on the [Floor Space Ratio Map](#) is not to exceed the relevant floor space ratio determined in accordance with the Table to this subclause.

Site area	Maximum floor space ratio
≤ 150 square metres	1.1:1
> 150 ≤ 200 square metres	1:1
> 200 ≤ 250 square metres	0.9:1
> 250 ≤ 300 square metres	0.8:1
> 300 ≤ 350 square metres	0.7:1
> 350 ≤ 400 square metres	0.6:1
> 400 square metres	0.5:1

(2B) Despite subclause (2), development for the purposes of residential flat buildings on land identified with a thick red line and labelled "F" on the [Floor Space Ratio Map](#) may exceed the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) by no more than 0.25:1.

The relevant objectives of the LEP are to:

- (1) (a) provide for the preservation of natural resources to ensure their availability for the benefit of future generations, and

- (b) minimise negative impacts of urban development on the natural, social, physical and historic environment
- (c) maintain and enhance the quality of life, both now and in the future to ensure adequate opportunities for the retention or provision of vegetation that contributes to biodiversity,

In relation to the Environmental Planning and Assessment Act in particular Clause 5 (a) the object of the act is (i) *"to encourage proper management, development and conservation of natural and artificial resources."* and (ii) *"to encourage the protection, provision and co-ordination of the orderly and economic use and development of land."*

The proposed new garage and associated works, along with the existing residence, create a floor space ratio that will slightly exceed the Council requirement of 0.5:1 for the site in question. 50% floor space for the site is 217.35 square metres. The site will have a floor space total of 264.4 square metres or a ratio of 0.61:1.

It is considered that compliance with the development standard is unreasonable and unnecessary because of the following reasons:

- The new proposal alters the site percentages a minimal amount.
- The proposed new floor space has been kept to a minimum.
- The development does not affect neighbours by means of shadow or obstruction.
- With the outdoor entertaining area to the rear of the residence it seems highly acceptable to have the northern portion of the garage structure housing a toilet and shower. This will have little impact on site ratios.
- The garage is designed to accommodate two vehicles, the excess room will be for storage and perhaps a gym and play area. All work is at ground level and will have no impact on neighbouring residences. Council only permit one car space to be calculated as parking, the second has to be FSR. This site is actually two lots and should have two car spaces.
- The garage will be finished in quality materials. The new garage door will be colorbond Pale Eucalypt and of excellent steel construction.
- The proposed works are similar or smaller in nature to a large number of rear lane garages recently constructed on neighbouring properties.
- The proposed variance in the permitted ratio is less than 0.11:1 Council has regularly agreed that small increases are permitted due to the site constraints. The works are no excessive and well within what Council has recently permitted on this street.

#### **Reasonable Expectation of Improvements to the Property**

The property is in a locality where full width rear lane garages are common. The majority of neighbouring properties on the rear lane have already constructed similar garages or have recently received approval to construct a full width garage, including the direct neighbours.

If the landform rule were strictly applied this would have the effect of prohibiting a any new construction on the property completely, which would be an unfair result given that there are many examples of new works daily in the locality. The vast majority of properties in the area all exceed the site coverage and landscape ratios, with a large number exceeding FSR..

The main reasons for the objection pertain to the quality of the development and the small impact it has on the site. The development has taken into consideration design aspects of human comfort such as scale, noise, solar access and shade to both this residence and the neighbouring properties. The design protects the neighbour's amenity including visual and acoustic privacy particularly in regards to living area and private open spaces. We therefore state that the development is sensitive to the landscaped setting, environmental conditions and the established character of the locality. The site's difficulty and the proposed works make a better, safer and more efficient and economic use of the area for the residence, it is noted that the compliance with Council's regulations will hinder the attainment of the objectives specified in section 5(a)i and ii of the EP&A Act. In conclusion, it is believed that the proposal is in keeping with the guides and objectives of the Marrickville LEP 2011.

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