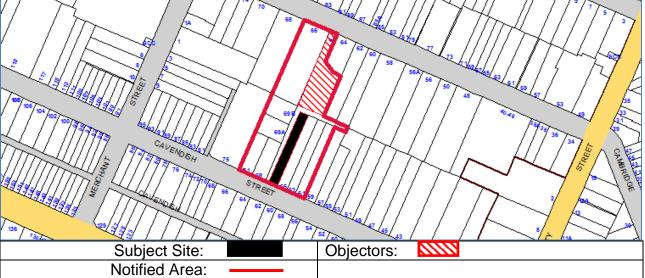


DEVELOPMENT ASSESSMENT REPORT				
Application No.	. DA201600425			
Address	67 Cavendish Street, Stanmore			
Proposal	To demolish an existing single storey brick garage and replace it			
	with a new bag rendered brick garage with mezzanine storage			
	with associated landscaping and replacement of rear fence			
Date of Lodgement	22 August 2016			
Applicant	Mr R Mayer			
Owner	Mr R Mayer & Mrs M Mayer			
Number of Submissions 3				
Value of works	\$50,000			
Reason for determination	Clause 4.6 variation exceeds officers' delegation			
at Planning Panel				
Main Issues	FSR and heritage conservation, tree impacts			
Recommendation Consent subject to conditions				



1. Executive Summary

This report is an assessment of the application to demolish an existing single storey brick garage and replace it with a new bag rendered brick garage with mezzanine storage with associated landscaping and replacement of rear fence at 67 Cavendish Street, Stanmore. The proposal impacts on trees, in particular a large tree located in a right-of way at the rear of the garage. The application was notified to surrounding properties and three submissions were received.

The main issues that have arisen from the application include:

- Tree impacts; and
- Heritage impacts on the existing heritage item.

An initial assessment of the proposal revealed that removal of a tree in the right-of-way adjoining the rear of the existing garage is unwarranted. An amended Arboricultural Impact Appraisal and Method Statement were submitted, indicating that the tree could be retained in conjunction with the proposed development. Assessment of the proposal required consideration of a recently approved garage at 63 Cavendish Street, which is part of the Heritage Item known as Hughenden Terrace.

The proposal exceeds the Floor Space Ratio (FSR) development standard prescribed by Marrickville Local Environmental Plan (MLEP) 2011. The development amounts to an FSR departure of 135.5sqm or 65%. It is noted that the existing development already exceeds the FSR development standard by 58% as a result of the enlarged garage. A written submission under Clause 4.6 of MLEP 2011 in relation to the FSR departure has been submitted during the assessment process.

The submission demonstrates that there are sufficient environmental planning grounds in the particular circumstances of the case to justify the FSR departure. The proposal generally complies with the aims, objectives and design parameters contained in MLEP 2011 and Marrickville Development Control Plan (MDCP) 2011.

The potential impacts to the surrounding environment have been considered as part of the assessment process. The application has been amended to address comments raised by Council Officers during the assessment. Any potential impacts from the amended development are considered to be acceptable given the context of the site and the desired future character of the precinct.

The application is suitable for approval subject to the imposition of appropriate conditions.

2. Proposal

Approval is sought to demolish an existing single storey brick garage and replace it with a new bag rendered brick garage with mezzanine storage with associated landscaping and replacement of rear fence. Two skylights are proposed on the northern roof plane, and a mezzanine storage area is proposed under the southern roof.

The plans include dimensions which indicate that the proposed garage 8.14 metres in length, and setback 2.35 metres from the rear boundary which is adjacent a right-of-way. The plans indicate max RL 43.83 for the roof pitch and FFL RL 38.43, which indicates that the garage is 5.4 metres in height.

3. Site Description

The site is located on the northern side of Cavendish Street, between Merchant and Liberty Streets, Stanmore. The site has a frontage to Cavendish Street and the rear and western boundaries are located adjacent a right-of-way. The site is generally rectangular shaped with a total area of 419sqm and is legally described as Lot A in Deposited Plan 26942. The property is listed as a heritage item under MLEP 2011, namely Hughenden Terrace (Item I243), incorporating 57-67 Cavendish Street. The property is located within a Heritage Conservation Area under MLEP 2011 (Heritage Conservation Area C17 – Kingston South).

The following characteristics relate to the site:

- The Cavendish Street frontage is 7.44 metres in width;
- The rear (right-of-way) frontage is 7.035 metres in width;
- The allotment has a depth of 57.455 metres; and
- The site slopes toward the south such that there is a 1.78 metre fall from rear to front.

The surrounding streetscape consists mainly of two and three storey dwelling houses. The site is adjoined by 65 Cavendish Street which is part of the row of three storey dwelling houses which form the Heritage Item and 69 Cavendish Street which contains a two storey dwelling house. A three storey residential flat building is located north (directly to the rear) at 64a Cambridge Street. In addition to the vehicular access to the subject site, the laneway provides vehicular access for several other properties in Cavendish Street, including numbers 69A, 69B, 65, and 63. A garage of similar proportions to the proposed garage is located at the rear of 63 Cavendish Street.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
DA201400187	To prune a Southern Mahogany and remove a Black Peppermint tree located at the rear of the site	Consent subject to conditions 12 June 2014

Comment: Council's Tree Management Officer has considered the implications of Determination 201400187 in relation to the works proposed under the current application.

63 Cavendish Street

Application	Proposal	Decision & Date
DA201500069	To demolish part of the premises and carry out ground floor alterations and additions to a dwelling house and erect a garage with attic storage at the rear of the site. The approved plans resulted in a 44% FSR variation and include a garage with	Deferred Commencement Consent 9 September 2015. DA201500069 became operative on 29 January 2016.
	attic storage (mezzanine), which is of a similar design to the current proposal.	

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
22 November 2016	Council's raised concerns in relation to excessive bulk and scale and the loss of a large tree (of high retention value). It was also noted that the application did not include an objection to the FSR standard as required by Clause 4.6 of Marrickville Council Local Environmental Plan 2011, and that the architectural plans were of an unacceptable quality in relation to legibility and scale.
14 February 2017	Amended plans and Arboricultural Report provided to Council.
16 February 2017	The applicant was requested to submit revised plans indicating: a) The garage setback from the rear lane to match the approved garage at No. 63 Cavendish Street; b) The garage reduced to 7 metres in length to match the approved garage at No. 63; c) The roof pitch and height matching that of the approved garage at No. 63; and d) The provision of eaves (450-600mm). These plans are the subject of this assessment report.

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 Instrument. The following provides further discussion of the relevant issues:

Marrickville Local Environmental Plan 2011 (MLEP 2011)

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

- Clause 1.2 Aims of the Plan
- 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 5.10 Heritage
- Clause 6.1 Acid Sulfate Soils
- Clause 6.2 Earthworks

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

Standard (maximum)	Proposal	% of non-compliance	Compliance
Height			
Required: 9.5m	5.4m	N/A	Yes
Floor Space Ratio			
Required: [0.50:1]	0.82:1	65%	No
[000 Fm ²]	345m ²	135.5m ²	
[209.5m ²]			

The following provides further discussion of the relevant issues:

(x) <u>Aims of the Plan (Clause 1.2)</u>

The development is consistent with the aims of Clause 1.2 of MLEP 2011. The development applies the principles of ecologically sustainable development, and conserves the environmental and cultural heritage of Marrickville. Subject to recommended conditions, the application is satisfactory having regard to the Aims of the Plan under Clause 1.2 of MLEP 2011.

(xi) Land Use Table and Zone Objectives (Clause 2.3)

The property is zoned R2 - Low Density Residential under the provisions of Marrickville Local Environmental Plan 2011 (MLEP 2011). The development is not specified in item 2 or 4 of the Zone R2 Low Density Residential zoning table, and is therefore permitted with consent under the zoning provisions applying to the land. The development is considered acceptable having regard to the objectives of the R2 - Low Density Residential zone.

(xii) <u>Demolition (Clause 2.7)</u>

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.

(xiii) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 0.5:1 applies to the land under MLEP 2011. The development has a gross floor area (GFA) of 345sqm which equates to a FSR of 0.82:1 on the 419sqm site, a departure of 135.5sqm or 65%, which does not comply with the FSR development standard.

Clause 4.6 Exceptions to Development Standards

As outlined above, the proposal results in a breach of the floor space ratio development standard specified in Clause 4.4 of MLEP 2011. Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard. A written request in relation to the contravention to the FSR development standard in accordance with Clause 4.6 (Exceptions to Development Standards) of MLEP 2011 was submitted with the application.

The applicant considers compliance with the development standard to be unreasonable and unnecessary for the following reasons:

• The proposal does not add to the building density in that no additional habitable floor space is proposed. The additional floor space is associated with the mezzanine storage.

- The proposal is compatible with the desired future character of the area.
- The degree of overshadowing is within acceptable limits.
- The proposed alterations have designed to respect the historical significance of the building.
- The proposed garage complies with the objectives of the FSR development standard by responding to the existing form and scale for the surrounding built environment.
- There are no works proposed to the front of the property. The proposed works will not be visible from the street and there will be no impact to the streetscape.
- The private open space remains >20% of the site area.
- The proposed garage restores the currently unusable two-car garage off-street parking for the residents ... increases the current set back to 2350mm off the boundary in order to improve the manoeuvrability in the rear right of way.

Contrary to the Clause 4.6 objection, the development is considered to increase density on site with provision of the mezzanine level. The definition of gross floor area in the dictionary of MLEP 2011 indicates that the mezzanine must be included gross floor area, whether or not the mezzanine level is habitable. The area of the mezzanine level is calculated to be 15 square metres and has been included in Council Officers FSR calculations. A revised Clause 4.6 was submitted to reflect Council's calculations.

The applicant's written submission is considered to be well founded and worthy of support. It is considered that there are sufficient environmental planning grounds as to why the FSR development standard should be varied in this particular circumstance based on the following:

- The garage is of a similar scale to what has already been approved in the locality.
- The existing development already exceeds the FSR development standard by 58% as a result of the enlarged garage.
- The proposal is considered compatible with the desired future character of the area see Part 5(c) of this report (Part 9 of MDCP 2011).
- The proposal complies with overshadowing and solar access requirements see Part 5(c) of this report (Part 2.7 of MDCP 2011).
- The proposal is assessed as a reasonable outcome for heritage see Part 5(c) of this report (Part 8 of MDCP 2011).
- The proposed garage is considered to respond to the existing form and scale of the surrounding built environment, which consists of three storey residential flat buildings, three storey terraces and two-storey houses, and a garage of similar proportions at 63 Cavendish Street see Part 3 of this report.
- The proposal does not impact the streetscape or lanescape see Part 5(c) of this report (Part 4.1.7 of MDCP 2011).
- Sufficient landscaping and open space is retained in accordance with Council's controls See Part 5(c) of this report (Part 2.18 of MDCP 2011).

The proposal complies with parking requirements - see Part 5(c) of this report (Part 2.10 of MDCP 2011).

Therefore, the justification provided in the applicant's written submission is considered to be well founded and worthy of support.

As demonstrated in the assessment provided in this report, the additional GFA does not result in any adverse amenity impacts for adjoining properties and the architectural form proposed responds appropriately to surrounding development.

The non-compliance with the standard does not contribute to adverse environmental impacts in terms of overshadowing, visual impacts or view loss.

It is noted that a significant FSR non-compliance has been granted by the Council at 63 Cavendish Street with a 44% FSR variation in September 2015.

The applicant's written request is considered to have adequately addressed the matters required to be demonstrated by subclause (3) of Clause 4.6 of MLEP 2011. The proposed development will be in the public interest because it is consistent with the objectives of the FSR standard and the objectives for development within the zone.

The granting of concurrence to the proposed variation of the development standard will not raise any issues of state or regional planning significance. The proposed variation to the development standard will not compromise the long term strategic outcomes of the planning controls to the extent that a negative public benefit will result. In this regard, there is no material public benefit to the enforcing of the development standards.

(xiv) <u>Heritage Conservation (Clause 5.10)</u>

The property is listed as an Heritage Item under MLEP 2011, namely Hughenden Terrace (Item I243), incorporating 57-67 Cavendish Street. The property is also located within a Heritage Conservation Area under MLEP 2011 (Heritage Conservation Area C17 – Kingston South).

Control C1 specifies that such items must be conserved and new development must not diminish the significance of the item. The Heritage Conservation Area is described as aesthetically significant for its examples of late 19th century to mid-20th century development including, but not limited to, 19th and early 20th century terraces and houses.

Council's Heritage and Urban Design Advisor assessed the plans and considered that the final amended plans submitted to Council were supportable. An assessment was made of the heritage impacts on Hughenden Terrace and HCA 17 as a result of the proposed development. The assessment included consideration of precedent set by Determination DA201500069, which included a garage and attic of a similar design to the subject proposal.

It was noted that the justification provided by the applicant regarding the small variations between the subject proposal and the approved garage at 63 Cavendish Street is valid given that the proposal does not detrimentally impact on the quality of the lanescape due to its corner location nor impact on the significance of the heritage item. The variation in the length of the garage is supported as it is understood that the subject site is larger than the one at 63 Cavendish Street as 67 Cavendish Street does not have an addition at the rear. Although the proposed garage is approximately 1 metre longer than the garage approved at 63 Cavendish Street, the height and overall impact of the proposal is similar and does not detract from the existing heritage item. Amended plans were submitted during the assessment process satisfying the requirements of Council's Heritage and Urban Design Advisor including that a minimum of 150mm eaves excluding gutters be provided to the north and south elevations of the garage.

Given the above, the proposal is considered to be acceptable with regard to Clause 5.10 of Marrickville LEP 2011 and Part 8 of MDCP 2011.

5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

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 of MDCP 2011	Compliance
2.6 – Acoustic and Visual Privacy	Yes
2.7 – Solar Access and Overshadowing	Yes
2.10 – Parking	Yes
2.18 – Landscaping and Open Spaces	Yes
2.20 – Tree Management	Yes subject to conditions
2.21 – Site Facilities and Waste Management	Yes
2.25 – Stormwater Management	Yes
4.1.6.1 – Floor Space Ratio and Height	No
4.1.6.3 – Site Coverage	Yes
4.1.7 – Car Parking	Yes
8.1.6 – Heritage Items	Yes
8.2.19 – Kingston South (Stanmore) HCA 17	Yes

The following provides discussion of the relevant issues:

Part 2.6 Acoustic and Visual Privacy

The development is considered to satisfy the objectives and controls for visual and acoustic privacy contained in Part 2.6 of MDCP 2011, primarily due to the separation between the existing dwellings and the proposal. The 2 skylights in the northern elevation of the garage roof are not problematic, as they are separated from the internal mezzanine and do not allow visual intrusion to adjoining properties.

The proposed windows on the ground floor will face the private open space of the subject site and no objection is raised from an acoustic or visual privacy perspective. Potential adverse noise impacts to adjoining properties associated with the use of the garage and mezzanine is considered adequately addressed by the imposition of a condition of consent prohibiting the use for industrial or commercial purposes and must be used exclusively in association with the dwelling house on the property.

Part 2.7 Solar Access and Overshadowing

The shadow diagrams illustrate that the solar access to adjoining properties will not be adversely impacted upon by the carrying out of the development. Overshadowing of adjoining properties will occur to open space of 65 Cavendish Street. However, it is evident that sunlight remains available to principal living areas for at least 2 hours between 9.00am and 3.00pm in June due to the orientation of the site. The proposal is therefore considered to be acceptable with regard to Part 2.7 of MDCP 2011.

Part 2.10 Parking

Part 2.10 of MDCP 2011 requires one car parking space be provided for a dwelling house. Two car parking spaces are proposed and the proposal therefore complies with this requirement. The issue of parking access is discussed below (Part 4.1.7 of MDCP 2011).

Part 2.18 Landscaping and Open Spaces

Control C12 requires a total the greater of 45sqm or 20% of the total site area with no dimension being less than 3 metres, must be private open space. Given the site has an area of 419sqm, a total of 84sqm of private open space is required, 50% of which needs to be pervious.

The amended application proposes that the private open space is130sqm, with no dimension being less than 3 metres. In excess of 50% open space consists of pervious landscaping. The development therefore satisfies the objectives and controls for landscaping and open space contained in Part 2.18 of MDCP 2011.

Part 2.20 Tree Management

The application was referred to Council's Tree Management Officer who provided comments, which are summarised below:

"There are two southern mahoganies impacted by the proposed development, one in the north-eastern (rear) corner of the subject property and one adjacent to the side boundary in the neighbouring property. Both trees are categorised as AA1, meaning that they are important trees with no significant defects and are high priority for retention.

Following council's advice that it wished the tree on the subject property to the rear of the existing garage to be retained, an amended Arboricultural Impact Appraisal and Method Statement (Naturally Trees, 10/2/17) has been submitted. The AIA report confirms that the tree can be retained in conjunction with the proposed development and recommends steps to achieve the development whilst minimising impact upon the trees."

Council's Tree Management Officer concurs with the proposal, subject to the imposition of appropriate conditions. Those conditions are included in the recommendation.

Part 4.1.6.1 Floor Space Ratio and Height

As identified in part of this report, the proposal exceeds the maximum permissible FSR. However, the development is considered to worthy of support for the following reasons:

- The height complies with the height development standard under MLEP 2011;
- The bulk and relative mass of development is acceptable for the street, laneway and adjoining dwellings in terms of overshadowing and privacy, bulk and scale, building setbacks, parking and landscape requirements, and lot size, shape and topography;
- The development does not unreasonably impact on the existing views of adjacent properties and maintains a reasonable level of view sharing;
- The development is of a scale and form that does not impact on streetscape; and
- The development allows adequate provision to be made on site for infiltration of stormwater and deep soil tree planting, landscaping and areas of private open space for outdoor recreation.

Part 4.1.6.3 Site Coverage

Control C13 of Part 4.1.6.3 of MDCP 2011 specifies that maximum site coverage of 50% for allotments which are greater than 400 square metres and up to 500 square metres. The subject site has an area of 419 square metres and the proposal results in 44% site coverage. The site coverage 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, waste management, clothes drying and stormwater management.

Given the above, the proposal is considered to be acceptable with regard to Part 4.1.6.3 of MDCP 2011

Part 4.1.7 Car Parking

The garage is 5.4m in height, which is in excess of the maximum height of 3.6 metres specified in Part 4.1.7 of MDCP 2011. However, the development is considered supportable in that the height of the garage does not result in adverse impacts. There is no streetscape impact, as the garage is situated approximately 47 metres from the front boundary and almost entirely obscured from view; the house to which the garage is appurtenant (and other terraces) is of such scale that the garage is not dominant. Parking access is retained per existing arrangements from the rear.

Council's Development Engineer has considered the proposal, including vehicular access arrangements, and is satisfied with these aspects of the proposal subject to conditions of consent. As mentioned earlier in this report, Council's Heritage and Urban Design Advisor concurs with the garage design - See below (Part 8 Heritage).

Given the above, the proposal is considered to be acceptable with Part 4.1.7 of MDCP 2011.

Part 9 Strategic Context

Part 9.7 of MDCP 2011 identifies Stanmore South (Precinct 7), within which the subject property is located. Part 9.7.2 lists 9 elements as the desired future character of Precinct 7. The relevant components of (desired future character of the area) are:

- 1. To protect and preserve the identified period buildings within the precinct and encourage their sympathetic alteration or restoration.
- 2. To protect the identified Heritage Items within the precinct.
- 4. To protect groups or runs of buildings which retain their original form including roof forms, original detailing and finishes.
- 5. To protect significant streetscapes and/or public domain elements within the precinct including landscaping, fencing, open space, sandstone kerbing and guttering, views and vistas and prevailing subdivision patterns.
- 9. To protect the identified values of the Kingston South Heritage Conservation Area.

The proposal is not considered inconsistent with the desired future character of the area, primarily as the proposal has been assessed to comply with Part 8 (heritage) of MDCP 2011, and also as there is no adverse impact to the streetscape or heritage item by virtue of the garage location.

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 Council's Notification Policy for a period of 14 days to surrounding properties. A total of 3 submissions were received.

The following issue raised in submissions has been discussed in this report:

Amenity impacts associated with a 2 storey development – see Part 5(c) of this report (Part 4.6.1 and Part 8 of MDCP 2011.

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

(i) Objection to the loss of the large eucalyptus tree in the right-of-way, resulting in fauna impacts and a general loss of amenity.

Comment:

The proposed development has been amended to retain the existing eucalyptus tree at the rear. The amendments were not required to be notified in accordance with Council's notification policy. This matter is considered adequately addressed by the imposition of conditions of consent, particularly those conditions recommended by Council's Tree Management Officer in relation to the retention of the tree.

(ii) Misleading justification of the proposed tree removal, regarding vehicular access.

Comment:

This matter is no longer a valid concern by virtue of retention of the tree in the amended proposal.

All relevant matters raised in the submissions able to be considered under the provisions of Section 79C of the Environmental Planning and Assessment Act have been discussed in the report.

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 proposal is not considered 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 and Urban Design Advisor
- Tree Management Officer
- Development Engineer

6(b) External

The application was not referred to any external bodies.

7. Section 94 Contributions

Section 94 contributions are payable for the proposal. A Section 94A levy of \$2,020 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014 and a condition requiring the above levy to be paid has been included in the recommendation.

8. Conclusion

The heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, as are of relevance to the application, have been taken into consideration in the assessment of this application. The proposal generally complies with Council's controls and will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

That Council, as the consent authority pursuant to section 80 of the Environmental Planning and Assessment Act 1979, **CONSENT** to Development Application No: 201600425 to demolish an existing single storey brick garage and replace it, over the existing footprint with a new bag rendered brick garage with mezzanine storage with associated landscaping and replacement of rear fence subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

<u>GENERAL</u>

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
DA-100/E	Site Analysis Plan	03/03/17	Peter Chivers Architect	07/03/17
DA-101/E	Ground Floor Plan	03/03/17	Peter Chivers Architect	07/03/17
DA-102/E	Storage Level and Roof Plan	03/03/17	Peter Chivers Architect	07/03/17
DA-103/E	Elevations	03/03/17	Peter Chivers Architect	07/03/17
DA-104/E	Elevations	03/03/17	Peter Chivers Architect	07/03/17
DA-105/E	Section A	03/03/17	Peter Chivers Architect	07/03/17
DA-100-2/E	Colour and Finishes Schedule	03/03/17	Peter Chivers Architect	07/03/17
DA-100-1/E	Soil and Erosion Management Plan	03/03/17	Peter Chivers Architect	07/03/17

and details submitted to Council on 22 August 2016, 14 February 2017 and 7 March 2017 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.

- 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.
- 6. All reasonable directions in writing by the project arborist in relation to tree management and tree protection shall be complied with. Regular inspections, at reasonable intervals, shall be carried out by the Project Arborist, at their discretion.

- 7. During construction the project arborist shall undertake periodic inspections of trees and tree protection measures, as detailed in the tree protection plan.
- 8. No part of the approved structure shall be nearer than 300 mm from the outside of the trunk or major branch of the *Eucalyptus botryoides* (southern mahogany) in the neighbouring property, 65 Cavendish Street or the *Eucalyptus botryoides* (southern mahogany) at the rear of the subject property.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the National Construction Code (Building Code of Australia).

- 9. <u>No work must commence</u> 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
 - b) A minimum of 2 days written notice given to Council of the intention to commence work.
- A Construction Certificate must be obtained <u>before commencing building work</u>. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
- 11. 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 <u>before work commences</u>.

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

- 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, <u>before</u> work commences.
- A rigid and durable sign must be erected in a prominent position on the site, <u>before work</u> <u>commences</u>. 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'.
- Sediment control devices must be installed <u>before the commencement of any work</u> and must be maintained in proper working order to prevent sediment discharge from the construction site.
- 15. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit must be obtained from Council <u>before the carrying out of any works in public</u> roads or Council controlled lands. Restorations must be in accordance with Marrickville

Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised openings as provided for in Council's adopted fees and charges.

- 16. Written consent from the owner of the tree in the neighbouring property, 65 Cavendish Street, for pruning to be undertaken in accordance with the Arboricultural Impact Appraisal & Method Statement (Naturally Trees, 10/2/17) and the Australian Standard *Pruning of Amenity Trees* AS 4373—2007 approved pruning specification shall be submitted to Council <u>before work commences</u> unless the Project Arborist states in writing to Council that the branch can be pruned to the branch collar, in accordance with the Australian Standard *Pruning of Amenity Trees* AS 4373—2007, without pruning across the property boundary.
- 17. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area shall be engaged <u>before</u> work commences for the duration of site preparation, demolition, construction and landscaping.
- 18. The contact details of the project arborist shall be advised to council <u>before work commences</u> and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.
- 19. The tree protection measures detailed in the Arboricultural Impact Appraisal & Method Statement (Naturally Trees, 10/2/17) shall be established <u>before work commences</u>.
- 20. The project arborist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority that the measures comply with the Arboricultural Impact Appraisal & Method Statement (Naturally Trees, 10/2/17) <u>before work commences</u>.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.

- 21. Evidence of payment of the building and construction industry Long Service Leave Scheme must be submitted to the Certifying Authority's satisfaction <u>before the issue of a Construction</u> <u>Certificate</u>. (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.st <u>m</u>

22. <u>Before the issue of a Construction Certificate</u> the owner or builder must sign a written undertaking that they are responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.

SITE WORKS

- 23. 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.
- 24. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
- 25. 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'.
- 26. 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.
- 27. 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;
 - 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;
 - 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;
 - 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;
 - 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.
- 28. 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:
 - 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 <u>before works continue</u> 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 <u>before work</u> <u>commences</u>.

- 29. All roof and surface stormwater from the site any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.
- 30. 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.
- 31. 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.
- 32. 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.
- All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.
- 34. Tree protection measures detailed in the Arboricultural Impact Appraisal & Method Statement (Naturally Trees, 10/2/17) and 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 including site preparation, demolition, construction and landscaping (except where these conditions permit otherwise). Any reasonable directions in writing by the Project Arborist relating to tree protection shall be complied with.
- 35. Trees to be pruned shall be pruned by a practicing arborist who has a minimum qualification of Certificate 3 in arboriculture, in accordance with
 - a) the Arboricultural Impact Appraisal & Method Statement (Naturally Trees, 10/2/17); and
 - b) the Australian Standard *Pruning of Amenity Trees* AS 4373–2007.

BEFORE OCCUPATION OF THE BUILDING

- 36. 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;
 - 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.
- 37. 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 <u>before</u> <u>the issue of an Occupation Certificate</u>. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
- 38. The project arborist shall certify in writing to the Principal Certifying Authority (PCA) <u>before</u> the issue of the Occupation Certificate that the conditions of consent relating to tree protection and tree pruning have been complied with and that the protected trees have not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority shall report breaches of the conditions to Inner West Council.

USE OF THE BUILDING

39. The garage must be used exclusively in association with the dwelling house on the property and must not be adapted for use for habitable purposes 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 approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- 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.

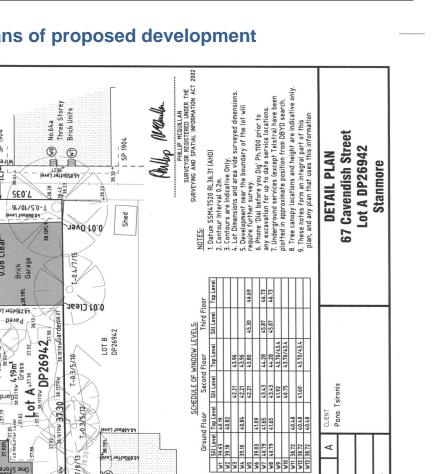
- Contact "Dial Before You Dig" before commencing any building activity on the site.
- Useful Contacts

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

B. THAT those persons who lodged a submission in respect to the proposal be advised of the Council's determination of the application.

<u>Premises:</u>	67 Cavendish Street, Stanmore, Marrickville
Proposal:	To demolish an existing single storey brick garage and
	replace it, over the existing footprint with a new bag
	rendered brick garage with mezzanine storage with
	associated landscaping and replacement of rear fence
Determination:	Consent subject to conditions
DA No:	201600425
Lot and DP:	Lot A in Deposited Plan 26942
Category of Development:	1: Res Alts Adds

Environmental Planning Instrument:	Marrickville Local Environmental Plan 2011
<u>Zoning of Land</u> :	R2 - Low Density Residential
Development Standard(s) varied:	Clause 4.4 – Floor Space Ratio
Justification of variation:	Strict compliance with the FSR development standard is unnecessary and unreasonable;
	The additional FSR does not contribute to adverse impacts on adjacent properties, with the FSR proposed well below variations approved on neighbouring sites
Extent of variation:	135.5sqm (65%)
Concurring Authority:	Council under assumed concurrence of the Secretary Department of Planning and Environment
Date of Determination:	· -



Attachment B – Plans of proposed development

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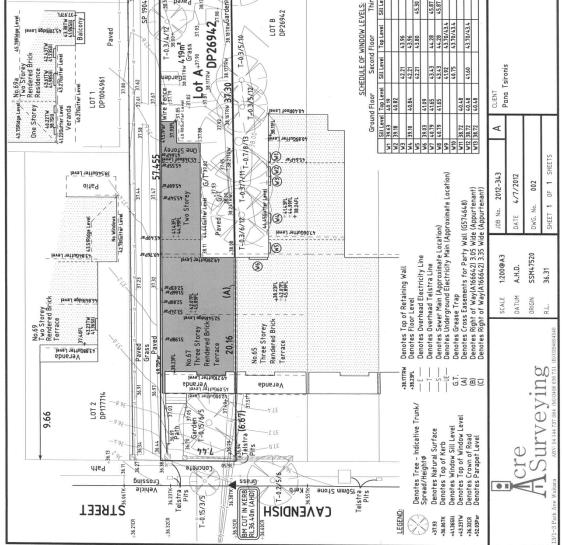
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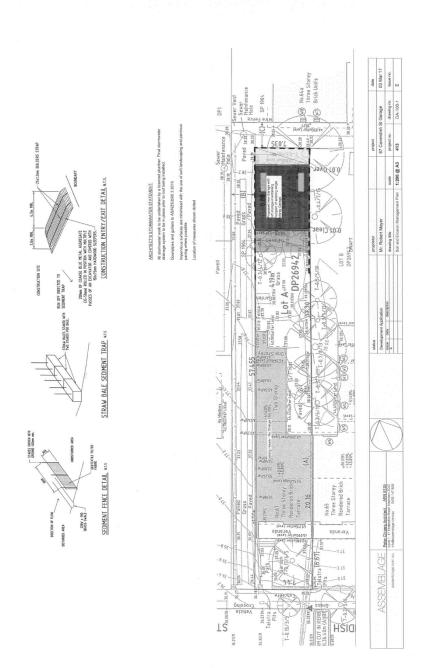
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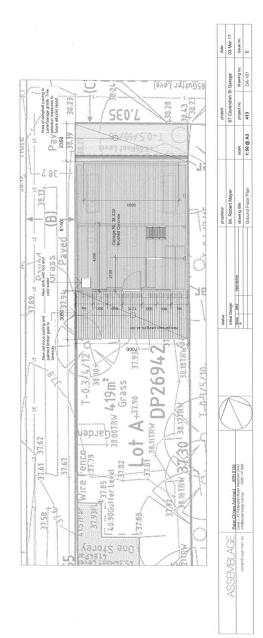
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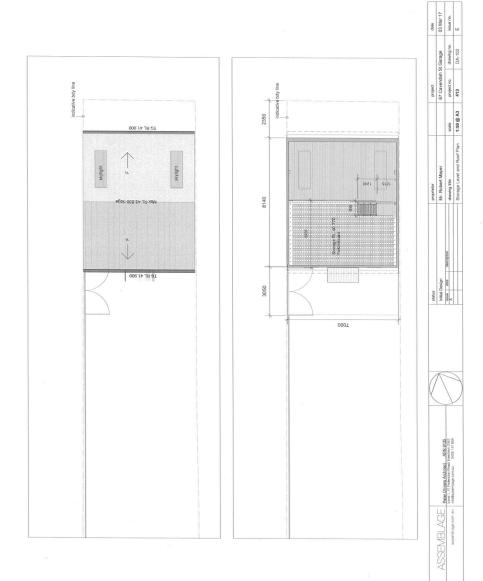
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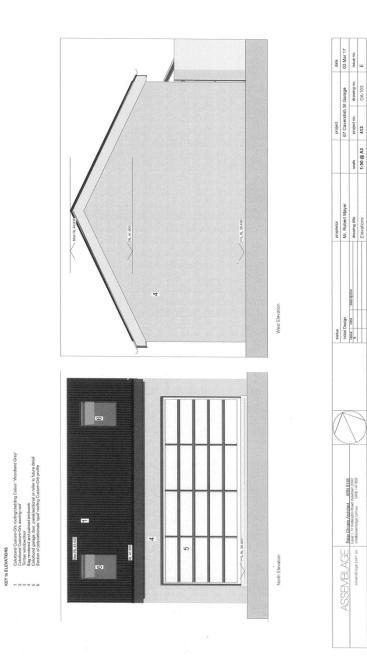


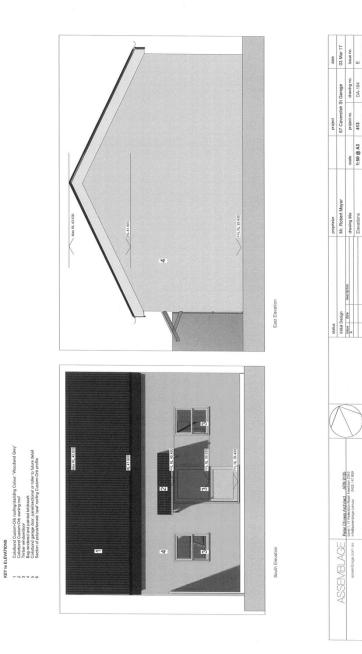


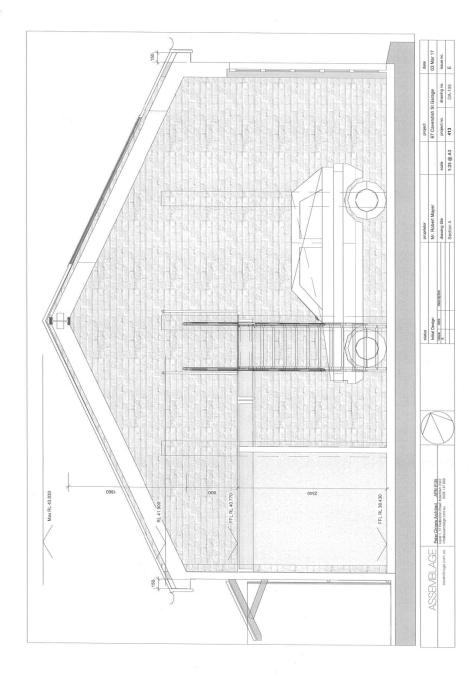
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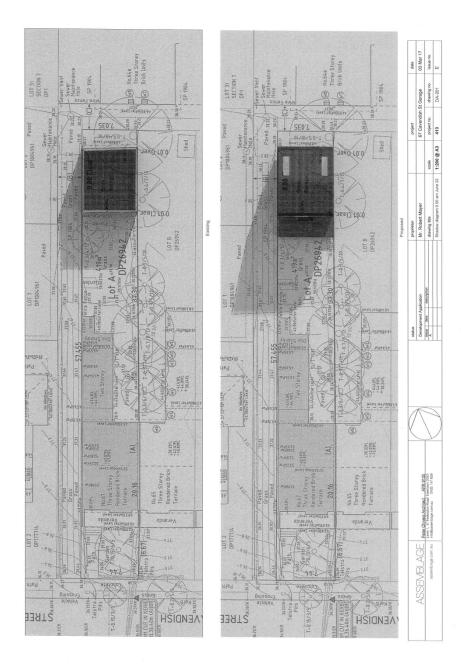


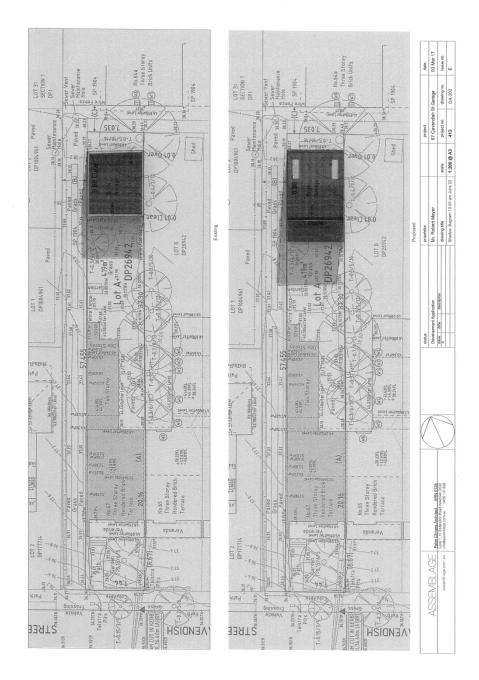


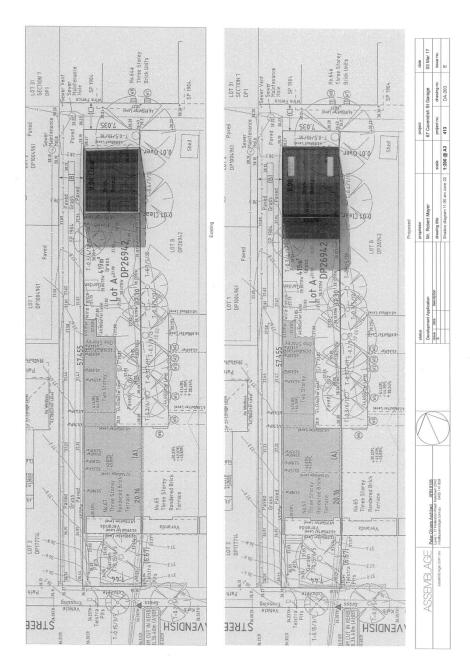


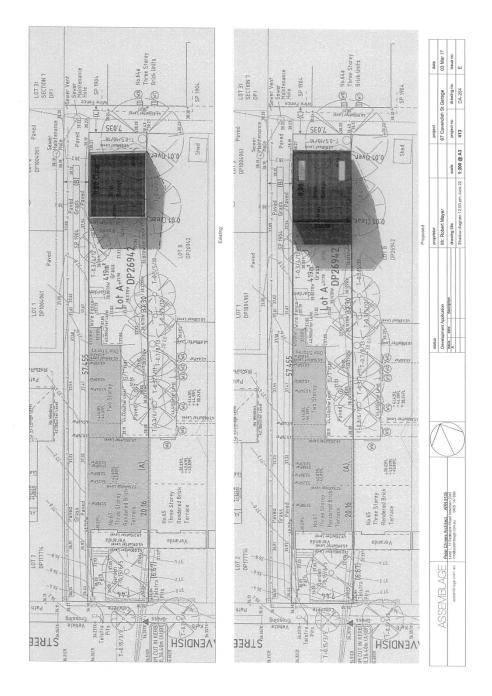




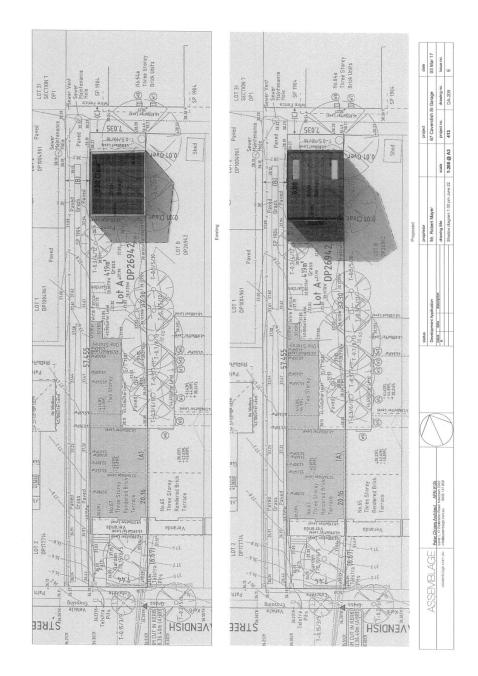


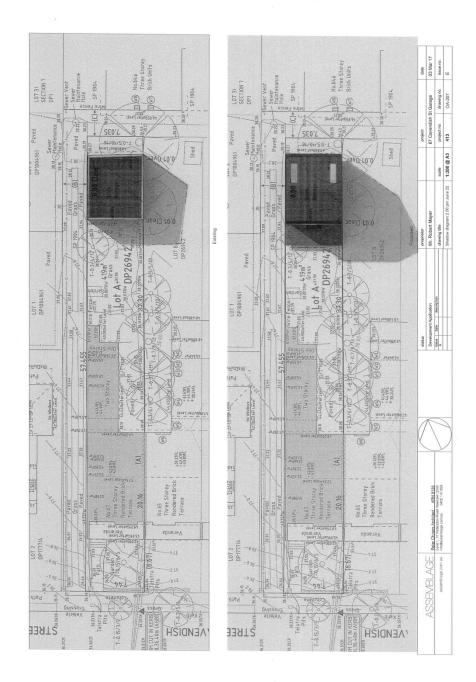


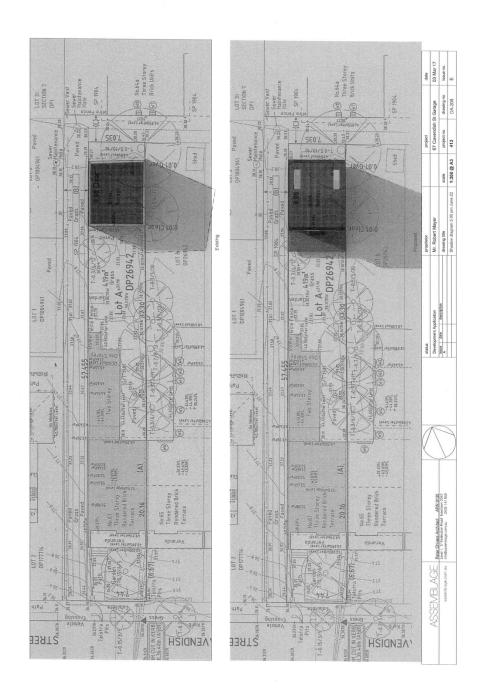


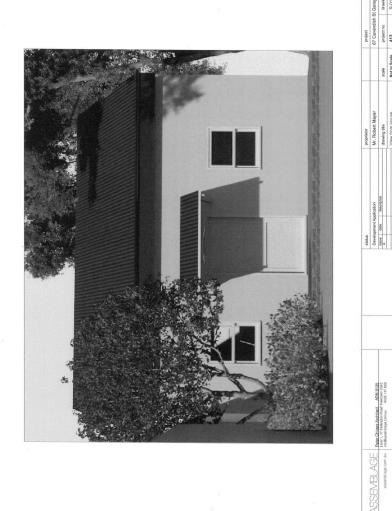


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