

**NSLPP MEETING HELD ON 02/11/2022****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Variation Statement

ADDRESS/WARD: 4 Cremorne Road, Cremorne Point (C)**APPLICATION NO:** DA 132/22**PROPOSAL:** Demolition and reconstruction of garages, full internal refurbishment of units (6 into 5), new attic conversion and roofing, and installation of an internal lift.**PLANS REF:**

Plan No.	Title	Drawn By	Date	Received
2005.1.6	Area Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.3.1	Garage Floor Plan – Demolition	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.3.2	Ground Floor Plan – Demolition	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.3.3	First Floor Plan – Demolition	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.3.4	Second Floor Plan – Demolition	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.3.5	Roof Plan – Demolition	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.1	Garage Floor Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.2	Ground Floor Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.3	First Floor Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.4	Second Floor Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.5	Loft Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.6	Roof Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.5.1	S-01 Section	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.5.2	S-02 Section	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.7.1	E-01 East Elevation – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.7.2	E-02 South Elevation – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.7.3	E-03 West Elevation – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.7.4	E-04 North Elevation – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.8.1	Materials - Finshes	Antonio Caminiti Architect	23/03/2022	13/05/2022
2005.9.1	Landscape Sheet 1	Antonio Caminiti Architect	23/03/2022	13/05/2022
2005.9.2	Landscape Sheet 2	Antonio Caminiti Architect	23/03/2022	13/05/2022

OWNER: Kelvin Units Pty Ltd**APPLICANT:** Joseph Proia**AUTHOR:** Andrew Beveridge, Assessment Officer**DATE OF REPORT:** 2 November 2022**DATE LODGED:** 13 May 2022**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks NSLPP approval for alterations and additions to the existing residential flat building at 4 Cremorne Road, Cremorne Point, including the demolition and reconstruction of the garages, the full internal refurbishment of the units (reduced from 6 to 5), a new attic conversion and roofing, and the installation of an internal lift.

This application is reported to North Sydney Local Planning Panel for determination because the proposed works breach the building height limit development standard by greater than 10% and results in additional floorspace. The proposal also involves development to which *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development* is applied requiring determination of NSLPP.

Development for the purpose of a residential flat building is not permitted within the R2 Low Density Residential zone. However, it is considered that the subject site benefits from existing use rights on the basis of North Sydney Council's original approval from 1925.

The proposed building results in a non-compliance with the height of buildings development standard in clause 4.3 of NSLEP 2013 by up to 3.5m or 41%. The extent of the variations will not result in any increase in the overall height of the existing building and relates primarily to existing roof and proposed attic level additions, including a recessed balcony on the rear western roof plan and a dormer window on the southern side roof plane. The written request submitted pursuant to clause 4.6 in NSLEP 2013 demonstrates that compliance with the development standard is unreasonable and unnecessary as the objectives of the standard are achieved notwithstanding the variation, and that there are sufficient environmental planning grounds to justify the variation in the circumstances of the case. The variation would be in the public interest as the proposed development is consistent with the objectives of the standard and the R2 Low Density Residential zone.

The impacts of the overall development upon the Cremorne Point Conservation Area have also been assessed and, subject to satisfying recommended conditions, was found to be generally acceptable on the basis that the works will maintain a sympathetic scale and will match the built form character of the existing building.

The proposed substantial refurbishment of the existing building would result in a loss of four low-rental dwellings in accordance with the Housing SEPP. A contribution is recommended under section 7.32 of the Act to offset the loss of affordable housing within the local government area. The proposed development meets the design principles in SEPP 65 and is consistent with the design requirements of the Apartment Design Guide. The proposed development is also generally in accordance with the objectives in NSDCP 2013.

Notification of the proposal has attracted one submission objecting to construction impacts including noise. The issues raised are considered to be generally acceptable or have been addressed through conditions of consent, particularly with regard to construction impacts.

On balance, the application is considered reasonable and is recommended for **approval** subject to site specific and standard conditions.

DESCRIPTION OF PROPOSAL

The proposed works include various alterations and additions to the existing residential flat building at No. 4 Cremorne Road, Cremorne Point, including the following:

Excavation and Demolition

- Internal excavation to create the new lift shaft down to garage level, basement foyer, garbage and meter rooms, and new services under the building in the north-eastern corner of the site, as well as associated footings for new structures.
- Demolition of the existing three garages and stairs within the front setback and the existing detached storage shed in the rear setback.
- Partial demolition of internal floor plans of units and external openings and balconies at the rear; demolition of the existing roof.

Garage Level (RL 23.73)

- Construction of three new garages within the centre of the front setback of the site, with new pedestrian access via a staircase on the northern and southern ends of the site.
- Construction of new bicycle storage room, basement foyer, garbage room, meter room and lift shaft to the upper levels located behind the new garages.

Ground Floor Level (RL 27.14)

- Retention of the existing two 2-bedroom units (Units 1 and 2) on this level with various internal reconfigurations to the floor plan, including the new lift access to this level.
- Retention of all existing external openings at this level, but with new windows and doors within the building.
- New paved terrace above the garages in the centre of the front elevation, including planter boxes along the eastern, northern, and southern boundaries of the terrace.

First Floor Level (RL 30.14)

- Retention of the existing two 2-bedroom units (Units 3 and 4) on this level with various internal reconfigurations to the floor plan, including the new lift access to this level.
- Retention of all existing external openings at this level, but with new windows and doors within the building.
- New sliding doors added to the rear deck in place of the former laundry doors.
- Extension of the rear deck to the north and south by 1500mm, with 1.8m-high privacy screens added to the northern and southern sides of the deck.

Second Floor Level (RL 33.18)

- Amalgamation of the existing two 2-bedroom units (Units 5 and 6) on this level into one unit with various internal reconfigurations to the floor plan, including the new lift access to this level, and a staircase to the new roof loft space.
- Retention of all existing external openings at this level, but with new windows and doors within the building.
- Sliding doors added to the rear deck in place of the former laundry doors.
- Extension of the rear deck to the north and south by 1500mm, with 1.8m-high privacy screens added to the northern and southern sides of the deck.

Attic/Loft Level (RL 35.90)

- Addition of a loft study space within the existing attic, with a dormer window on the southern side, and a recessed balcony/patio at the rear western end.

Roof (RL 39.14)

- Retain and match existing tiles for the new roof and retain the existing chimney.
- The provision of metal roof sheeting over the side dormer and a new Dutch gable tiled roof for the rear western patio/balcony.
- Sixteen solar panels added to the northern side roof plane.

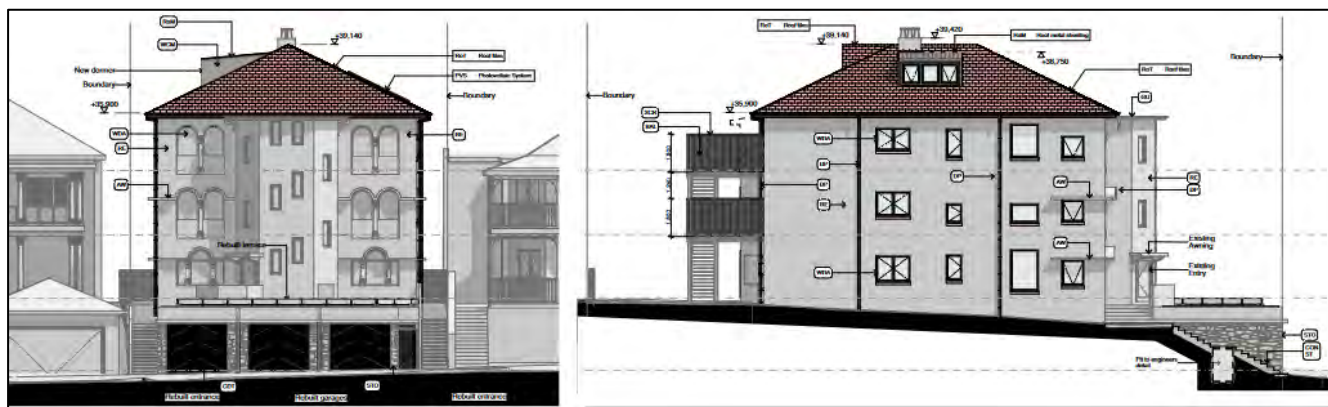


Figure 1. Eastern (Street) Elevation (left) and Southern (Side) Elevation (right).

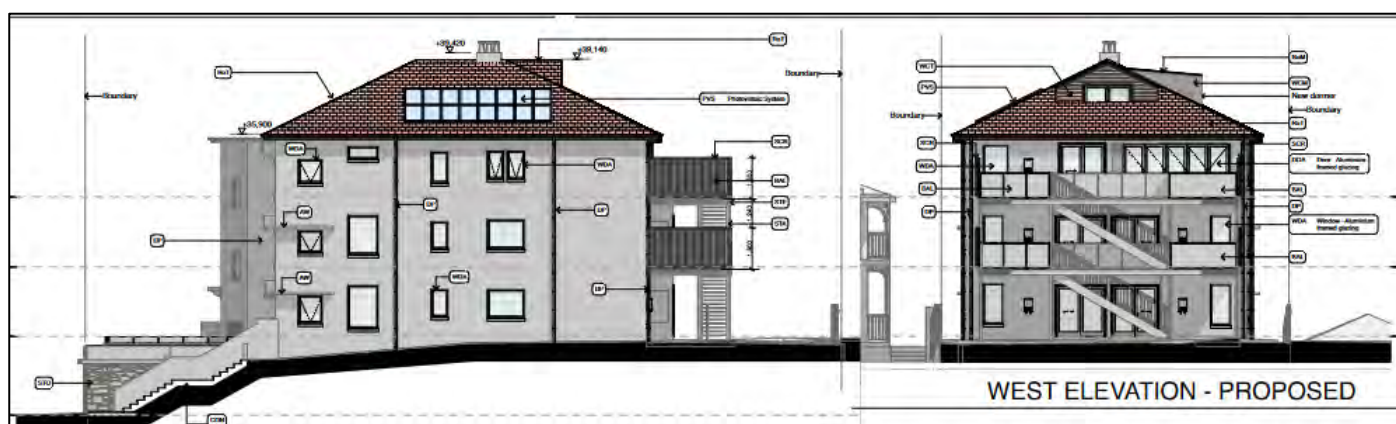


Figure 2. Northern (Side) Elevation (left) and Western (Rear) Elevation (right).

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013 (NSLEP 2013)

- Zoning – R2 Low Density Residential
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (13 Milson Road, I0113; 27 Cremorne Road, I0094)
- Conservation Area – Yes (Cremorne Point Conservation Area, CA06)
- Foreshore Building Line – No

Environmental Planning & Assessment Act 1979

SEPP (Biodiversity and Conservation) 2021

- Chapter 2 – Vegetation in non-rural areas
- Chapter 10 – Sydney Harbour Catchment

SEPP (Resilience and Hazards) 2021

- Chapter 2 – Coastal Management
- Chapter 4 – Remediation of Land

SEPP (Building Sustainability Index: BASIX) 2004

SEPP No. 65 – Design Quality of Residential Flat Development

Apartment Design Guide
SEPP (Housing) 2021
Local development

POLICY CONTROLS

North Sydney Development Control Plan 2013 (NSDCP 2013)

- Appendix 1 (Heritage) – Neutral Item
- Bushland Buffer – Buffer Area B (300m)

North Sydney Local Infrastructure Contributions Plan 2020

DESCRIPTION OF LOCALITY

The subject property is known as Lot 1 within DP 77957 and is a rectangular site located on the western side of Cremorne Road with an area of 501.7m². The site has a frontage to Cremorne and currently supports a 1926 Inter-war Mediterranean style three-storey residential flat building with six units under a Company Title that is a Neutral Item within the Cremorne Point Conservation Area. There are three detached single garages located within the front setback of the site, with the street level being lower than the ground level of the flat building due to the sloping topography of the site. Adjoining the site to the north is the Cremorne Point Hotel. Surrounding development is generally a mix of large detached two storey dwellings and apartment buildings. Photos of the site and surrounding properties are provided below.

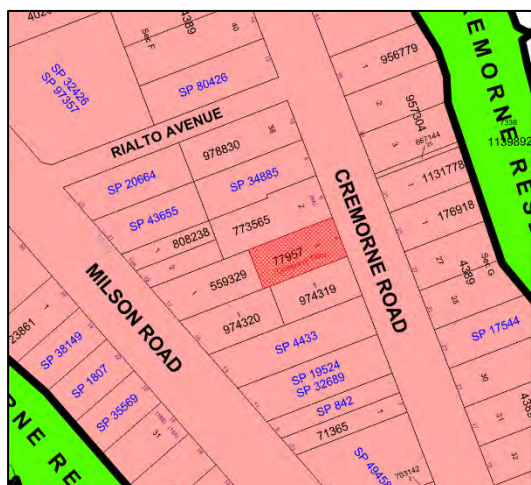


Figure 3. NSLEP Land use map with the subject site cross hatched in red.

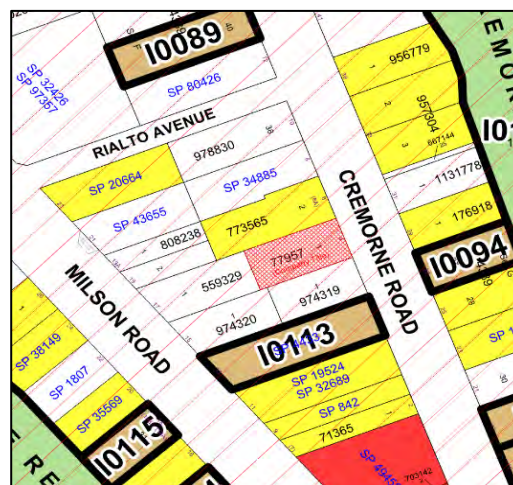


Figure 4. NSLEP and NSDCP Heritage map with the subject site hatched in red.



Figure 5. The eastern Cremorne Road elevation of subject site.



Figure 6. Aerial view of the subject site (outlined yellow)



Figure 7. View of the north-wester corner of the building and the rear deck and stair structure.



Figure 8. View looking west from the rear deck of Unit 5 on the second (top) floor.

RELEVANT HISTORY

Building Application No. 665/25 (lodged 11 December 1925) for a block of six residential flats and three garages on the site at a cost of £4,000, was approved by Council on 15 December 1925. The company title was registered *Kelvin Units Pty Ltd* on 13 August 1957.

Development Application No 255/01 (lodged 1 December 2000) for various alterations to Unit 5, including an internal reconfiguration, remedial works to repair damage, and the replacement of deteriorated windows and doors, was withdrawn on request of the applicant on 12 April 2001.

Development Application No 6/11 (lodged 7 January 2011) for alterations and additions to the rear of the existing apartment building, including new external stairs and landings on each floor of the building, was approved by Council on 22 February 2011.

Development Application No 73/14 (lodged 19 March 2014) for various alterations to the existing apartment building, including remediation/replacement works to deteriorated exterior concrete walls, columns and canopies, and window replacements, was approved by Council on 22 April 2014.

Section 4.55 Modification Application No 73/14/2 (lodged 22 May 2014) to modify Condition C1 of the consent to clarify the materials of replacement windows on the front elevation, was approved by Council on 2 June 2014.

Current Application History

A brief history of the current application is summarised below: -

Date	Action
13 May 2022	The application was lodged with Council.
18 May 2022	Council's Development Review Panel sent the applicant a letter requesting a design verification statement in accordance with SEPP 65.
19 May 2022	The subject application was notified to adjoining properties and the Cremorne Point Precinct Committee between 27 May 2022 and 10 June 2022. One (1) submission was received raising concern regarding construction impacts.
22 July 2022	A site visit was undertaken by Council Officers.
26 July 2022	The Design Verification Statement was provided to Council.
30 August 2022	Additional details regarding rental rates of the existing units was requested.
5 September 2022	The additional rental information was provided to Council.

REFERRALS

Building

Council's Building Surveyor has reviewed the proposal and provided the following comments:

The development application seeks approval for partial demolition and alterations and additions to an existing Residential Flat Building, including the addition of a fourth storey loft. The building is classified by the NCC BCA as a class 2 building of Type A construction.

No BCA Compliance Assessment or BCA Upgrade Report accompanies the application. A search of Council's records revealed the Property forms part of Council's Annual Fire Safety Statement Register. The proposed building works include a fourth storey addition and represent more than 50% total volume of the building and as such upgrade of the building's fire safety measures is required pursuant to Clause 64 of the Environmental Planning & Assessment Regulations 2021.

A detailed assessment of compliance with the Building Code of Australia 2019 will be undertaken by an appropriately registered certifier at the Construction Certificate Stage of the proposed development. Additionally, a Fire Safety Schedule is to be prepared by the certifier and accompany the Construction Certificate. Generally, the proposed works are able to comply with the NCC BCA 2019, Volume 1.

Consequently, several conditions have been recommended (see conditions **C17** and **F1**).

Engineering

Council's Development Engineer has reviewed the proposal, providing the following comments:

Traffic Management

Moderate excavation and demolition works proposed resulting in medium to heavy truck movements. A Construction and Traffic Management Plan is required. Appropriate conditions shall be imposed in this regard.

Stormwater

A pump-out system is proposed in the elevator shaft pit. Any roof water and ground water could drain to the OSD tank via gravity. The proposed OSD to drain to kerb via gravity. Appropriate conditions shall be imposed in this regard.

Parking and Access

Demolition of existing three garages with three replacement garages to be constructed. In this regard, 3 x laybacks must be consolidated into one layback. Full frontage reconstruction of footpath area is required. Appropriate conditions shall be imposed in this regard.

Sediment and Erosion controls

Appropriate conditions shall be imposed to create one layback.

Excavation and Retaining Walls

There would be some proposed excavation associated in the new lift, services, as well as under the building in the north-eastern corner with footings. Appropriate conditions shall be imposed in this regard.

Recommendation

*The application has been assessed and it is recommended that appropriate conditions be included in the Development Consent. **B1, C1, C2, C3, C4, C5, C6, C7, C10, C11, C12, C13, C14, C16, C26, C15, D4, E2, E3, E4, E5, E6, E10, E13, E15, E16, E19, F7, F8, G1, G2, G3, G4, G5, G6, G11, and G12).***

Heritage

Council's Conservation Planner has reviewed the proposal and provided the following comments:

The subject property is a Neutral item located within the Cremorne Point Conservation Area. The circa 1925-1927 Inter-war apartment building is designed in the Free Classical style with Mediterranean influences. There is a lightweight addition at the rear which is not visible from the public domain that includes balconies and a metal fire stair. The original front sunrooms have been enclosed with aluminium glazing. The garages are probably a later addition dating from the early 1930s and have been recently modified to improve their structural soundness and also the provision of a new fire hydrant. There is an L-shaped single-storey storage shed of low heritage significance in the south-west corner of the site that appears to date from the Inter-war period. Overall, the building does contribute to the character of the streetscape due to its Inter-war articulated form, its massing, scale, character, and materiality which are generally consistent with the character of the conservation area.

The proposed works are considered to satisfy clause 5.10 of NSLEP in that the primary original apartment building form of the building will remain largely intact when viewed from the public domain with the addition of a sympathetic dormer on a side elevation. The proposed roof balcony at the rear will not be visible from the public domain and will therefore have negligible impact upon the conservation area.

The following comments relate to the heritage controls in NSDCP 2013:

Roofing - *The replacement of the existing roof cladding with unglazed terracotta tiles is acceptable. The existing chimney is to be retained on the exterior of the building.*

Dormer - *The proposed dormer window on the south elevation is generally acceptable.*

Balconies - *The proposed roof cut-out to create a balcony is not compliant, however, it is considered to be acceptable on its merits as it will not be visible from the public domain.*

Solar Panels and Skylights - *Solar panels on the northern roof plane are acceptable however, they should be laid flat on the roof plane, not tilted to minimise their visual impact.*

Windows - *No objection is raised to the coke lintels being replaced with steel lintels subject to the exterior appearance remaining as existing. No objection is raised to the replacement new awnings above the windows as these will match the existing awnings and are an architectural feature on the building. The use of timber framed windows throughout the development is not clear so a condition is recommended. The use of aluminium windows on the front façade for the enclosed sunrooms is acceptable as this will match the existing glazing and it allows for a narrow fine frame such that the visual impact of the enclosure is minimised.*

Demolition of Interior Walls - *The proposal is considered generally acceptable with regard to the removal of interior walls and reconfiguration of the apartment layouts as the building is not a heritage item. An inspection of the interior and review of recent images has revealed that most of the apartments retain original floorboards, panelled ceilings with decorative plaster moulded cover strips, fireplaces, and mantle pieces. The apartment that was inspected exhibited one fully patterned decorative plaster ceiling and panelled with ceilings with plain cover strips in the Living Room. Council encourages salvage and re-use of items that are ready removable where possible.*

No objection is raised to the proposed location of the lift.

No objection is raised to the proposed rooms within the roof space. As noted above the associated dormer and roof deck are considered to be acceptable.

Water storage - No heritage objection is raised to the location of the proposed water tanks.

Waste bin storage - No objection is raised to the proposed location of the bin storage into the garage as it will not be visible from the public domain.

Garages - *As the property is not a heritage item, the garages may be demolished. Whilst the new combined garage proposal will result in more bulk on the front boundary than the existing arrangement, the garage proposal is considered to be acceptable as landscaping will soften the streetscape. The single expansive terrace will also be a more usable space for the residents, whereas the existing arrangement is dissected into three spaces. It is recommended however that the width of the driveway crossing be minimised to allow for new street trees and additional nature strip. The new garage doors should be timber panel lift doors.*

Materials - *No objection is raised to the proposed materials except for the proposed use of glazed balustrades.*

The proposal is considered to be acceptable subject to the submission of a landscape plan that provides several small trees and plants that overhang the garage.

Consequently, several standard and special conditions have been recommended to ensure that the works to the existing building are sympathetic to the conservation area (see conditions **A3, A4, C6, C9, C20, E1, and E7**).

Landscaping

Council's Landscape Development Officer has reviewed the proposal and provided the following comments:

Conditions

- *1 x Syzigium paniculatum (hedged at approximately 3 m x 2 m) planted on Council's verge on the boundary between 4 Cremorne Road and the rear of 15 Milson Road shall be retained and protected in accordance with AS4970, 1.8m high steel mesh tree protection fencing shall be installed, and a tree bond of \$5,000 shall be imposed. No excavation shall be permitted further south than the existing vehicular crossover for the proposed amalgamated vehicular crossover, and hand excavation only shall be used within the Tree Protection Zone of this tree, and no level changes shall be permitted.*
- *An amended Landscape Plan shall be required to include spill-over planting in the planter boxes along eastern boundary above the garages, to soften presentation to the street.*
- *All neighbouring trees and vegetation shall be retained and protected in accordance with AS4970.*
- *Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of piers/footings, shall be used within the Tree Protection Zone of any protected tree, no roots greater than 30 mm shall be cut.*
- *Minor pruning only shall be permitted to the Alnus jorullensis located in the rear setback of 6 Cremorne Road. Scaffolding shall be designed to negate/minimise the need for pruning, branches shall be tied back where possible instead of being pruned. Pruning shall be carried out by an AQ3-qualified arborist in accordance with AS4373. No more than 5% total canopy shall be removed.*

Consequently, several conditions are recommended to ensure the protection of trees and to ensure an appropriate landscaped context and amenity for the site (see conditions **C18, C19, C27, D1, D2, D3, E11, E12, G8, G10, and I1**).

SUBMISSIONS

On 19 May 2022, the subject application was notified to adjoining properties and the Cremorne Point Precinct Committee between 27 May 2022 and 10 June 2022. One (1) submission was received. The issues raised in the submission are summarised below and addressed later in this report.

Basis of Submissions

- The noise generated by the renovations will have a significant impact on guests staying at the hotel. Request all high impact noise work only commences from 10.00am daily.

The original submission may be viewed by way of DA tracking on Council's website https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs and are available for review by NSLPP members.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of *the Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

SEPP (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in non-rural areas

Under Chapter 2 of this SEPP the proposed development would not require the removal of any significant vegetation defined under this SEPP or have any impact upon any bushland areas.

Chapter 10 - Sydney Harbour Catchment

Chapter 10 of this SEPP applies to this site and is required to be considered in the assessment of the application. The site is within the Foreshores and Waterways Area but does not include foreshore land, and the instrument identifies matters for consideration in the assessment of the application. The relevant matters are considered as follows:

Clause 10.19 Biodiversity, ecology, and environment protection – The proposal is unlikely to have an adverse environmental impact as the works are sufficiently set back from the waterway and will not physically damage or interfere with the ecological or water qualities of Sydney Harbour. The proposed garage level excavations to the street frontage of the site are approximately 70-80m from the waterway's foreshore and will not significantly affect the site's topography or any nearby natural features, significant trees, or bushland.

Clause 10.20 Public Access to, and use of, foreshores and waterways – There is no public access to Sydney Harbour through the subject site.

Clause 10.21 Maintenance of a working harbour – The proposal would have no impact upon the use of the Harbour.

Clause 10.22 Interrelationship of waterway and foreshore uses – The works would not disrupt the relationship between the waterway and the foreshore.

Clause 10.23 Foreshore and waterways scenic quality – The scenic quality of the foreshore and waterways would be maintained due to substantial separation of the proposed works from the waterway. Subject to appropriate conditions (see **Condition C20**), the proposed works to the building would also be sympathetic to the existing building and surrounding development, and would not be highly visible from the waterway. It is therefore considered that the proposal would not detract from the character and visual qualities of the foreshore and waterway of Sydney Harbour.

Clause 10.24 Maintenance, protection, and enhancement of views – The works will not impact upon views to/from Sydney Harbour nor have any adverse effects on public places or landmarks.

SEPP (Resilience and Hazards) 2021

Chapter 2 - Coastal Management

The provisions of this chapter do not apply as the site is within the Foreshores and Waterways Area identified within Chapter 10 (Sydney Harbour Catchment) of the *SEPP (Biodiversity and Conservation) 2021*. Nevertheless, it is considered that the proposed development is consistent with the objectives of the SEPP, as the proposal will not result in any removal of public access, overshadowing or loss of views of the public foreshore, and, subject to conditions is sympathetic to the heritage significance of the Cremorne Point Conservation Area.

Chapter 4 - Remediation of Land

The provisions of Chapter 4 of the SEPP require Council to consider the likelihood of land contamination and any remediation necessary to rehabilitate the site. Council's records indicate that the site has previously been used for residential development since its original subdivision and as such is unlikely to contain any contamination. Therefore, the requirements of the above SEPP have been satisfactorily addressed.

SEPP (Building Sustainability Index: BASIX) 2004

The applicant has submitted a valid BASIX Certificate for each of the five proposed units (Unit 1: A444780; Unit 2: A444783; Unit 3: A444785; Unit 4: A444786; Unit 5: A444787) to satisfy the requirements of the above SEPP.

SEPP 65 - Design Quality of Residential Flat Development

SEPP No. 65 aims to improve the design quality of residential flat buildings in New South Wales. The primary design principles in the SEPP are discussed as follows:

Principles 1 and 2: Context, Built Form and Scale

The subject site is located within a R2 (Low density Residential) zone and the proposal for substantial alterations to an existing residential flat building would generally be suitable for the site context and be compatible with the desired future character for development within Cremorne Point.

While the existing building does not comply with the height controls for the area, the existing building benefits from existing use rights, having been in use as a residential flat building since 1926. The existing building will also be maintained to the same ridge height (RL39.14), with the scale and form of the building remaining consistent with other similar developments within the locality, including the large group of existing flat buildings to the south of the subject site, including Nos. 3, 5, 9, 11, and 13 Milson Road, and the Cremorne Point Manor Hotel, immediately to the north at No. 6 Cremorne Road.

Principle 3: Density

The subject site is located in close proximity to public transport, shops, and services. The proposed reduction in the total number of apartments on the site, from six 2-bedroom units to five 2-bedroom units, is considered acceptable as each unit will receive reasonable levels of internal amenity.

Principle 4: Sustainability

Valid BASIX Certificates for each of the five proposed apartments were submitted with the application. The proposed development also incorporates energy efficient devices such as screens, new windows and doors, solar panels on the northern roof plane, and the use of energy efficient plant/equipment to enhance the thermal performance of the existing building.

Principle 5: Landscape

The applicant has proposed additional soft landscaping, including the planting of new trees, within the front setback of the site in the form of the new planters on the communal terrace located above the proposed garages at street level, to enhance the landscaping quality of the subject site. As indicated earlier in this report, several conditions are recommended to ensure the protection of significant trees and the enhancement of the proposed landscaping scheme (see Conditions **C19** and **C27**).

Principle 6: Amenity

All apartments comply with the ADG requirements to ensure reasonable levels of internal amenity. The existing building is nevertheless appropriately designed and sited to minimise any adverse amenity impacts in terms of the loss of privacy and solar access for adjoining properties.

Principle 7: Safety

The proposal would maintain the existing pedestrian entrance from Cremorne Road via two new staircases at the northern and southern ends of the site, in addition to a new secured pedestrian and vehicular entrance to the site via the new garages and the associated lobby and lift access behind them. This new lift and lobby with direct access to the street level will substantially enhance the accessibility of the site and units. The entrances to the development on Cremorne Road would continue to be highly visible and provide a good sense of address for the development.

Principle 8: Housing Diversity and Social Dimensions

The proposed development is located in an area with good access to public transport and amenities. The proposed unit mix, comprising five two-bedroom units, will maintain the existing housing diversity present within the building, albeit with the removal of one two-bedroom unit. This is considered to be acceptable because the proposal broadly maintains the existing apartment types but with substantially improved amenity and liveability for the residents.

Principle 9: Aesthetics

The design of the modifications is considered to be generally sympathetic to the Inter-war style and design of the existing flat building on the site, and will maintain the existing scale and form of the overall building. The consolidation of the three garages in the centre of the front setback also has the added benefit of creating larger communal open space in the form of the terrace above, additional landscaping in the form of the planters, and an overall reduced amount of paving on either side of the driveways, which will improve the streetscape front of the site. Several conditions have also been recommended to ensure that the materials will be sympathetic to the Cremorne Point Conservation Area.

It is concluded that the proposed development was found to be generally consistent with the key SEPP 65 design principles and therefore is supported.

Apartment Design Guide (ADG)

The proposed development has also been assessed against the ADG and is considered to be generally acceptable as detailed in the table below:

Amenity	Design Criteria	Comment	Compliance
2F - Building Separation	<i>Minimum separation distances for buildings are: Up to four storeys (approximately 12m):</i> <ul style="list-style-type: none"> • 12 m between habitable rooms/balconies (6m to boundary) • 9 m between habitable and non-habitable rooms (4.5 m to boundary) • 6 m between non-habitable rooms (3 m to boundary) 	<i>Eastern (Cremorne Road) Elevation</i>	Yes
		The existing main building would continue to provide a 5-8 m setback from the eastern street property boundary, while the new sub-floor garages at the street level will maintain their existing nil setback to the boundary. This is considered to be acceptable because the building bulk and form as visible from the street will be broadly retained in a manner that is similar to existing.	Yes
		<i>Western (Rear) Elevation</i> The existing 4.8-4.9m setback from the rear decks to the western rear boundary will be retained. <i>Northern Elevation (No. 6 Cremorne Road)</i> The existing northern side setback of 1.1-1.5m of the building will be retained as existing, and no additional impacts will be created for the adjoining property as the bulk and form will be retained. The northern extension of the rear decks will have a setback of 1.6m., which is compliant with Councils DCP setback control and is unlikely to result in additional impacts to the Cremorne Point Manor Hotel.	No (Existing/ acceptable on merit)

		<p>It is noted that the rear established vegetation within the building setback between the hotel and the proposed works provides a landscape buffer.</p> <p>Furthermore, the applicant has proposed 1.8 m-high privacy screens on the northern sides of the rear balconies to ensure visual privacy to and from the adjoining property to the north.</p> <p><i>Southern Boundary (No. 15 Milson Road)</i></p> <p>The existing southern side setback of 1.5-1.8 m of the building will be retained as existing, and no additional impacts will be created for the adjoining property as the bulk and form will be retained. The northern extension of the rear decks will have a set-back of 2.2 m., which is compliant with Council's DCP setback control and is unlikely to result in additional impacts to No. 15 Milson Road, particularly as the eastern rear building line of 15 Milson Road will be located at least another 4m away from the new south-western corner of the decks.</p> <p>Furthermore, the applicant has proposed 1.8m-high privacy screens on the southern sides of the rear balconies to ensure visual privacy to and from the adjoining property to the south.</p> <p>It is acknowledged that the proposal would not achieve compliance with the ADG's building separation requirement due to the site constraints and that fact that the majority of the works are for a major refurbishment of an existing building. It is noted that the proposal would comply with the DCP requirements for site coverage and the overall building setback from property boundaries. The design of the building also incorporates various design elements to reduce impacts on the amenity of the adjoining property to the south.</p> <p>On balance, the proposal is therefore considered to be acceptable in this regard.</p>	<p>No (Existing/ acceptable on merit)</p>
<p>3B - Orientation</p>	<p><i>Building types and layouts respond to the streetscape and site while optimising solar access within the development.</i></p> <p><i>Overshadowing of neighbouring properties is minimised during mid-winter.</i></p>	<p>The existing building is orientated to the street. The proposed alterations will maintain this situation. Solar access will not be significantly changed for adjoining properties given that the majority of works are located within the existing building envelope.</p>	<p>Yes</p>

<p>3C - Public domain interface</p>	<p><i>Transition between private and public domain is achieved without compromising safety and security.</i></p> <p><i>Amenity of the public domain is retained and enhanced.</i></p>	<p>The proposed communal terrace above the new garages within the front setback will broadly maintained with the existing high levels of surveillance to and from the street. The communal space within the front setback will allow for greater opportunities for casual interaction between residents and the public domain through greater usable communal space as compared to the existing divided terraces. The two staircases up to the ground floor level of the existing building, and the proposed street level entrance, will enhance the visibility of the building entrances.</p>	<p>Yes</p>
<p>3D - Communal Open Space</p>	<p><i>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.</i></p> <p><i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</i></p> <p><i>Communal open space is designed to maximise safety.</i></p>	<p>The site includes large communal open space areas within the front and rear setbacks that represent a combined area of 193.4m² or 38.5% of the site area.</p> <p>The proposed new communal terrace within the front setback will be a significant improvement from the existing arrangement of three separate patio areas above the detached garages that will allow for greater usability and flexibility for communal uses of this space. The inclusion of large planters with landscaping to this terrace will also greatly enhance the attractiveness of the space for residents and the streetscape.</p> <p>The removal of the existing detached shed within the rear setback will also significantly increase the communal space area within the rear setback.</p> <p>The communal spaces will remain highly visible to and from habitable rooms within the building and are clearly separated from the public domain to indicate their use of residents/guests only.</p>	<p>Yes</p>
<p>3E - Deep Soil Zones</p>	<p><i>Deep soil zones are to meet the following mini-mum requirements:</i></p> <ul style="list-style-type: none"> • <i>3 m minimum width</i> • <i>Minimum 7% of the site area</i> 	<p>The proposed development would provide a total of 93.7 m² (18%) of deep soil planting area within the building setback to the rear (western) of the subject site. The proposal complies with the ADG requirements.</p>	<p>Yes</p>
<p>3F - Visual privacy</p>	<p><i>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</i></p> <p><i>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</i></p>	<p>The applicant has proposed privacy screens to be installed to all rear balconies on the northern and southern side elevations to minimise any visual privacy impacts for the adjoining properties. The windows on the northern and southern side elevations of the building will be maintained as existing, with only the windows themselves being replaced.</p> <p>The two ground floor apartments (Units 1-2) of the development will maintain their existing levels of privacy within the development due to the lack of separation from the openings of these units assessing from the communal open spaces at the rear and front. However, this arrangement is considered to be acceptable on merit on the basis that this is an existing situation that is not exacerbated by this proposal.</p>	<p>Yes</p> <p>No (Acceptable on merit and by condition)</p>

		<p>It is noted that by further expanding the usable size of the rear balconies for the units on the upper levels, the proposal will allow for those spaces to be more easily utilised by those residents that will limit the need to rely on the ground floor communal open space for outdoor amenity. It is recommended that new gates be installed along the northern and southern side setbacks of the building in line with the eastern front building line to further separate the open space towards the rear, and consequently the openings of Units 1-2, to minimise opportunities for visitors and residents looking into the private spaces of these apartments (See Condition C#).</p> <p>The proposal is therefore considered to be acceptable.</p>	
3G - Pedestrian Access & Entries	<p><i>Building entries and pedestrian access connects to and addresses the public domain.</i></p> <p><i>Access, entries, and pathways are accessible and easy to identify.</i></p>	<p>The proposal would provide a secured pedestrian entrance to the street level lift foyer behind the new garages, which will also facilitate equitable access to the development. New pedestrian staircases to the building's ground level entrance above street level will also be provided on the northern and southern ends of the front setback. All of these entrances are easily identified, visible from, and accessible to, the public domain.</p>	Yes
3H - Vehicle Access	<p><i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</i></p>	<p>Pedestrian access points have been limited to the northern and southern ends of the building's street frontage and are clearly separated from the vehicular access points. This will greatly improve pedestrian safety and reduce the potential for conflicts with vehicles. The consolidation of the three garages and vehicular access within the centre of the site will also allow for a small increase in green verge on either side of the new crossing (see Condition C12), which will improve the streetscape presentation.</p> <p>Council's Development Engineer and Traffic Engineer have raised no in-principle objection to the proposal subject to the imposition of appropriate conditions of consent, including to increase/reinstate the green verge to the ends of the new vehicular crossing.</p>	Yes
3J - Bicycle and Car parking	<p><i>The car parking needs for a development must be provided off street</i></p> <p><i>Parking and facilities are provided for other modes of transport</i></p>	<p>The applicant has proposed three (3) car parking spaces within three separate garages at street level, which will maintain the existing amount of off-street parking.</p> <p>Bicycle storage facilities have also been provided within the extended area behind the new garages at street level, which will allow for additional modes of transport for the residents of the building.</p>	Yes

	<p><i>Car park design and access is safe and secure.</i></p>	<p>Furthermore, the subject site has excellent access to public transport to the south of the site, particularly buses and ferries, allowing for easy access to the wider Sydney transport network. The subject site will be located approximately 380 metres from Cremorne Point Ferry Wharf and approximately 290 metres from the closest north-bound bus stop on Milson Road.</p> <p>The proposed consolidation of the garages and the extension to create a new secure lift lobby will provide pedestrian entry at street level will creating secure and clearly defined spaces for pedestrians and vehicles on this level.</p> <p>The proposal is considered to be generally satisfactory in this regard.</p>	
4A - Solar and daylight access	<p><i>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</i></p>	<p>The main living spaces for each unit are orientated to the north-east and south-east, with greater glazed openings on the rear as well as expanded balconies to improve sunlight access to all apartments. The two units (1 and 3) on the southern side of the building have their main living space oriented towards the north-east to maximise sunlight.</p>	Yes
4B - Natural ventilation	<p><i>All habitable rooms are naturally ventilated.</i></p> <p><i>The layout and design of single aspect apartments maximises natural ventilation.</i></p> <p><i>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents</i></p>	<p>All five (5) apartments would achieve natural cross ventilation. The proposal therefore complies with the relevant ADG requirement.</p>	Yes
4C - Ceiling Heights	<p><i>Ceiling height achieves sufficient natural ventilation and daylight access</i></p> <p><i>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms</i></p> <p><i>Ceiling heights contribute to the flexibility of building use over the life of the building</i></p>	<p>The proposal includes a ceiling height of 2.7m for Units 1-2 on Ground Level, and Units 3-4 on Level 1.</p> <p>The new consolidated Unit 5 on the top floor (Level 2) is reduced to a minimum ceiling height of 2.55 m within the areas of the footprint of the new Loft level addition above, with a ceiling height of 2.7 m provided for the outside of the loft level footprint. The 2.7 m-high floorspace of Unit 5 represents approximately 104 m² or 59% of the unit's floorspace. As a result, the reduced ceiling height is considered to be acceptable on the basis that the overall amenity of this top floor apartment will be significantly increased by the proposal through the amalgamation of units, the addition of the loft space, and the 2.70 m ceiling height areas that represent a majority of the unit's floor space at this level.</p>	<p>Yes (Units 1-4)</p> <p>No (Unit 5 - acceptable on merit)</p>

		The proposed new attic/loft space will have a ceiling height of 2.0-2.5 m across the majority of the floor space, which complies with the 1.8 m minimum control of the ADG.	
4D 1-3 - Apartment size and layout	<p><i>Apartments are required to have the following minimum internal areas: 70 m² (2B)</i></p> <p><i>All bedrooms have a minimum area of 10 m²</i></p> <p><i>All secondary bedrooms have a minimum width of 3 m</i></p> <p><i>Living rooms have a minimum width of 4m (3-Bedroom)</i></p> <p><i>The maximum habitable room depth is 8m from a window</i></p>	<p>Unit 5: 174.5 m² Units 1-4: 90.3 m²</p> <p>All bedrooms are suitably sized in excess of 10 m².</p> <p>The secondary bedrooms comply with the minimum width of 3 m.</p> <p>The living rooms comply with the minimum width of 4 m.</p> <p>All habitable areas would be within 8 m from windows.</p>	<p>Yes Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
4E - Private open space and balconies	<p><i>All apartments are required to have primary balconies as follows:</i></p> <p><i>Two bedroom apartments 10 m² & minimum depth of 1 m.</i></p> <p><i>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15 m² and a minimum depth of 3 m.</i></p>	<p><u>Units 3-5: 14.4 m². 1.1-3.5 m balcony depth.</u> The majority of the balconies for these units will have a minimum depth of 3.5 m, which reduces to 1.1 m to accommodate the rear fire stair. The balconies/decks at the rear are shared to the extent of allowing access to the rear fire stair. However, this is the existing situation for this company titled flat building and the proposal will increase the overall footprint of the rear balconies to allow for greater usable private space. Unit 5 also has an additional balcony at the loft level at 7.4 m² and a width of 1.7 m.</p> <p><u>Units 1-2: No private open space provided.</u> Units 1-2 on the ground floor level have direct access to the communal open space at the rear of the site and paved patio areas underneath the rear fire stair and decks. However, individual private open space is not provided for these units. This is considered to acceptable on the basis that this situation is existing for a long-established company titled flat building, and the overall amenity for the residents of these units, notwithstanding the lack of private open space, will be high.</p>	<p>Yes</p> <p>No</p>
4F - Common circulation and spaces	<i>The maximum number of apartments off a circulation core on a single level is eight</i>	A maximum of two (2) apartments are served by each circulation core at the eastern end of the building on all residential levels.	Yes
4G - Storage	<i>Adequate, well-designed storage is provided in each apartment.</i>	Satisfactory storage areas are provided within the apartments given the more generous size of each apartment above the minimum ADG requirements.	Yes

<p>4H - Acoustic privacy</p>	<p><i>Noise transfer is minimised through the siting of buildings and building layout</i></p> <p><i>Noise impacts are mitigated within apartments through layout and acoustic treatments</i></p>	<p>The common party walls between each floor with two units (Units 1-4) include full-height joinery to minimise noise transmission between apartments. The existing floors/ ceilings between apartments within the building will be maintained to ensure noise transmission is minimised. The reduction of the units in the building from six to five will also help in reducing the likelihood of additional acoustic impacts.</p>	<p>Yes</p>
<p>4J - Noise and pollution</p>	<p><i>In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</i></p>	<p>Not applicable, as the surrounding area is a quiet residential location that is not subject to high levels of noise and/or pollution.</p>	<p>N/A</p>
<p>4K - Apartment mix</p>	<p><i>A range of apartment types and sizes is provided to cater for different household types now and into the future</i></p> <p><i>The apartment mix is distributed to suitable locations within the building.</i></p>	<p>The proposal reduced the existing accommodation by a single apartment. While Unit 5 will be amalgamated with Unit 6, this apartment will remain two bedrooms.</p>	<p>Yes</p>
<p>4L - Ground Floor apartments</p>	<p><i>Design of ground floor apartments delivers amenity and safety for residents</i></p>	<p>The existing building levels are retained, so the amenity of the ground floor level apartments (Units 1-2) will be preserved. While these apartments are not allocated with individual private open space, they are raised above street level and have a high level of security and privacy away from the street. It is recommended that new gates be installed along the northern and southern side setbacks of the building in line with the eastern front building line. This will further separate the open space towards the site's rear, and the openings of Units 1-2, to minimise opportunities for visitors and residents to look into the private spaces of these apartments (See Condition C23).</p>	<p>Yes</p>
<p>4M - Facades</p>	<p><i>Building facades provide visual interest along the street while respecting the character of the local area</i></p>	<p>The new garage arrangement at street level is sympathetic to the form and materials of the original 1926 building. The addition of landscaping within planters for the terrace above the garages will assist in soften the bulk and scale of these new structures at street level. The existing façade of the building will also be maintained.</p>	<p>Yes</p>

<p>4N - Roof Design</p>	<p><i>Roof treatments are integrated into the building design and positively respond to the street</i></p> <p><i>Opportunities to use roof space for residential accommodation and open space are maximized</i></p> <p><i>Roof design incorporates sustainability features</i></p>	<p>The proposed dormer window on the southern roof plane utilises materials and proportions that are sympathetic to the building and the streetscape, and will not dominate the roof plane on which it is to be placed. The dormer will not be highly visible from the public domain due to its location on a side roof plane and the significant elevation of the existing building above street level.</p> <p>The addition of the attic/loft within the roof level within the roof form of the roof and will not create significant additional projections outside roof. The small balcony at the western rear roof plane will inset within the roof plane.</p> <p>Solar panels are proposed for the northern side roof plane.</p>	<p>Yes</p>
<p>4O - Landscape design</p>	<p><i>Landscape design is viable and sustainable</i></p> <p><i>Landscape design contributes to the streetscape and amenity</i></p>	<p>The proposed landscaping within the planters on the terrace above the garages within the front setback will enable more usable out-door space for residents whilst also helping to soften the built form of the site when viewed from the street.</p> <p>The existing landscaping at the rear of the site will be enhanced by the demolition of the detached garden shed.</p>	<p>Yes</p>
<p>4P - Planting on structures</p>	<p><i>Planting on structures contributes to the quality and amenity of communal and public open spaces</i></p>	<p>The proposed planters within the front setback have been appropriately designed with a diverse range of plants and trees to suit the location. The planters will greatly enhance the site's appearance from the street. Council's Landscape Development Officer has also recommended that additional spill-over planting be provided in these planters to help further soften the built form.</p>	<p>Yes (Condition)</p>
<p>4Q - Universal design</p>	<p><i>Universal design features are included in apartment design to promote flexible housing for all community members</i></p>	<p>The proposal includes the reconfiguration of all apartment layouts to enable a more open-plan design in living areas, which allows for more flexible modern living in these units. The inclusion of a lift, and pedestrian access to the entire building directly from street level will also greatly enhance equitable access to the building for all residents and visitors.</p>	<p>Yes</p>
<p>4R - Adaptive reuse</p>	<p><i>New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place</i></p>	<p>The additions and alterations are sympathetic to the existing character and design of the existing 1926 building, while also being clearly distinguishable from original fabric. The proposed alterations to the units will greatly enhance the flexibility and overall amenity for residents.</p>	<p>Yes</p>
<p>4W - Waste management</p>	<p><i>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents</i></p>	<p>A separate garbage storage room is proposed behind the new garages at street level, which will minimise visual impacts, while also improving overall waste management and access for residents of the building.</p>	<p>Yes</p>

The proposal is considered satisfactory having regard to the design criteria specified in the ADG. Where strict compliance is not achieved, the non-compliances are considered minor, and/or are due to the existing design of the building, and are unlikely to materially compromise the amenity of the apartments and neighbouring development.

SEPP (Housing) 2021

This policy requires a consent authority to consider whether there would be a loss of affordable rental housing as a consequence of the proposed development, which involves the removal one two-bedroom apartment and the substantial refurbishment of all remaining apartments. An assessment is provided below:

Part 3 Retention of existing affordable rental housing

Section 45 - Interpretation

A low-rental residential building means a dwelling that was at a rental level no greater than the median rental level, as specified in the Rent and Sales Report, during the relevant period in relation to a dwelling.

- (a) *of the same type, and*
- (b) *with the same number of bedrooms, and*
- (c) *in the same local government area.*

The existing residential flat building contains 6 two-bedroom apartments. The building has not been strata subdivided and is currently under company title. The applicant has provided the following summary of the most recent rental rates for each apartment.

The most recent median weekly rental rate for a 2-bedroom unit in the Cremorne Point (March 2022 Quarter), as published by the NSW Department of Communities and Justice, is \$670.¹ The applicant has provided the rental rate figures for the apartments as follows:

Unit	Weekly Rent
Unit 1	\$630
Unit 2	\$550
Unit 3	\$380
Unit 4	\$550
Unit 5	Not rented
Unit 6	\$700

Based on the figures provided above it appears that four of the six units within the building are rented out at a rate below the median for two-bedroom apartments in Cremorne Point. It should be noted that the applicant has advised that the lower rental rates are “family rates” due to the company title of the building which are already suppressed due to the dilapidated nature of the building. However, the SEPP (Housing) 2021 does not provide a distinction between special rental rates that may be given on such a basis and the only definition for what is a “low rental dwelling” is determined in Section 45(d) of the SEPP:

¹ See the table as published by the department here: <https://www.facs.nsw.gov.au/download?file=834001>

low-rental dwelling means a dwelling that was let at a rental level no greater than the median rental level, as specified in the Rent and Sales Report, during the relevant period in relation to a dwelling.

Section 46 - Buildings to which Part applies

The subject building, proposed to be substantially refurbished, is a *low-rental residential building* and is located on land within the Greater Sydney Region.

Section 47 - Reduction of availability of affordable housing

Section 47(1)(b) provides that the altering and adding to the structure or fabric inside or outside of the building to which this part applies requires development consent.

(2) *In determining whether to grant development consent, the consent authority must take into account the guidelines and the following –*

(a) *whether the development will reduce the amount of affordable housing in the area,*

The proposed substantial alteration of the existing residential flat building would reduce the amount of affordable rental housing in the area, by significantly upgrading the building and the four low-rental dwellings within.

(b) *whether there is available sufficient comparable accommodation to satisfy the demand for the accommodation,*

Subclause (3) notes that ‘sufficient comparable accommodation’ is taken to be not available if the average vacancy rate in private rental accommodation for Sydney (as published monthly by the Real Estate Institute of NSW) is less than 3% for the three months preceding the date of lodgement. Clause 47(1) of the SEPP defines “comparable accommodation” if it is available “in the same or a neighbouring suburb”, so the figures for the Inner Sydney area, which contains North Sydney, are provided.

The Real Estate Institute Vacancy Rate Survey has found that the rates for the 3 months preceding May 2022 in the Inner Sydney area, which contains North Sydney, were as follows: 2.3% (May), 2.1% (April), 2.6% (March).² Consequently, it can be determined that there is insufficient comparable accommodation to satisfy demand as the current vacancy rate is below 3%.

(c) *whether the development is likely to result in adverse social and economic effects on the general community,*

² ‘Vacancy Rate Survey Results – September 2022’, Real Estate Institute of NSW, <https://www.reinsw.com.au/common/Uploaded%20files/2022/10%20October/REINSW-Vacancy-Rate-Result-September-2022-v-1-1.pdf>

Based on the evidence provided, the proposed alterations of the existing residential flat building would reduce the amount of affordable rental housing in the area and is likely to cause some hardship in the general community. However, based on the information provided by the applicant, it is noted that the low-rental dwellings are due to a combination of “family rates” within a company title and due to the dilapidated nature of the building. In this respect, the refurbishment and substantial alterations to the existing building are likely to have a limited social and/or economic impact upon the general community.

- (d) *whether adequate arrangements have been made to assist the residents who are likely to be displaced to find comparable accommodation,*

The proposal does not entail the displacement of any residents of Units 1-5. The existing rented Unit 6 will be lost by this proposal but as demonstrated earlier in this report, Unit 6 is not classified as a low-rental dwelling as its current rent is above market value.

- (e) *the extent to which the development will contribute to a cumulative loss of affordable housing in the local government area,*

This is difficult to quantify, however, the proposed development is likely to contribute to the cumulative loss of affordable housing in the LGA.

- (f) *whether the building is structurally sound, including—*
i. *the extent to which the building complies with relevant fire safety requirements, and*
ii. *the estimated cost of carrying out work necessary to ensure the building is structurally sound and complies with relevant fire safety requirements,*

Council’s Building Surveyor has advised that the Property forms part of Council’s Annual Fire Safety Statement Register. The proposed building works represent more than 50% total volume of the building and require an upgrade of the fire safety measures pursuant to Section 64 of *the Environmental Planning and Assessment Regulations 2021*. Consequently, several conditions have been recommended (see conditions **C42** and **F1**).

- (g) *whether the imposition of an affordable housing condition requiring the payment of a monetary contribution would adequately mitigate the reduction of affordable housing resulting from the development,*

A contribution is calculated below in accordance with section 46 of the SEPP and would require a levy of **\$374,200.00** to offset the loss of affordable housing.

- (h) *for a boarding house—the financial viability of the continued use of the boarding house.*

The existing building is not a boarding house as defined in NSLEP 2013.

Section 48 - Contributions for affordable housing—the Act, s 7.32

$$C = L \times R \times 0.05$$

Where

C = contribution

L = number of bedrooms within a low-rental dwelling

R = the replacement cost calculated as the average value of the first quartile of sales of strata properties in the local government area in which the development is to take place, as specified in the 4 most recent editions of the Rent and Sales Report.

To Calculate L

For the proposed development, the building contains 6 2-bedroom apartments. Four of the units are rented below the median rental rate for the area. As a result, 8 bedrooms would be affected.

$$L = 8$$

To Calculate R

The first quartile (25th percentile) median sales price for Strata properties in the North Sydney LGA were as follows.

Rent and Sales Report Period	1 st Quartile Median Sale Price for Strata Properties
March 2022	\$935,000
December 2021	\$987,000
September 2021	\$970,000
June 2021	\$850,000
Average =	\$935,500

*Source: NSW Family and Community Services <https://www.facs.nsw.gov.au>

$$R = \$935,500$$

Therefore, the calculation is as follows.

$$C = L \times R \times 0.05$$

$$C = 8 \times \$935,500 \times 0.05$$

$$C = \$374,200.00$$

Section 48 - Contributions for affordable housing - the Act s 7.32

Condition C24 is recommended, imposing the levy as a condition in accordance with s7.32 of the Act.

NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013

Permissibility

The subject site is zoned R2 Low Density Residential in accordance with the NSLEP 2013. In accordance with the definitions for NSLEP 2013, the subject building can be defined as a residential flat building because it contains three or more dwellings. Residential flat buildings, however, are not a permissible form of development in an R2 Low Density Zone. Nevertheless, the subject site operates under existing use rights pursuant to sections 4.65-4.70 of the Environmental Planning and Assessment Act 1979 (EPAA 1979).

Council granted consent for the construction of the existing residential flat building development of six units under Building Application No. 25/665 on 15 December 1925. Council has also approved previous alterations and additions to the subject development in 2001, 2011 and 2014 under previous and current planning instruments. Having regard to previous approvals where the proposals were permissible forms of development but now prohibited under NSLEP 2013, and the fact that the subject site has been lawfully occupied as a residential flat building since at least 1926, it can be concluded that the site benefits from "Existing Use Rights" under the EPAA 1979 (as amended).

The subject application is therefore assessed under the relevant clauses in the EPAA 1979 below:

4.66 Continuance of and limitations on existing use

- 1) Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.***
- 2) Nothing in subsection (1) authorises:***
 - (a) any alteration or extension to or rebuilding of a building or work, or***
 - (b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or***
 - (c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or***
 - (d) the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 80A (1) (b), or***
 - (e) the continuance of the use therein mentioned where that use is abandoned.***
- 3) Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually soused for a continuous period of 12 months.***

A search of Council's records has revealed that the subject multi-dwelling housing development has been in continuous use for this purpose since 1926 and has not been abandoned for any length of time.

Sections 163-165 of the *Environmental Planning and Assessment Regulations 2021* are relevant to the proposed development because they set out how development is allowed under Part 7 (Existing uses). The relevant matters for consideration for existing uses and the consent requirements for alteration and additions to an existing use are considered below.

Section 163 - Certain development allowed

- (1) **An existing use may, subject to this Part -**
- (a) **be enlarged, expanded, or intensified, or**
 - (b) **be altered or extended, or**
 - (c) **be rebuilt, or**
 - (d) **be changed to another use, but only if the other use is a use that may be carried out with or without development consent under the Act,**

Comment: The proposal involves alterations and additions to an existing residential flat building that is permitted by Section 163(1) of the EP&A Regulations 2021 for the reasons stated throughout this report.

Section 164 - Enlargement, expansion, and intensification of existing uses

- (1) **Development consent is required for any enlargement, expansion or intensification of an existing use.**
- (2) **The enlargement, expansion or intensification must be—**
- (a) **for the existing use and for no other use, and**
 - (b) **carried out only on the land on which the existing use was carried out immediately before the relevant day.**

Comment: With regard to Section 164(2), the proposal for alterations and additions to the existing residential flat building satisfies the requirements for this clause because the proposal would be carried out on the land to which the existing use was carried out and no new uses would be introduced within the land affected by the proposal.

Section 165 - Alterations of buildings and works

- (1) **Development consent is required for an alteration of a building or work used for an existing use.**
- (2) **The alteration must be -**
- (a) **for the existing use of the building or work and for no other use, and**
 - (b) **erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant day.**

Comment: The proposed works would be for the existing residential use of the building and there would be no other uses incorporated in the building.

Land and Environment Court Planning Principles - Existing Use Assessments and Prescriptive Requirements

The decision of Chief Judge Preston in *Saffioti v Kiama Council* [2019] NSWLEC 57 outlined that the development standards would not derogate from the incorporated provisions of existing use rights and therefore would not prevent their operation. The decisions effectively overturned the Planning Principle established in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71.

On this basis, the proposed development should comply with any development standard or be subject to a written request to vary the development standard pursuant to clause 4.6 in NSLEP 2013. In addition, it also concluded that the proposed development should be assessed against the relevant DCP provisions as a DCP is not an environmental planning instrument and therefore could not derogate from the incorporated provisions.

Therefore, any future development on the subject site must have regard to the relevant development standards and controls as contained in the LEP and DCP which are assessed below. An assessment in accordance with s4.15 of the Act, including those in s 4.15(1)(a)(i) which require an assessment against the provisions of any environmental planning instrument, such as the LEP, is contained within this report.

Clause 4.3 - Height

Principal Development Standards - North Sydney Local Environmental Plan 2013			
Section	Height	Control	Complies
Clause 4.3 - Heights of Building	Existing: 12 m Proposed: 12 m	8.5m	No

The subject site has a height limit of 8.5m pursuant to clause 4.3(2). The highest proposed external elements, being the new southern gable of the attic/loft addition within the roof would have an approximate height of 12 m, which results in an existing variance with the height control of 3.5m (41%). However, while it is noted that there will be no change to the overall height of the existing building, the proposal requires a variation of the Development Standard in clause 4.3 in NSLEP 2013 (see discussion below).

Clause 4.6 - Exceptions to development standards

The applicant has provided a written request to vary the development standard for height.

Extent of the Variation

The proposed works would exceed the maximum permitted height. The existing and proposed heights of the building have a maximum variation of 3.5 m (41%) from the development standard.

Clause 4.6(3)(a) Is compliance with the development standard unreasonable and unnecessary in the circumstances of the case?

For reference the objectives of the development standard are as follows:

Clause 4.3(1) of North Sydney Local Environmental Plan 2013

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

- (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) *to promote the retention and, if appropriate, sharing of existing views,*
- (c) *to maintain solar access to existing dwellings, public reserves, and streets, and to promote solar access for future development,*
- (d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) *to ensure compatibility between development, particularly at zone boundaries,*
- (f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*

(g) to maintain a built form of mainly one or two storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.”

The applicant’s written request relies upon *Webhe Test 1* to demonstrate that compliance with the development standard is unreasonable and unnecessary in this instance as the objectives of the development standard would be achieved notwithstanding the non-compliance with the development standard. The development is considered below, having regard to the objectives of the development standard.

(1)(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,

The proposed works would be contained within the existing building footprint above ground level and would not alter the development’s overall relationship to the topography. The addition of the attic level will be contained within the footprint of the building and the external extension of the rear balconies will be located below the 8.5m limit. The excavation works to the garage level within the front setback will be contained within the existing building and external terrace garage footprint below the 8.5m limit and will not have a significant impact upon the site’s topography.

(1)(b) to promote the retention and, if appropriate, sharing of existing views,

There would be no view loss for adjoining dwellings given that majority of the works would be contained within the existing footprint and/or built below the 8.5m height limit, and there would be no additional height to the building.

(1)(c) to maintain solar access to existing dwellings, public reserves, and streets, and to promote solar access for future development,

The levels of solar access for the properties will not substantially change as a result of the proposal. The majority of shadows cast by the new additions, including the southern dormer, will fall within existing shadows cast by the building and adjoining buildings. The remaining works are below the existing height limit and well setback from the southern side boundary so as to minimise solar impacts.

(1)(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The rear edge of the proposed attic level west-facing patio/balcony is recessed within the existing roof, with a roof skirt forming the balustrade of this balcony. This balcony is set back from the rear wall by approximately 3 m, with a setback of approximately 12 m from the rear western boundary. This design, combined with its significant elevation above ground level in relation to nearby properties, will have the effect of directing the westerly outlook over the roofs rather the down to the rear openings of adjoining properties to the rear. It is therefore considered that this will acceptably minimise any privacy impacts.

The southern side dormer is also recessed within the roof, setback from the southern side wall by approximately 3 m, and 6 m from the southern boundary. Like the balcony, the elevation and positioning of this dormer enables views over adjoining sites towards the harbour, rather than down and into the openings of nearby sites. This window will also not directly overlook any internal or external private space for adjoining properties and its privacy impact is considered to be satisfactory.

(1)(e) to ensure compatibility between development, particularly at zone boundaries,

The site is located within the R2 Low Density Residential zone and does not adjoin any other zone. The proposed works will retain the majority of the existing footprint of the building, with the minor extensions only occurring to the rear balconies and the new garages below the height limit. It is considered that the proposed alterations to the building are unlikely to result in a development that is incompatible with the development in the R2 zone or the locality, noting that the site currently benefits from existing use rights.

(1)(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.

The proposed scale and density of the development is appropriate for the site and does not result in significant non-compliances with Council's controls. While the proposal involves works to a building with an existing non-compliance in building height, the overall development is compatible with the existing building and surrounding buildings.

(1)(g) to maintain a built form of mainly one or two storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.

The proposal involves works to an existing three-storey building, including the addition of a new garage and lift shaft/meter room level at the street level and an attic (which is not designed as a storey under NSLEP 2013) within the existing roof. As the number of storeys in this development does not change, the built form character of the area is unlikely to be significantly change by this development, which will remain compatible with surrounding buildings, particularly other residential flat buildings within Cremorne Point which benefit like the subject site from existing use rights.

Clause 4.6(3)(b) Are there sufficient environmental planning grounds to justify the variation

The applicant has provided the following grounds for the variation to the permissible height limit:

- a) *There is benefit in retaining the existing inter-war flat building (due to its contribution to the Conservation Area, and its building typology), such that adaption is preferable to demolition and a new building (also from an ESD perspective).*

- b) *The building has significant maintenance and structural issues that require attention and remediation. At the same time, the existing building has some limitations in terms of modern amenity, including in the context of SEPP 65 and the associated Apartment Design Guide, such as limits to outlook and useable private balconies, and interface issues with adjoining development. The upper-level units (and other units) are arranged such that the southern units have limited solar access to living areas. In this context, amalgamating the upper-level units into one and a modest attic extension will significantly improve amenity to the site and upper new unit.*
- c) *At the same time the siting, design and nature of the upper-level works are such that the proposed building works above the height limit will have very limited impact on surrounding land and adjoining development. These dormers help to visually break up a large roof area and help contribute to the character of the building and area (**Refer to Figures 1 and 2 of this report**).*
- d) *The overall roof form is being retained, and the attic roof extensions are relatively modest so as not to dominate the existing building nor fundamentally alter its scale and relationship with surrounding land. This is particularly the case for the streetscape presentation, with works and non-complying height well set back from the street frontage.*
- e) *The existing building is higher than immediately adjoining development (although not higher than other buildings within the wider visual catchment of the site) and the location of building works on the site above the height limit directs outlook and impacts over and away from immediately adjoining sites. Similarly, the siting, scale and height causes no overshadowing or view impacts of any significance. The additional height above the height limit will not have any significant environmental impacts upon neighbours, due to its location. This is aided by the setting and orientation of the site and nature of surrounding development, unique to this site.*
- f) *The new height is below the existing ridge of the dwelling and no higher than the maximum existing height of the building. At the same time, positive aspects of the existing roof including its tiled finish and central chimney are being retained.*
- g) *There is mitigation and streetscape improvements by provision of a greater landscaped setting to the streetscape by the front landscape bed and larger areas for planting two feature trees, to reduce impacts of scale and height, both of the existing building and the new works.*
- h) *The scale and height of the works exceeding the height limit is modest and only accommodates one room.*
- i) *The location of the additional modest additional accommodation is in the most appropriate part of the site, noting the desirability of retaining the front setback and building presentation, limited side setbacks and limited rear setback and open space, and more sensitive interface at lower levels to the rear or sides.*
- j) *The heritage impacts of the new works and non-complying height will be neutral or positive.*
- k) *The solar panels above the height limit support sustainable living and energy use (and can be excluded from the building height in accordance with that definition).*

The existing non-compliance with the height limit only relates to the works on the attic level and above and does not comprise the entirety of the proposed works. Furthermore, the amenity impacts of the development are considered to be minimal and compliant with Council's controls in Part B of NSDCP 2013. The proposed alterations to the existing building will not alter the existing height or scale of the building and have been designed to be sympathetic to the existing building, which is a neutral item within the conservation area. The proposal is therefore considered to be acceptable within the site circumstances, with negligible additional height, bulk, and scale. Nor are there any significant adverse impacts to the amenity of neighbouring properties, and the proposal is considered a reasonable improvement to the existing building.

Clause 4.6(4)(a)(ii) Applicant's written request

The written request provided by the applicant adequately addresses the matters required by subclause (3) as discussed above.

Clause 4.6(4)(a)(ii) Public Interest

The proposed development would be in the public interest because it is consistent with the objectives of the development standard for height and the objectives of the zone as discussed above. It is also considered that the proposal does not result in any adverse impacts for the character of the surrounding area or the amenity of adjoining properties.

Conclusion

The applicant has submitted a written request pursuant to Clause 4.6 in NSLEP 2013. The written request has adequately addressed subclause (3) and, subject to satisfying conditions, is considered to be in the public interest because it is consistent with the relevant development standard and the objectives of the zone. The proposal does not raise any planning issues of regional or state significance and therefore no issues are raised to prevent exercising the Secretary's delegations to approve this application in this regard.

Clause 5.10 - Heritage Conservation

The proposed works are considered to satisfy clause 5.10 of NSLEP in that the primary original building form will remain largely intact when viewed from the public domain with the addition only of a sympathetic dormer on a side elevation. The proposed roof balcony at the rear will not be visible from the public domain and will therefore have a negligible impact upon the conservation area. The works to the garages are supported on the basis that they will significantly improve the streetscape presentation of the site through the integration of the three existing detached garages and the maintenance of a sympathetic form and materials to the existing building, including through the provision of landscaped planters on the terrace above.

Clause 6.10 - Earthworks

The proposed works to the existing building are mostly contained within the existing building footprint at or above ground level and would not alter the development’s overall relationship to the topography. The excavation works to the garage level within the front setback will be contained within the existing building and external terrace garage footprint below the 8.5 m limit and will not have a significant impact upon the site’s drainage patterns, soil stability, neighbouring amenity or significant trees and vegetation. The works are therefore compliant in this regard, subject to appropriate engineering conditions.

North Sydney Development Control Plan 2013

Part B Section 1- Residential Development																						
<i>Section</i>	<i>Complies</i>	<i>Comments</i>																				
1.2 Social Amenity																						
Population mix	No (Acceptable on merit)	<p>The existing residential flat building contains 6 units and therefore the population mix specified in provision P1 applies and is assessed in the table below:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Dwelling Size</th> <th>Control</th> <th>Proposed (%)</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>Min 2</td> <td>0</td> <td>No</td> </tr> <tr> <td>1 bedroom</td> <td>Min 2</td> <td>0</td> <td>No</td> </tr> <tr> <td>2 bedroom</td> <td>Min 2</td> <td>5 (100%)</td> <td>Yes</td> </tr> <tr> <td>3 bedroom +</td> <td>Min 2</td> <td>0</td> <td>No</td> </tr> </tbody> </table> <p>The proposed lack of studio, 1-bedroom, and 3-bedroom apartments is considered acceptable having regard to the existing nature of the flat building and the suburban location of the subject site. The proposed development would cater more for “downsizers” and families by providing larger apartments.</p>	Dwelling Size	Control	Proposed (%)	Complies	Studio	Min 2	0	No	1 bedroom	Min 2	0	No	2 bedroom	Min 2	5 (100%)	Yes	3 bedroom +	Min 2	0	No
Dwelling Size	Control	Proposed (%)	Complies																			
Studio	Min 2	0	No																			
1 bedroom	Min 2	0	No																			
2 bedroom	Min 2	5 (100%)	Yes																			
3 bedroom +	Min 2	0	No																			
Universal Design and Adaptable Housing	N/A	Not applicable as the development does not contain more than 5 units. Nevertheless, the accessibility of the development being significantly improved by the incorporation of a new lift with level access from the street.																				
Maintaining residential accommodation	No (Acceptable on merit)	The residential accommodation for the site is being reduced through the loss of one 2-bedroom apartment. Nevertheless, this loss is considered to be acceptable on the basis that the loss is relatively minor, and the proposal will allow for the refurbishment and substantial upgrade of an existing dilapidated flat building.																				
Affordable housing	Yes	The proposed works will result in the loss of four low-rental dwellings through the substantial upgrade of the building that will allow for higher rents above the median rental rate. As shown on pages 23-26 of this report a contribution is recommended to address this loss (see Condition C24).																				
1.3 Environmental criteria																						
Topography	Yes	The proposed works to the existing building are mostly contained within the existing building footprint at or above ground level and would not alter the development’s overall relationship to the topography. The excavation works to the garage level within the front setback will be contained within the existing building and external terrace garage footprint below the 8.5m limit and will not have a significant impact upon the site’s drainage patterns, soil stability, neighbouring amenity or significant trees and vegetation.																				

Properties adjoining bushland	Yes	The site does not adjoin bushland. While the site is within a bushland buffer zone (300m), the proposed works will not have any impact upon any nearby bushland or significant trees and landscaping. The proposal includes the enhancement of site landscaping at the rear and in the front setback through new planters.
Properties with a foreshore building line	N/A	The site does not include foreshore land.
Views	Yes	There would be no view loss for adjoining dwellings given that the majority of the works would be contained within the existing footprint and/or built below the 8.5 m height limit, and there would be no significant additional height to the building.
Solar access	Yes	<p>The levels of solar access for nearby properties will not substantially change as a result of the proposal. The majority of shadows cast by the new additions will fall within existing shadows cast by the building and adjoining buildings. The new works to the roof plane in the form of the south-facing dormer and the rear attic balcony will only fall over the existing site and shadows, and will not cast any additional shadows on adjoining properties.</p> <p>The remaining works are below the existing height limit and/or well setback from the southern side boundary so as to minimise any additional solar impacts. The only addition shadows cast over adjoining properties are as a result of the rear balcony extensions. However, these shadows are relatively minor additions to existing shadows cast by the existing building and will not significantly affect the solar access for the indoor and outdoor private spaces of No. 15 Milson Road to the south, which will nevertheless maintain 3 hour's solar access to these primary spaces.</p>
Acoustic and Visual privacy	Yes	<p>The applicant has proposed privacy screens to be installed to all rear balconies on the northern and southern side elevations to minimise any visual privacy impacts for the adjoining properties. The windows on the northern and southern side elevations of the building will be maintained as existing, with only the windows themselves being replaced.</p> <p>The two ground floor apartments (Units 1-2) of the development will maintain their existing levels of limited privacy within the development due to the lack of separation from the openings of these units from the communal open spaces at the rear and front. However, this arrangement is considered to be acceptable on merit on the basis that this is an existing situation that is not exacerbated by this proposal.</p> <p>It is noted that by further expanding the usable size of the rear balconies for the units on the upper levels, the proposal will allow for those spaces to be more easily utilised by those residents that will limit the need to rely on the ground floor communal open space for outdoor amenity. It is recommended that new gates be installed along the northern and southern side setbacks of the building in line with the eastern front building line to further separate the open space towards the rear, and consequently the openings of Units 1-2, to minimise opportunities for visitors and residents looking into the private spaces of these apartments (See Condition C20).</p> <p>The attic level west-facing patio/balcony is recessed within the existing roof, with a roof skirt forming the balustrade of this balcony. This balcony is set back from the rear wall by approximately 3m, with a setback of approximately 12m from the rear western boundary. This design, combined with its significant elevation above ground level in relation to nearby properties, will have the effect of directing the westerly outlook over the adjoining roofs rather the down to the rear windows/doors of adjoining properties to the rear. It is therefore considered that this will minimise any privacy loss impacts.</p>

		The southern side dormer is also recessed within the roof, setback from the southern side wall by approximately 3m, and 6m from the southern boundary. Like the balcony the elevation and positioning of this dormer it to enable views over adjoining sites towards the Harbour, rather than down and into the openings of nearby sites. This window will also not directly overlook any internal or external private space for adjoining properties and its privacy impact is considered to be low.
1.4 Quality Built Form		
Context	Yes	The existing context of the dwelling as visible from Cremorne Road and that of surrounding properties will not be significantly altered as a result of the proposed works. The most visible change when viewed from the public domain context will be the demolition of the existing garages and staircases within the front setback, and their replacement with a consolidated garage level within the centre of the site with a communal patio/terrace above will landscaping to provide visual relief. These changes are acceptable on the basis that the works are consistent with the style and character of the existing 1926 flat building and will significantly improve the streetscape presentation of the site.
Streetscape	Yes	Bonds are recommended to protect Council's footpath and street trees.
Siting	Yes	The proposed works will not affect the siting of the building from the street. All the proposed works will be consistent with the east-west orientation of the site and the existing building.
Setbacks	Yes/No (Acceptable on merit)	<p>Front The existing main building would continue to provide a 5-8m setback from the eastern street property boundary, while the new sub-floor garages at the street level will maintain their existing nil to the boundary. This is considered to be acceptable because the building bulk and form as visible from the street will be broadly retained in a manner that is similar to existing.</p> <p>Rear The existing 4.8-4.9m setback from the rear decks to the western rear boundary will be retained.</p> <p>Northern Side The existing northern side setback of 1.1-1.5 m of the building will be retained as existing, and no additional impacts will be created for the adjoining property as the bulk and form will be retained. The northern extension of the rear decks will have a setback of 1.6 m., which is compliant with Councils DCP setback control and is unlikely to result in additional impacts to the Cremorne Point Manor Hotel. It is noted that the existing established vegetation within the building setback between the hotel and the proposed works provides a landscape buffer.</p> <p>Furthermore, the applicant has proposed 1.8 m-high privacy screens on the northern sides of the rear balconies to ensure visual privacy to and from the adjoining property to the north.</p>
		<p>Southern Side The existing southern side setback of 1.5-1.8 m of the building will be retained as existing, and no additional impacts will be created for the adjoining property as the bulk and form will be retained. The northern extension of the rear decks will have a setback of 2.2 m., which is compliant with Councils DCP setback control (1.5 m setback up to 7m) and is unlikely to result in additional impacts to No. 15 Milson Road, particularly as the eastern rear building line of that property will be located at least another 4m away from the new south-western corner of the decks.</p>

		<p>It is noted that the existing established vegetation within the building setback between the Hotel and the proposed works provides a landscape buffer. Furthermore, the applicant has proposed 1.8m-high privacy screens on the southern sides of the rear balconies to ensure visual privacy to and from the adjoining property to the south.</p> <p>The proposal is therefore considered to acceptable in this regard.</p>
Form, massing & scale	Yes	<p>The proposed works are consistent with the built form, massing, and scale within the area by maintaining the overall height and scale of the existing residential flat building.</p> <p>While the existing building does not comply with the height controls for the area, the existing building benefits from existing use rights, having been in use as a residential flat building since 1926. The existing building will also be maintained to the same ridge height (RL39.14), with the scale and form of the building remaining consistent with other similar developments within the locality, including the large group of existing flat buildings to the south of the subject site, including Nos. 3, 5, 9, 11, and 13 Milson Road, and the Cremorne Point Manor Hotel immediately to the north at No. 6 Cremorne Road.</p>
Built form character	Yes	<p>The proposal will maintain the existing Inter-war flat building's overall character and style through the use of sympathetic colours and materials for new works and additions by containing the majority of changes within the existing footprint of the building and away from the public domain, where their impact on the conservation area will be minimal. The proposal will also improve the landscaped context of the site through the addition of planters on the terrace above the garages, as well as the conditioned increase of landscaping at the rear (see Condition C27).</p>
Dwelling entry	Yes	<p>The proposed communal terrace above the new garages within the front setback will broadly maintain the existing high levels of surveillance to and from the street. The two proposed staircases up to the existing building's ground floor level from the street, and the proposed street level entrance to provide level and accessible entry to the building via a new lift, will enhance the visibility and accessibility of the building and the dwellings' entrances.</p>
Roofs	Yes	<p>The existing appearance of the hipped tiled roof of the building will be retained, with some alterations to allow for the new attic level. The proposed south-facing dormer window will be a modest addition to the south roof plane with a metal skillion roof. This addition will not be highly visible from the street on a side elevation and no objection is raised in this regard.</p> <p>Solar panels have also been included on the northern roof plane and will not be highly visible from the public domain.</p> <p>The alteration to the rear roof to accommodate the proposed west-facing recessed balcony for the attic level will include a roof skirt to be its balustrade, and a new gable-end above the doorway to accommodate the new height in the attic. This takes the form of a sympathetic cut-away from the western roof plane that will not be highly visible from the public domain and is acceptable in this regard.</p>
Dormers	Yes	<p>No objection is raised to the proposed southern dormer window as it will be a relatively modest addition to a side-facing roof plane that will not be highly visible from the street or public domain. It also does not comprise more than 1/3 of the southern roof plane and will be set back from the southern side wall by approximately 3m and approximately 300mm lower than the roof ridge.</p>

Colours and materials	Yes	The proposed colours and materials, subject to conditions (see Conditions A4 , and C20), are reflective of the surrounding area, and the materials and colours are sympathetic to the Inter-war Mediterranean style of the subject property, and the character of the conservation area and surrounding properties. Solar panels have also been included on the northern roof plane and will not be highly visible from the public domain.																									
Balconies - Apartments	Yes	See the comments on page 20 of this report against the ADG requirements for balconies, which apply to this proposal. The useable balcony spaces (in area and depth) at the rear for Units 3-5 are being increased by the proposal. No balconies are enclosed nor project over boundaries.																									
1.5 Quality urban environment																											
High quality residential accommodation	Yes	The proposed works would provide additional amenity for its residents by expanding indoor and outdoor living areas and improving the functionality and accessibility of the five units within the proposed building.																									
Vehicular access and parking	No (Acceptable on merit)	<p>The proposal provides 3 car space for the entire development, which complies with the 5-space maximum parking allowed for the subject residential flat building and the requirements of Section 10 of NSDCP 2013.</p> <p>While the proposed attached garages within the front setback are not compliant with Council's controls, they are considered to be acceptable on merit on the basis that the structures will not significantly impact upon the character of the streetscape and will not result in the significant loss of landscaping as it will only cover the existing footprints of the garages and paved area within the front setback.</p> <p>The consolidation of the three garages in the centre of the front setback also has the added benefit of creating larger communal open space in the form of the terrace above, additional landscaping in the form of the planters, and an overall reduced amount of paving on either side of the driveways, which will improve the streetscape frontage of the site. Several conditions have also been recommended to ensure that the materials will be sympathetic to the Cremorne Point Conservation Area and the existing building.</p>																									
Site coverage, Landscaped area, Unbuilt-upon Area	No (Acceptable on merit/conditioned)	<p>The proposed site coverage, landscaped area and un-built upon area is indicated in the table below.</p> <table border="1" data-bbox="667 1424 1433 1675"> <thead> <tr> <th>Site Area:</th> <th>Control</th> <th>Existing</th> <th>Proposed</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>501.7m²</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Site Coverage</td> <td>45% (max)</td> <td>67.9% (340.7m²)</td> <td>67.74% (339.9m²)</td> <td>No (Reduced)</td> </tr> <tr> <td>Landscaped area</td> <td>40% (min)</td> <td>10.4% (52.24m²)</td> <td>10.4% (52.24m²)</td> <td>No</td> </tr> <tr> <td>Unbuilt-upon area</td> <td>15% (max)</td> <td>21.67% (108.76m²)</td> <td>21.83% (109.56m²)</td> <td>No (Increased)</td> </tr> </tbody> </table> <p>The proposal results in small overall reduction in site coverage by 0.8m² or 0.1%. While this means that the proposed site coverage still represents a significant non-compliance with the control of 22.74%, this is acceptable as the non-compliance is existing and is slightly reduced by this proposal.</p> <p>While the proposed level of landscaped area is not compliant, this level is not being further decreased. Unbuilt-upon area, however, will be slightly increased by this proposal as a result of the removal of the garden shed within the rear setback and its replacement with paving.</p>	Site Area:	Control	Existing	Proposed	Complies	501.7m²					Site Coverage	45% (max)	67.9% (340.7m ²)	67.74% (339.9m ²)	No (Reduced)	Landscaped area	40% (min)	10.4% (52.24m ²)	10.4% (52.24m ²)	No	Unbuilt-upon area	15% (max)	21.67% (108.76m ²)	21.83% (109.56m ²)	No (Increased)
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		As a result, it is recommended that additional landscaping be created within the rear setback in the location of the former garden shed, by converting the paved area into some form of soft landscaping, which will result in an additional 30.56m ² (6.09%) of landscaped area (16.5% or 82.8m ² - see Condition C27).
Safety and Security	Yes	See the comments on page 17 of this report against the ADG requirements for pedestrian entry and security, which apply to this proposal.
Landscaping and front gardens	Yes	The proposed modifications would not significantly alter the existing landscaping on the site, which is minimal and contained within the rear setback of the site, and would not have any additional impact upon nearby trees, subject to condition (see Condition C19). The landscaped context of the front setback will be significantly enhanced by the proposed planters for the terrace above the new garages, which will include new trees. Conditions are recommended to include spill-over planting for these planters and to increase the landscaping within the south-western corner of the rear setback (See Condition C27).
Private and Communal Open Space	Yes	The site includes large communal open space areas within the front and rear setbacks that represent a combined area of 193.4 m ² or 38.5% of the site area. See the comments on page 20 of this report against the ADG requirements for private open space, which apply to this proposal, where it was considered that the proposed amounts of private open space are acceptable.
Garbage storage	Yes	A dedicated garbage storage room is proposed for the new garage level that, which will contain sufficient storage of waste for the residents of the building, while also allowing for this function to be appropriately concealed from the streetscape.
1.6 Efficient use of resources		
Energy efficiency	Yes	A valid BASIX certificate has been submitted for each of the five proposed units within the building demonstrating compliance with the proposed works.
Stormwater management	Yes	Council's Development Engineer has recommended appropriate conditions in this regard to ensure that the new works will not have an adverse impact upon the flow of stormwater from the site (see Condition C13, C14 and C15).

South Cremorne Planning Area (Cremorne Point Conservation Area)

The proposal in its current form would not offend any of the provisions within Part C section 7.1 in NSDCP 2013 because the works will be mostly internal and not be highly visible from the public domain or adjoining properties, with no significant adverse impact on the heritage significance of the site or the Conservation Area, subject to conditions. The proposed works were found to be satisfactory in respect to the requirements of NSDCP 2013 as agreed by Council's Conservation Planner.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to payment of contributions towards the provision of local infrastructure. The contributions payable has been calculated in accordance with Council's Contributions Plan as follows:

Contribution amounts payable

Applicable contribution type		
s7.12 contribution details	Development cost:	\$3,000,000.00
<i>(payment amount subject to indexing at time of payment)</i>	Contribution:	\$30,000.00

A condition is recommended requiring payment prior to issue of any Construction Certificate (refer to **Condition C25**).

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

- | | |
|---|-----|
| 1. Statutory Controls | Yes |
| 2. Policy Controls | Yes |
| 3. Design in relation to existing building and natural environment | Yes |
| 4. Landscaping/Open Space Provision | Yes |
| 5. Traffic generation and Carparking provision | N/A |
| 6. Loading and Servicing facilities | N/A |
| 7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.) | Yes |
| 8. Site Management Issues | Yes |
| 9. All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979 | Yes |

SUITABILITY OF THE SITE (Section 4.15 of the EPAA 1979)

The proposal involves residential development in a residential zone, so the proposal is considered to be suitable for the subject site.

SUBMISSIONS (Section 4.15 of the EPAA 1979)

The original application was notified to adjoining properties and the Cremorne Point Precinct Committee. One submission was received, raising objections regarding noise during construction. The issues raised in the submission are summarised below and addressed with planning comments:

- ***The noise generated by the renovations will have a significant impact on guests staying at the hotel. Request all high impact noise work only commences from 10am daily.***

Once Development Consent is granted for the subject application, any consent will remain valid for 5-years, during which time the applicant is able to decide when to commence construction works. Council is unable to manage or determine the timing of such works. Any noise and disruption associated with the construction of this proposal will be subject to standard Conditions of Consent, which provide some protection against excessive disruption for neighbouring properties (Refer to the **E Conditions (During Demolition and Building Work)** in this report for further details).

The hours of construction (see **Condition E14**) are standard hours across all developments in North Sydney, and it is not considered that the proposal will result in any significant or excessive noise and/or disruption that would necessitate the modification of those hours. It is advised that any concerns about noise and/or disruption during construction works should be referred to the site manager as specified on the site sign in the first instance, and, if any breach of conditions identified, to Council's Compliance Team for further investigation.

PUBLIC INTEREST (Section 4.15 of the EPAA 1979)

The proposal would provide improved amenity for the residents without causing any unreasonable impacts to the area character, the streetscape, and/or adjoining properties so the proposal would not be contrary to the public interest.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION

The subject application was notified to adjoining properties and the Cremorne Point Precinct Committee seeking comment, and one submission was received objecting to construction noise impacts. Nevertheless, it is considered that, subject to conditions, the proposal would provide improved amenity for the residents without causing any unreasonable impacts to the streetscape and/or adjoining properties.

CONCLUSION & REASONS

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 subject to the written request to vary the height of buildings development standard made pursuant to clause 4.6 of NSLEP 2013.

The extent of the variations will not result in any increase in the overall height of the existing building and relates primarily to existing roof and proposed attic level additions, including a recessed balcony on the rear western roof plan and a dormer window on the southern side roof plane. The clause 4.6 submitted demonstrates that in the particular circumstances of the case that strict compliance is unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify the variation.

There would be no unreasonable overshadowing, view loss, privacy loss and/or excessive bulk and scale as a result of the proposal given that the majority of the works will be contained within the overall footprint of the existing building and will be sympathetic to the existing residential flat building, and the adjoining buildings.

The impacts of the overall development upon the Cremorne Point Conservation Area have also been assessed and, subject to satisfying recommended conditions, was found to be generally acceptable on the basis that the works will maintain a sympathetic scale and will match the Inter-war Mediterranean style of the existing residential flat building that was built in 1926

The proposed substantial refurbishment of the existing building would result in a loss of 4 low-rental dwellings. A contribution levied under section 7.32 of the Act in accordance with Part 3 of SEPP (Housing) 2021 is recommended to offset the loss of affordable housing within the local government area. The proposed development meets the design principles in SEPP 65 and is consistent with the design requirements of the Apartment Design Guide. The proposed development is also generally in accordance with the objectives in NSDCP 2013.

Notification of the proposal has attracted one submission objecting to construction impacts including noise. The issues raised are considered to be generally acceptable or have been addressed through conditions of consent, particularly with regard to construction impacts.

On balance, the application is considered reasonable and is recommended for **approval** subject to site specific and standard conditions.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 and **grant consent** to Development Application No. 132/22 for alterations and additions to the existing residential flat building on land at 4 Cremorne Road, Cremorne Point, subject to the attached site specific and standard conditions:-

ANDREW BEVERIDGE
ASSESSMENT OFFICER

ROBYN PEARSON
TEAM LEADER ASSESSMENTS

JIM DAVIES
A/MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
4 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 132/22

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Title	Drawn By	Date	Received
2005.1.6	Area Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.3.1	Garage Floor Plan – Demolition	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.3.2	Ground Floor Plan – Demolition	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.3.3	First Floor Plan – Demolition	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.3.4	Second Floor Plan – Demolition	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.3.5	Roof Plan – Demolition	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.1	Garage Floor Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.2	Ground Floor Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.3	First Floor Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.4	Second Floor Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.5	Loft Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.4.6	Roof Plan – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.5.1	S-01 Section	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.5.2	S-02 Section	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.7.1	E-01 East Elevation – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.7.2	E-02 South Elevation – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.7.3	E-03 West Elevation – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.7.4	E-04 North Elevation – Proposed	Antonio Caminiti Architect	10/03/2022	13/05/2022
2005.8.1	Materials - Finshes	Antonio Caminiti Architect	23/03/2022	13/05/2022
2005.9.1	Landscape Sheet 1	Antonio Caminiti Architect	23/03/2022	13/05/2022
2005.9.2	Landscape Sheet 2	Antonio Caminiti Architect	23/03/2022	13/05/2022

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

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Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

- A4. External finishes and materials must be in accordance with the submitted schedule (No. 2005.8.1), dated 23 March 2022, prepared by Antonio Caminiti Architect, and received by Council on 16 May 2022, except for the glazed balustrades, which are to be substituted with steel palisade or timber picket balustrades.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

B. Matters to be Completed before the lodgement of an Application for a Construction Certificate**Construction and Traffic Management Plan (Major DAs and sites with difficult access)**

- B1. Prior to issue of any Construction Certificate, a Construction and Traffic Management Plan must be prepared. The following matters must be specifically addressed in this Plan:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
- i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
 - ii. Signage type and location to manage pedestrians in the vicinity;
 - iii. The locations of any proposed Work Zones in the frontage roadways;
 - iv. Locations and type of any hoardings proposed;
 - v. Area of site sheds and the like;

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- vi. Location of any proposed crane standing areas;
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A Traffic Control Plan(s) for the site incorporating the following:
- i. Traffic control measures proposed in the road reserve that are in accordance with the RMS publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RMS 'red card' qualification).
 - ii. The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- c) A detailed description and map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing light traffic roads and those subject to a load or height limit must be avoided at all times.
- A copy of this route is to be made available to all contractors and must be clearly depicted at a location within the site.
- d) A Waste Management Plan in accordance with the provisions of Part B Section 19 of the North Sydney DCP 2013 must be provided. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process
- (e) Evidence of RMS concurrence where construction access is provided directly or within 20 m of an Arterial and/or Classified Road;
- (f) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements; and
- (g) For those construction personnel that drive to the site, the Site Manager shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

A suitably qualified and experienced traffic engineer or consultant must prepare the Construction and Traffic Management Plan.

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As this plan has a direct impact on the local road network, it must be submitted to and reviewed by Council prior to the issue of any Construction Certificate. A certificate of compliance with this condition from Council's Development Engineers as to the result of this review must be obtained and must be submitted as part of the supporting documentation lodged with the Certifying Authority for approval of the application for a Construction Certificate.

The construction management measures contained in the approved Construction and Traffic Management Plan must be implemented prior to the commencement of, and during, works on-site.

All works must be undertaken in accordance with the approved Construction and Traffic Management Plan.

A copy of the approved Construction and Traffic Management Plan must be kept on the site at all times and be made available to any officer of the Council on request.

Notes:

- 1) North Sydney Council's adopted fee for certification of compliance with this condition must be paid upon lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed in the condition above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition and construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated)

Dilapidation Report Damage to Public Infrastructure

- C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

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The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C2. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/i.e., prior to the commencement of construction)

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Dilapidation Survey Private Property (Neighbouring Buildings)

- C3. A photographic survey and dilapidation report of adjoining properties Nos. 6 Cremorne Road and 15 Milson Road detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Shoring for Adjoining Property

- C4. Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. A copy of this documentation must be provided to the Council for record purposes.

Note: Approval of engineering drawings for shoring works to be located on adjoining property by the Certifying Authority does not authorise a trespass on private or public land. All relevant permissions/legal rights must be obtained to undertake any works on adjoining land.

(Reason: To ensure the protection of existing public infrastructure and adjoining properties)

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Structural Adequacy of Adjoining Properties - Excavation Works

- C5. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining properties Nos. 6 Cremorne Road and 15 Milson Road, which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Structural Adequacy of Existing Building

- C6. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

Geotechnical Report

- C7. A report prepared by an appropriately qualified Geotechnical Engineer certifying that the existing rock formations and substrate on the site is capable of:
- a) withstanding the proposed loads to be imposed;
 - b) withstanding the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;
 - c) providing protection and support of adjoining properties; and
 - d) the provision of appropriate subsoil drainage during and upon completion of construction works

must be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate.

Recommendations made in the certified report must be complied with at all times.

Building plans and specifications submitted for approval with any construction certificate application must comply with (a), (b), (c) and (d) above and the certified report, including any recommendations made in the said certified report.

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The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

Waste Management Plan

C8. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:

- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
- b) The design of the on-site waste storage and recycling area; and
- c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Colours, Finishes and Materials (Conservation Areas)

C9. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that the completed colours, finishes and materials are complementary to the Conservation Area)

Work Zone

C10. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

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Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Maintain Property Boundary Alignment Levels

C11. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure interface between property and public land remains uniform)

Obtain Driveway Crossing Permit under S.138 Roads Act 1993

C12. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of any Construction Certificate. In order to obtain a permit under S.138 of the Roads Act 1993, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

The civil design drawings must include the following at a minimum: -

- a) the vehicular access way must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing, or parking floor,
- b) the width of the vehicular layback must be 11.4 metres (including the wings),
- c) the vehicular crossover must be set square to the kerb,
- d) the crossing (between the layback and the property boundary) must be placed on a single straight grade of approximately 4.5%, falling to the back of the layback,

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- e) the gutter level and road shoulder will require lifting/adjustment to prevent scraping of vehicles and to ensure smooth transitions. The gutter shall be raised to ensure the cross-fall grade of the road shoulder is approximately 5.5% for a minimum distance of 600mm, falling to the gutter lip. As a result, the kerb gutter is to be transitioned as necessary on both sides of the proposed layback crossing for a minimum distance of 1m and to ensure that a minimum longitudinal fall of 1% is achieved to maintain gutter flows.
- f) a new footpath is required for the full property frontage at the same width as the existing footpath,
- g) the kerb gutter must be reconstructed on both sides of the crossing and marry into the existing kerb & gutter to ensure uniformity in the road reserve,
- h) the grass verge must be reinstated and extended to the new limits on both sides of the new crossover, between the back of kerb and the edge of the new footpath,
- i) the works will require reconstruction of the carriageway shoulder extending out 600mm from the gutter lip in AC10 - 50mm thick, adjacent to all new gutter works,
- j) any twisting of driveway access must occur entirely within the subject property,
- k) all inspection openings, utility services must be adjusted to match the proposed driveway levels,
- l) sections along centreline and extremities are required at a scale of 1:50 to be taken from the centreline of the roadway through to the parking area itself and must include all changes of grade and levels both existing and proposed,
- m) a longitudinal section along the gutter line at a scale of 1:50 showing how it is intended to blend the vehicular crossing with the existing kerb and gutter,
- n) a longitudinal section along the footpath property boundary at a scale of 1:50 is required,
- o) the sections must show the calculated clearance to the underside of any overhead structure,

The permit must be granted by Council prior to the issue of any Construction Certificate.

All driveway and infrastructure works on the road reserve must be undertaken in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained and referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Stormwater Disposal - Drainage Plan

- C13. Prior to the issue of any Construction Certificate, site drainage plans must be prepared by a licensed plumber or drainage engineer. The site drainage plans must be designed in accordance with the following criteria:
- a) compliance with BCA drainage requirements and current Australian Standards and guidelines;
 - b) stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity to the kerb in Cremorne Road;
 - c) new pipelines within council land shall be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres;
 - d) the design and installation of the Rainwater Tanks shall comply with BASIX and Sydney Water requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system; and
 - e) prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.

Drainage plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Proper disposal of stormwater)

On-site Stormwater Detention

- C14. On site detention must be provided to ensure that the maximum discharge of stormwater collected from the undeveloped site, which would occur during a one-in-five-year storm of one-hour duration is not exceeded. All other stormwater run-off from the site for all storms up to a one-in-twenty-year storm event is to be retained on the site for gradual release to the kerb and gutter or piped drainage system. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

For small areas up to 0.5 hectares, determination of the require cumulative storage may be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Runoff Volume 1, 1987 Edition.

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Engineering calculations, design and certification complying with this condition must be provided by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded)

Pump-out System Design for Stormwater Disposal

C15. The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- a) the pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the one-in-twenty-year storm;
- b) the pump system shall be regularly maintained and serviced, every six (6) months; and
- c) any drainage disposal to the street gutter from a pump system, must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

Engineering details demonstrating compliance with these criteria and certified by an appropriately qualified and practising civil engineer shall be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure adequate provision is made for the discharge of sub-surface stormwater from the excavated parts of the site)

Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

C16. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$10,000.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.

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- c) remedying any defects in any such public work that arise within six months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Upgrade of Existing Building - Fire Spread and Safe Egress

- C17. Pursuant to clause 94 of the EP&A Regulation 2000, aspects of the existing building must be brought into conformity with the Building Code of Australia (BCA).

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with Sections C, D & E of the NCC BCA 2019, Volume 1.

Plans and specifications showing the upgrading works which must be carried out under this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Notes:

1. The Certifying Authority must be satisfied that the plans and specifications submitted prior to the issue of any Construction Certificate comply with the requirements of this condition.
2. The Certifying Authority issuing the Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.

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3. Where this condition specifies compliance with the performance requirements of the BCA, the Certifying Authority, subject to their level of accreditation, may be satisfied as to such matters.

(Reason: Application of Regulations relating to Fire and Life Safety)

Tree Bond for Public Trees

- C18. Prior to the issue of any construction certificate, security in the sum of \$5,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree Species	Location	Bond
1 x <i>Syzigium paniculatum</i> (3x2m)	Council verge on the boundary between 4 Cremorne Road and the rear of 15 Milson Road	\$5,000

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Tree Protection Measures

- C19. The tree protection measures contained in this condition shall be shown clearly on the Construction Certificate drawings. Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

To ensure the protection of all trees to be retained, the following measures are to be undertaken:

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- a) All documentation for the Construction Certificate application must show the site trees to be retained, with their positions and diameters of trunks and crowns (canopies) to be clearly and accurately shown in relation to all levels of the proposed development.
- b) 1 x *Syzigium paniculatum* (3x2m) planted in the Council verge on the boundary between 4 Cremorne Road and the rear of 15 Milson Road shall be retained and protected in accordance with AS4970. No excavation shall be permitted further south than the existing vehicular crossover for the proposed amalgamated vehicular crossover, and hand excavation only shall be used within the Tree Protection Zone of this tree, and no level changes shall be permitted.
- c) All neighbouring trees and vegetation shall be retained and protected in accordance with AS4970.
- d) Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of piers/footings, shall be used within the Tree Protection Zone of any protected tree, no roots greater than 30mm shall be cut.
- e) Minor pruning only shall be permitted to the *Alnus jorullensis* (10x5m) located in the rear setback of 6 Cremorne Road. Scaffolding shall be designed to negate/minimise the need for pruning, branches shall be tied back where possible instead of being pruned. Pruning shall be carried out by an AQ3-qualified arborist in accordance with AS4373. No more than 5% total canopy shall be removed.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition and AS4970.

(Reason: To ensure the protection of significant trees, and that appropriate tree protection measures are shown on construction drawings)

Heritage Requirements

- C20. Details demonstrating compliance with the following are to be submitted with the Construction Certificate:
- a) **Solar Panels**
Solar panels are to be laid flat upon the roof surface and are not to be tilted to minimise visual impact.

b) New Windows and Doors

New windows and doors are to be timber-framed with a painted finish, except for the arched windows to the enclosed sunrooms on the street elevation where a slim aluminium frame or frameless glazing is to be used, to minimise the visual impact of the sunrooms' enclosure.

c) Garage Doors

The garage doors are to be recessed a minimum of 150 mm from the outside face garage wall. The returns are to be sandstone blocks reclaimed from the areas of demolition of the wall. The garage doors are to be timber panel lift with a painted finish.

d) Sandstone

New sandstone is to match the existing sandstone blockwork in dimension, texture, and colour.

e) Balustrades

Glazed balustrades shown on the drawings are to be deleted and substituted with metal palisade or painted timber picket balustrades.

f) Original Architectural Features

Decorative architectural features such as original doors, cast iron fireplaces and timber mantle pieces are to be salvaged for re-use on the subject site, or elsewhere, to retain heritage assets within the community.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, in order to fully satisfy the requirements of this condition.

(Reason: To ensure the use of materials is consistent and sympathetic to the character of the conservation area and the original dwelling)

Asbestos Material Survey

C21. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.

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- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Noise from Plant and Equipment

C22. The use of all plant and equipment installed on the premises must not:

- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.
- (b) Cause "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

"boundary" includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Privacy

C23. The following privacy devices are to be provided:

- (a) New pedestrian gates shall be installed along the northern and southern side setbacks of the building in line with the eastern front building line to further separate the open space towards the rear from the front of the site.

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The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the privacy of the ground floor units of the development)

Section 7.32 Contributions for affordable housing

- C24. Prior to the issue of a Construction Certificate, the proponent shall make a monetary contribution of **\$374,200.00** to North Sydney Council as a contribution towards providing affordable housing pursuant to Section 7.32(2) of the *Environmental Planning & Assessment Act 1979*, as calculated by Section 48 of the *State Environmental Planning Policy (Housing) 2021*.

The contribution MUST BE paid prior issue of any Construction Certificate.

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

(Reason: To mitigate the loss of low-rental accommodation within the State)

Security Deposit/Guarantee Schedule

- C25. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$5,000.00
Infrastructure Damage Bond	\$10,000.00
TOTAL BONDS	\$15,000.00

Note: The following fees applicable

Fees	
Section 7.32 Contribution for affordable housing	\$374,200.00
Section 7.12 Development Contributions	\$30,000.00
TOTAL FEES	\$30,000.00

(Reason: Compliance with the development consent)

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BASIX Certificate

C26. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A444780 (Unit 1); A444783 (Unit 2); A444785 (Unit 3); A444786 (Unit 4); A444787 (Unit 5) for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Amendments to the Landscape Plan

C27. The landscape plans approved as per Condition A1 of this consent, must be amended as follows:

- 1) Spill-over planting shall be included in the planter boxes along the eastern boundary above the garages, to soften the presentation of the new garages to the street.
- 2) The paving in the south-western corner of the site between the patio area underneath the rear fire stairs and balconies, the south-western corner of the building, and the western and southern side boundaries of the site, representing an area of 30.56m², must be converted into some form of soft landscaping. This may include, but is not limited to lawn, garden beds and/or a steppingstone path between landscaping.

Amended plans complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the amended plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure an appropriate landscaped context and to demonstrate compliance with Council's controls)

D. Prior to the Commencement of any Works (and continuing where indicated)**Protection of Public Trees**

D1. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

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Tree	Location	Protection
1 x <i>Syzigium paniculatum</i> (3x2m)	Council verge on the boundary between 4 Cremorne Road and the rear of 15 Milson Road	1.8m-high steel mesh tree protection fencing.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Protection of existing environmental and community assets)

Protection of Trees

- D2. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites). A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Temporary Fences and Tree Protection

- D3. All protected trees on-site that are specifically nominated as per Condition C19 are to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builders' waste are to be stored in the vicinity of the nominated tree/trees at any time.

Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of piers/footings, shall be used within the Tree Protection Zone of any protected tree, no roots greater than 30mm shall be cut.

Minor pruning only shall be permitted to the *Alnus jorullensis* (10x5m) located in the rear setback of 6 Cremorne Road. Scaffolding shall be designed to negate/minimise the need for pruning, branches shall be tied back where possible instead of being pruned. Pruning shall be carried out by an AQ3-qualified arborist in accordance with AS4373. No more than 5% total canopy shall be removed.

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Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites) must be installed to the satisfaction of the Certifying Authority prior to demolition or commencement of any works and must be maintained for the duration of the works.

(Reason: To protect the trees to be retained on the site during construction works)

Public Liability Insurance - Works on Public Land

- D4. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Commencement of Works' Notice

- D5. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. *During Demolition and Building Work*

Re-use of Sandstone

- E1. Sandstone blocks (if any) removed from the site are to be either stored for re-use on site or offered to Council in the first instance.

Note: The provisions of the Heritage Act may also apply to altering any sandstone elements on any site.

(Reason: To allow for preservation of cultural resources within the North Sydney Council area)

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Parking Restrictions

- E2. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E3. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E4. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

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Geotechnical Stability during Works

- E5. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydrogeological considerations must be undertaken in accordance with the recommendations of the approved geotechnical report and all subsequent geotechnical inspections carried out during the excavation and construction phase.

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

Council Inspection of Public Infrastructure Works

- E6. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points:

- a) Formwork for layback, kerb/gutter, footpath, etc

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours' notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

Removal of Extra Fabric

- E7. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

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Dust Emission and Air Quality

E8. The following must be complied with at all times:

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
- (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

E9. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Developer's Cost of Work on Council Property

E10. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

E11. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Protection of Trees

E12. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All tree protection conditions contained within this consent must be implemented for the duration of the works.

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Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of piers/footings, shall be used within the Tree Protection Zone of any protected tree, no roots greater than 30mm shall be cut.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- a. If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- b. An application to modify this consent pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

Special Permits

- E13. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) **On-street mobile plant**

E.g., cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

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2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Construction Hours

E14. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Location	Standard Construction Hours	
	Day	Hours
Residential Zones	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

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In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Installation and Maintenance of Sediment Control

E15. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

E16. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

E17. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

E18. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

**4 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 132/22**

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Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Prohibition on Use of Pavements

E19. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

E20. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

E21. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

E22. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

**4 CREMORNE ROAD, CREMORNE POINT
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F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:

a) in the case of work for which a principal contractor is required to be appointed:

- i) the name and licence number of the principal contractor, and
- ii) the name of the insurer by which the work is insured under Part 6 of that Act, or

(b) in the case of work to be done by an owner-builder:

- (i) the name of the owner-builder, and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

F5. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Mandatory Critical Stage Inspections

F6. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

Excavation/Demolition

- F7. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

**4 CREMORNE ROAD, CREMORNE POINT
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- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F8. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F9. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
- b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

**4 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 132/22**

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- 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. Prior to the Issue of an Occupation Certificate**Infrastructure Repair and Completion of Works**

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:

- a. in the road reserve must be fully completed; and
- b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of public assets)

Certification - Civil Works

- G2. An appropriately qualified and practising Civil Engineer must certify to the Certifying Authority that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard.

A copy of the certificate must be submitted to Council (if it is not the Certifying Authority), upon completion of the development works and prior to the issue of an Occupation Certificate.

(Reason: Compliance with the Consent)

Damage to Adjoining Properties

- G3. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

**4 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 132/22**

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Utility Services

- G4. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Covenant and Restriction (Stormwater Control Systems)

- G5. An Instrument pursuant to Sections 88B and 88E of the *Conveyancing Act 1919* and one copy must be submitted to Council in registrable form, providing for:
- a. a restriction as to user and positive covenant as to user as appropriate in favour of North Sydney Council burdening 4 Cremorne Road, Cremorne Point requiring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, charged lines);
 - b. North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument;
 - c. the wording on the Instrument making reference to the Council file/s which hold:
 - (a) the Construction plans; and
 - (b) the "Work-as-Executed" (as built) plans;

Upon Council being satisfied as to the terms of the Instrument, North Sydney Council's official seal will be affixed to these documents, prior to submission to the Land and Property Information Office for registration

The Instrument creating the restriction and/or covenant under ss 88B and 88E required by this condition of consent must be registered on the Title of the development site prior to the issue of an Occupation Certificate or commencement of use of the site, whichever is the earlier. Typical wording for the Instrument can be sourced from Council's "Specification for the Management of Stormwater".

Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of an Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent including the reasonable costs of Council in obtaining advice, negotiating the terms or otherwise facilitating the execution and registration of the required Instrument.

(Reason: Compliance and adequate maintenance of drainage system)

**4 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 132/22**

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Basement Pump-out Maintenance

- G6. Prior to issue of an Occupation Certificate a Maintenance Regime must be prepared for the basement stormwater pump-out system and submitted to the Principal Certifying Authority for approval with the Occupation Certificate documentation. The regime must specify that the system is to be regularly inspected and checked by qualified practitioners.

The basement stormwater pump-out system must be maintained in accordance with the approved Maintenance Regime at all times.

(Reason: To ensure future provision for maintenance of the drainage system)

Asbestos Clearance Certificate

- G7. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following:

- a) the building/land is free of asbestos; or
- b) the building/land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au.

(Reason: To ensure that building works involving asbestos-based products are safe for occupation and will pose no health risks to occupants)

Certification of Tree Condition

- G8. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below:

Tree	Location	Height
1 x <i>Syzigium paniculatum</i>	Council verge on the boundary between 4 Cremorne Road and the rear of 15 Milson Road	3x2m
1 x <i>Alnus jorullensis</i>	Within the rear setback of No. 6 Cremorne Road on the northern side boundary of 4 Cremorne Road.	10x5m

**4 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 132/22**

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The report must detail the condition and health of the nominated trees upon completion of the works and shall certify that the trees have not been significantly damaged during the works on the site and have reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent)

BASIX Completion Certificate

G9. In accordance with Clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the Certifying Authority must apply to the Director-General for a BASIX completion receipt.

(Reason: To ensure compliance with the specified BASIX Certificate)

Landscaping

G10. The landscaping shown in the approved landscape plans numbered 2005.9.1 and 2005.9.2, prepared by Antonio Caminiti Architect, dated 23 March 2022, received by Council on 13 May 2022, and as modified by Condition C28, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Damage to Adjoining Properties

G11. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

Where works required to rectify any damage caused to adjoining property as a result of the development identified in the report and certification have not been carried out, a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible prior to the issue of an Occupation Certificate.

**4 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 132/22**

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All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To ensure adjoining owner's property rights are protected in so far as possible)

Unpaved Verge

G12. The unpaved verge area must be constructed/reconstructed with an appropriate species of grass prior to completion of the works at no cost to Council.

(Reason: To ensure that community assets are presented in accordance with reasonable community expectations)

Compliance with Certain Conditions

G13. Prior to the issue of any Occupation Certificate, Conditions C19, C20, C23 and C28 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

I. Ongoing/Operational Conditions**Maintenance of Approved Landscaping**

I1. The owner(s) of 4 Cremorne Road, Cremorne Point, is/are to maintain the landscaping approved by this consent generally in accordance with the landscape plans numbered 2005.9.1 and 2005.9.2, prepared by Antonio Caminiti Architect, dated 23 March 2022, received by Council on 13 May 2022, and as modified by Condition C28.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)

Development Application

Alterations and Additions to Residential Flat Building

4 Cremorne Road, Cremorne Point 2090



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Client
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Project
Alterations and Additions to Residential Flat Building
4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
GENERAL - COVER SHEET
Generic Perspective (5)

DEVELOPMENT APPLICATION

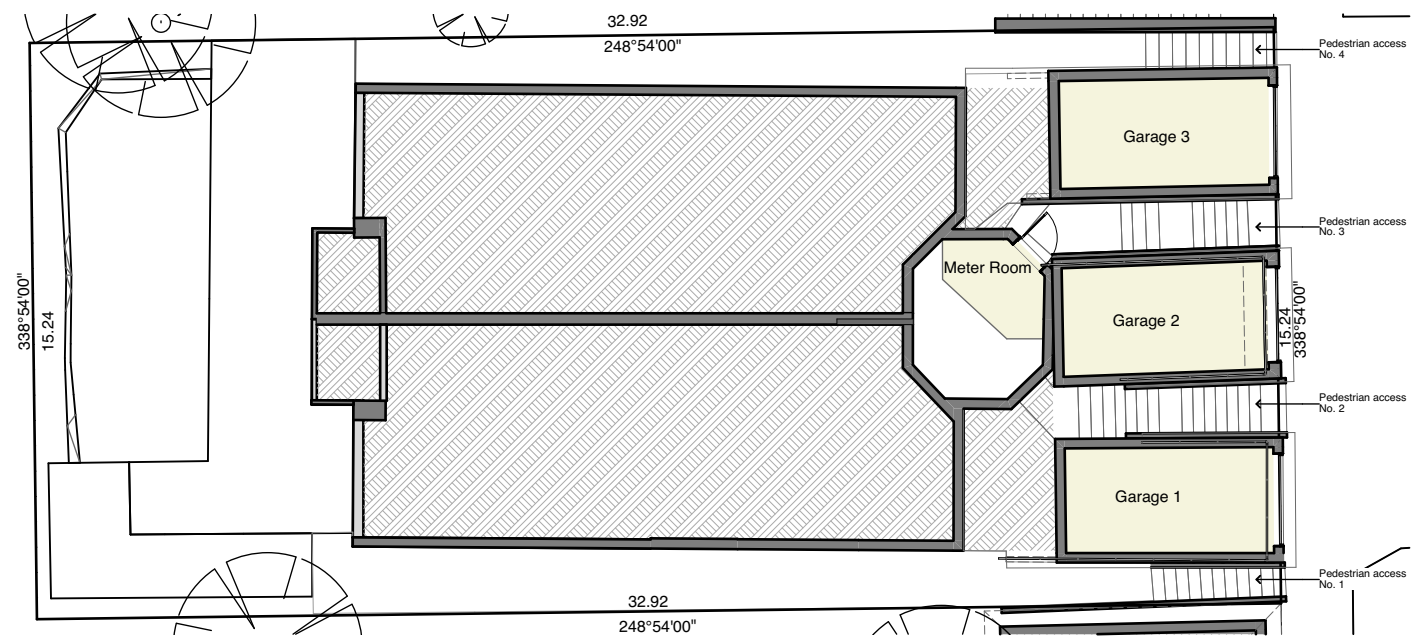


Project No.	Drawing No.	Revision No.	Scale	Date
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Status For Approval				
Plot Date: 10/3/22 3:39 pm				

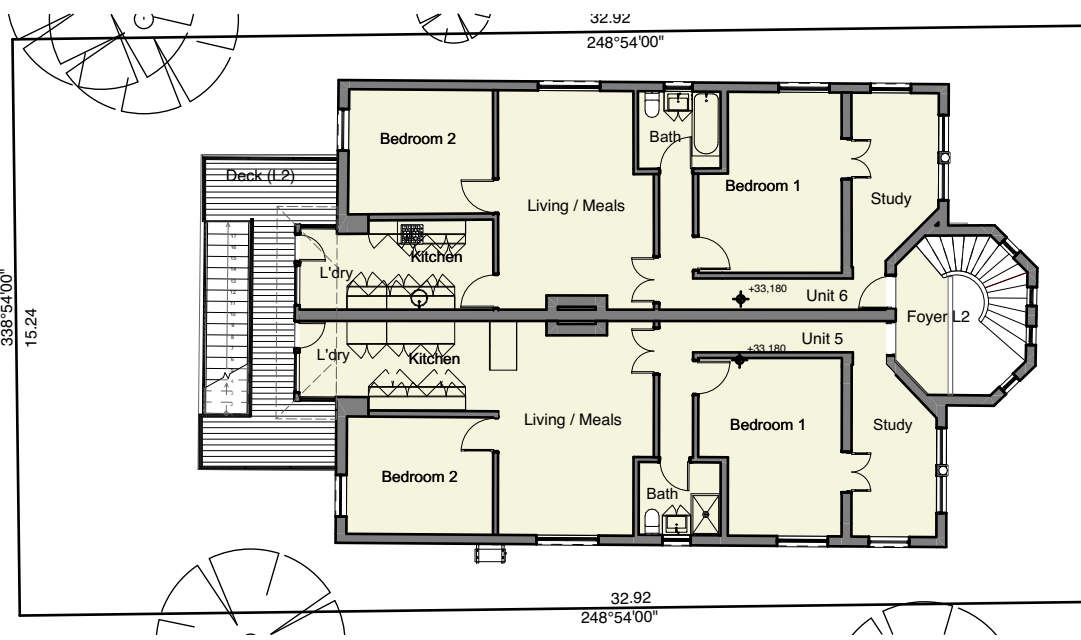
SITE AREA		
Zone Name	Zone Category	Area
Site	GEN AREA	501.70
		501.70 m ²

FLOOR AREA - EXISTING		
Zone Name	Home Story Name	Area
Foyer Ground	GROUND FLOOR LEVEL	7.65
Foyer L1	FIRST FLOOR LEVEL	8.55
Foyer L2	SECOND FLOOR LEVEL	4.55
Garage 1	GARAGE LEVEL	15.35
Garage 2	GARAGE LEVEL	15.60
Garage 3	GARAGE LEVEL	15.74
Meter Room	GARAGE LEVEL	5.44
Store	GROUND FLOOR LEVEL	10.44
Unit 1	GROUND FLOOR LEVEL	88.58
Unit 2	GROUND FLOOR LEVEL	90.10
Unit 3	FIRST FLOOR LEVEL	88.58
Unit 4	FIRST FLOOR LEVEL	90.10
Unit 5	SECOND FLOOR LEVEL	88.58
Unit 6	SECOND FLOOR LEVEL	90.10
		619.36 m ²

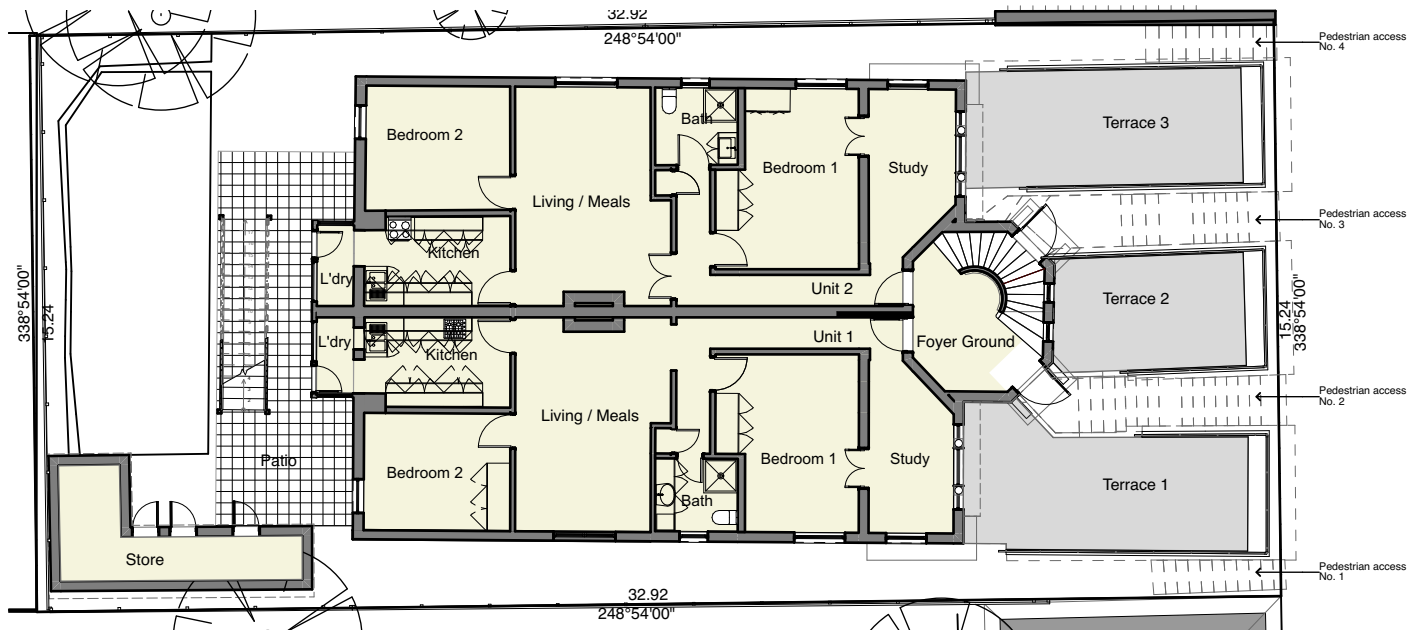
SITE AREA



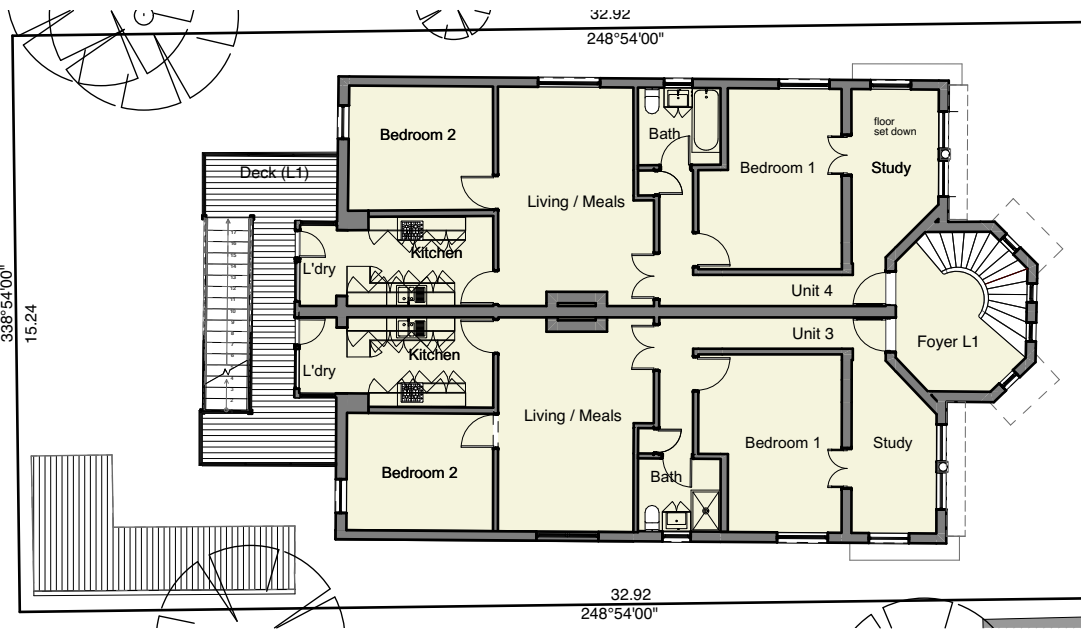
GARAGE LEVEL



SECOND FLOOR LEVEL



GROUND FLOOR LEVEL



FIRST FLOOR LEVEL

FLOOR AREA - EXISTING

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Project
Alterations and Additions to Residential Flat Building

4 Cremorne Road
Cremorne Point NSW 2090
Lot 1 D.P. 77957

Drawing Title:
GENERAL - AREA PLAN - EXISTING

FLOOR AREA - EXISTING, GROUND FLOOR LEVEL, FIRST FLOOR LEVEL, SECOND FLOOR LEVEL, GARAGE LEVEL, SITE AREA

DEVELOPMENT APPLICATION

North

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Status
For Approval

Project No. 2005
Drawing No. 2005.1.5
Revision No.

Date
10/3/22

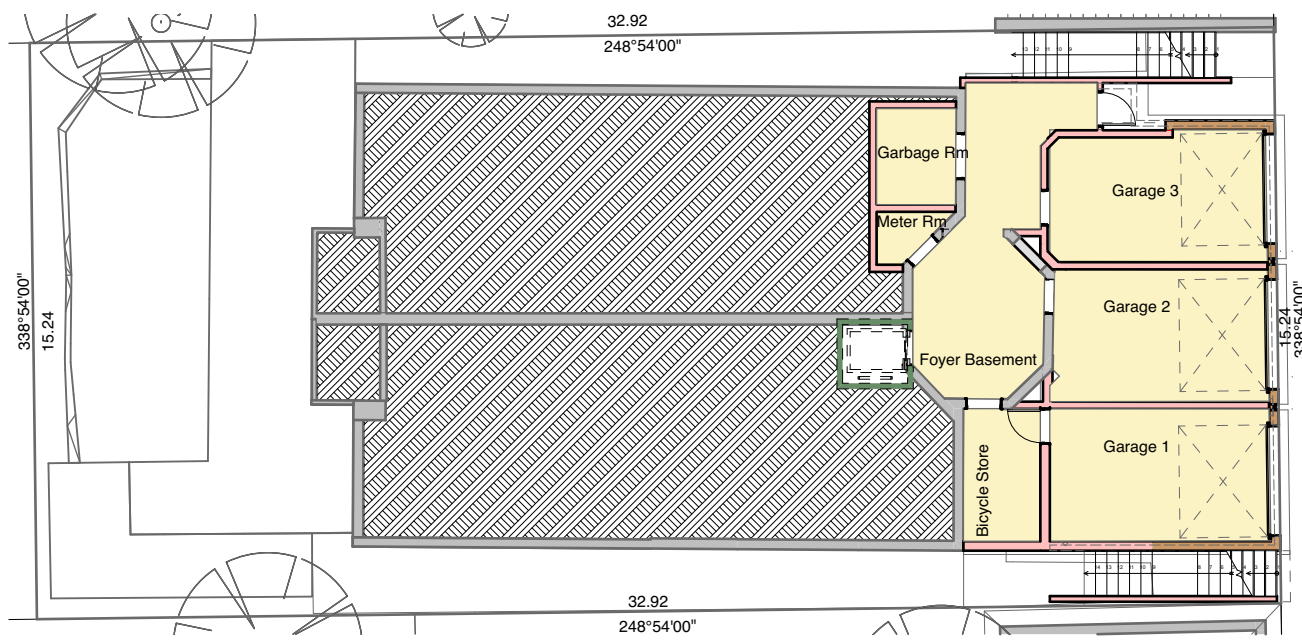
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SITE AREA		
Zone Name	Zone Category	Area
Site	GEN AREA	501.70
		501.70 m ²

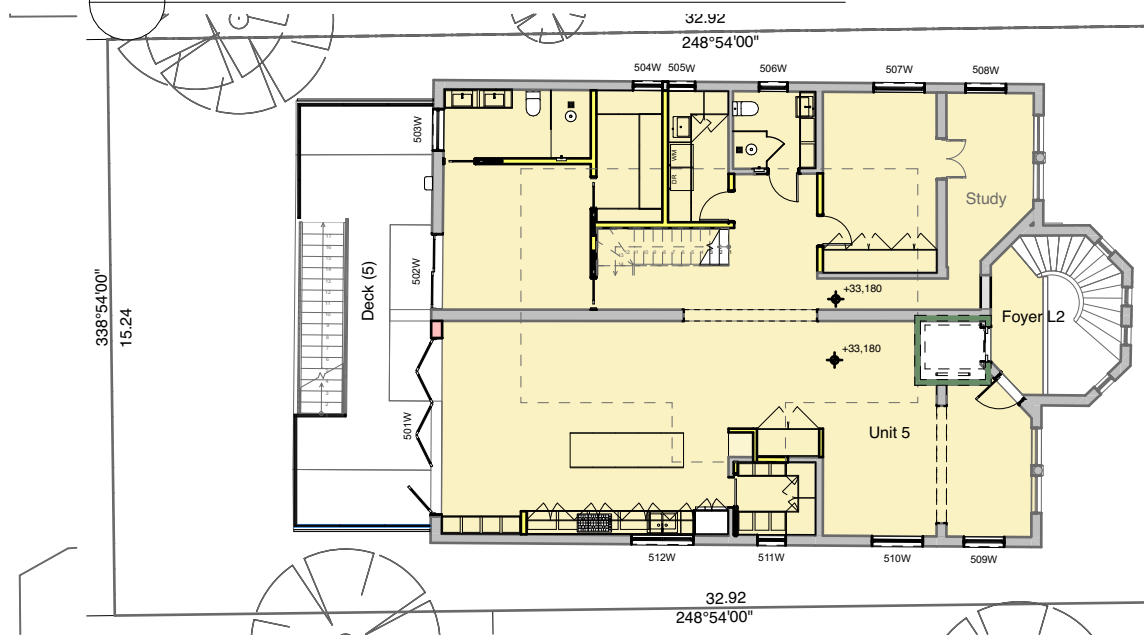
SITE AREA

FLOOR AREA - PROPOSED		
Zone Name	Home Story Name	Area (m ²)
Bicycle Store	GARAGE LEVEL	7.13
Foyer Basement	GARAGE LEVEL	23.39
Foyer Ground	GROUND FLOOR LEVEL	8.55
Foyer L1	FIRST FLOOR LEVEL	8.55
Foyer L2	SECOND FLOOR LEVEL	4.55
Garage 1	GARAGE LEVEL	20.33
Garage 2	GARAGE LEVEL	19.86
Garage 3	GARAGE LEVEL	20.03
Garbage Rm	GARAGE LEVEL	5.32
Meter Rm	GARAGE LEVEL	1.95
Unit 1	GROUND FLOOR LEVEL	85.45
Unit 2	GROUND FLOOR LEVEL	89.69
Unit 3	FIRST FLOOR LEVEL	85.45
Unit 4	FIRST FLOOR LEVEL	89.81
Unit 5	SECOND FLOOR LEVEL	174.40
Unit 5 (Loft)	ROOF ATTIC LEVEL	37.54
		682.00 m ²

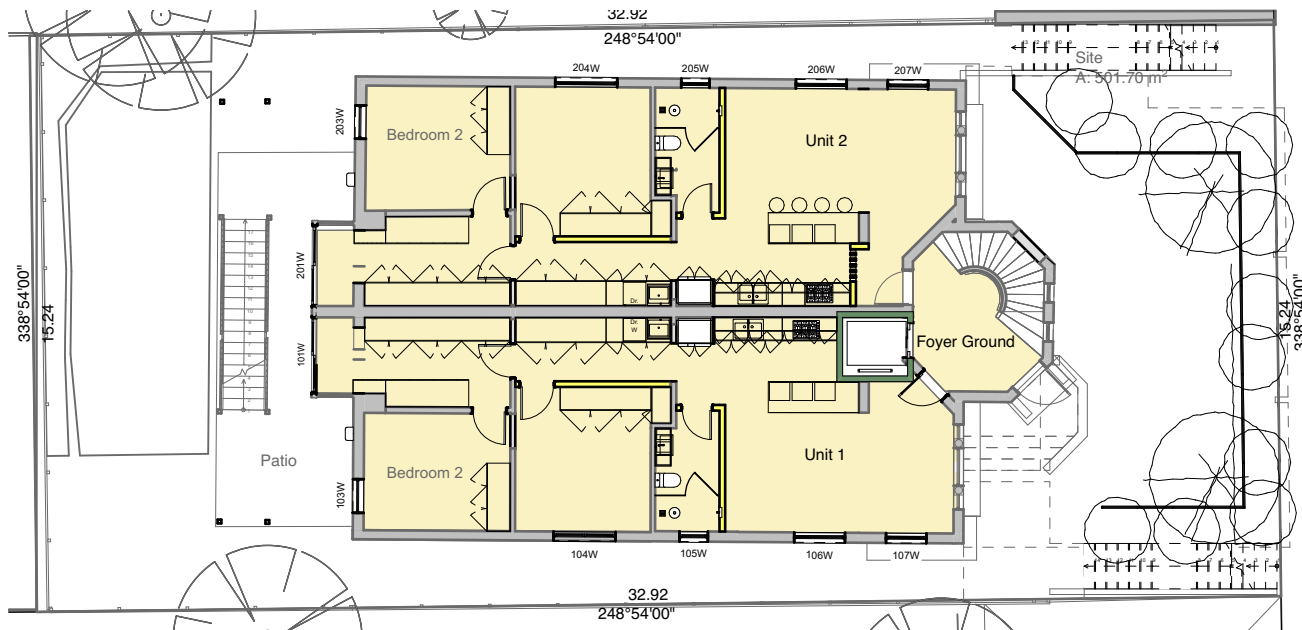
FLOOR AREA - PROPOSED



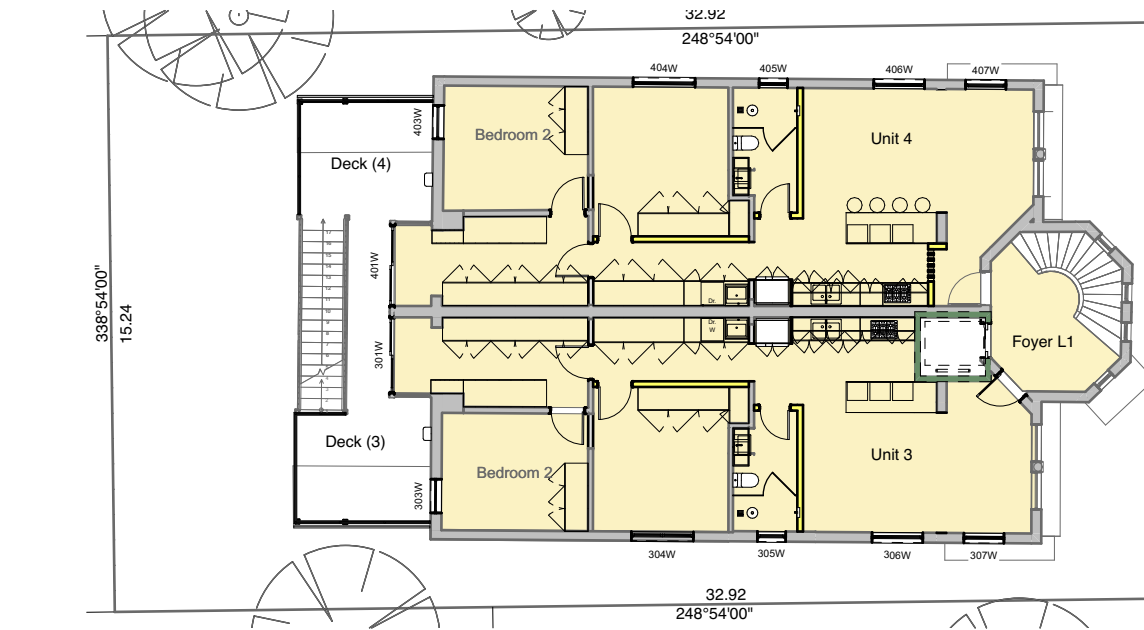
GARAGE LEVEL



SECOND FLOOR LEVEL



GROUND FLOOR LEVEL



FIRST FLOOR LEVEL

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Project
Alterations and Additions to Residential Flat Building

**4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957**

Drawing Title:
GENERAL - AREA PLAN - PROPOSED

FLOOR AREA - PROPOSED, GROUND FLOOR LEVEL, FIRST FLOOR LEVEL, SECOND FLOOR LEVEL, GARAGE LEVEL, SITE AREA, ROOF ATTIC LEVEL

DEVELOPMENT APPLICATION

North

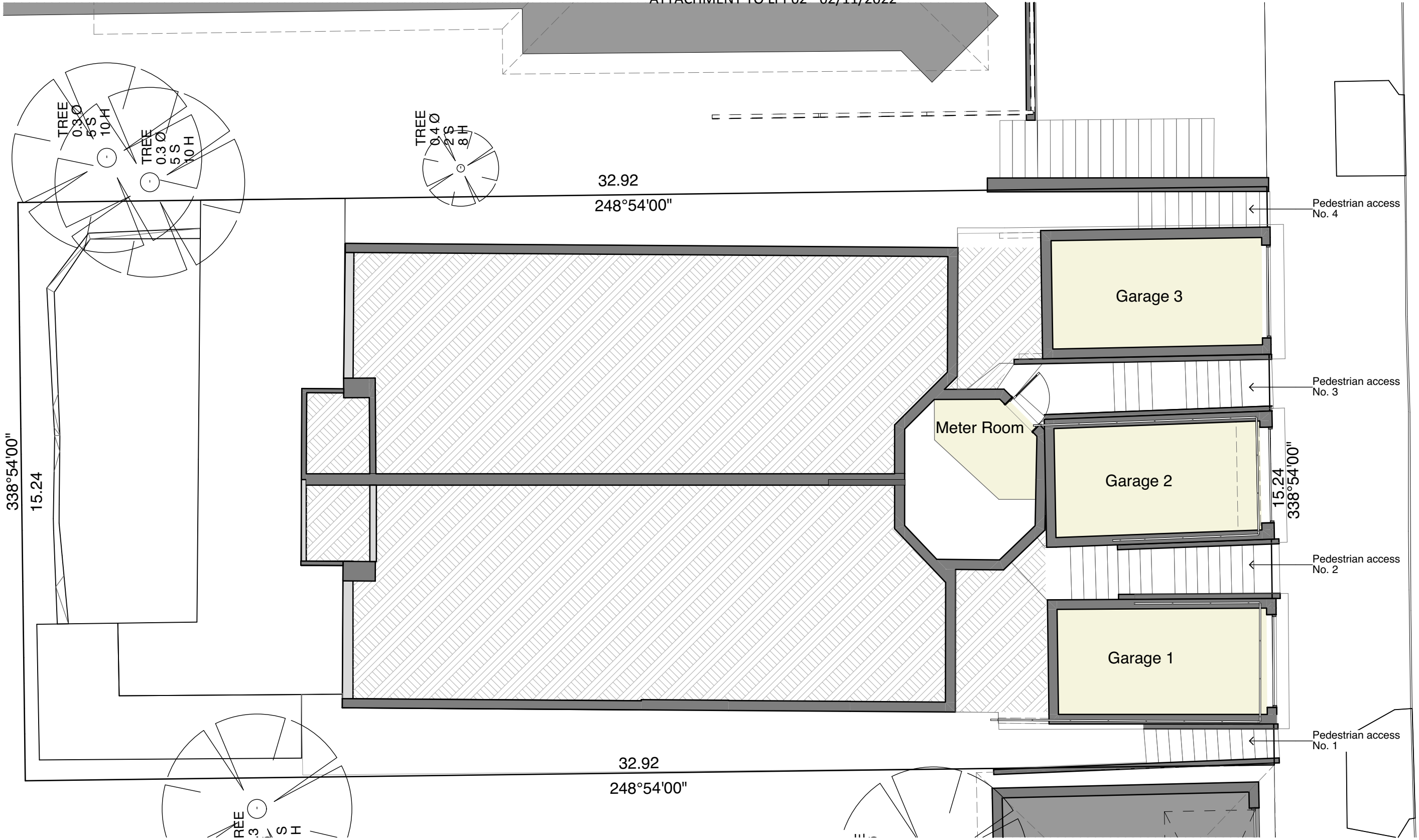
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For Approval

Project No. 2005
Drawing No. 2005.1.6
Revision No.

Date
10/3/22

Plot Date: 10/3/22 3:40 pm



ROAD

CREMORNE

-1.

GARAGE - EXISTING PLAN
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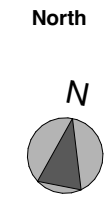
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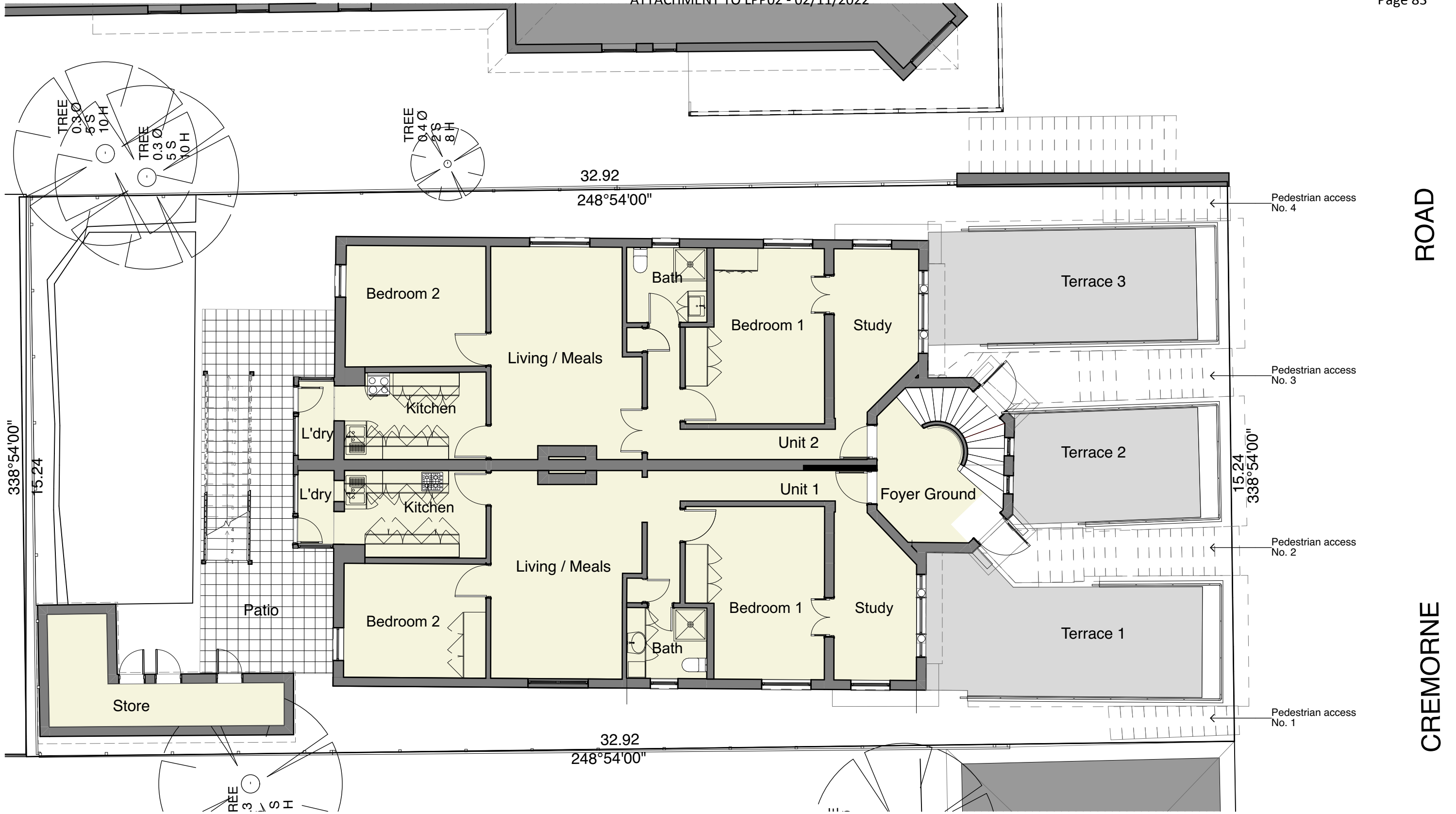
Client
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4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA PLANS - EXISTING - GARAGE FLOOR PLAN - EXISTING
GARAGE - EXISTING PLAN

DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
@A3	
Status For Approval	
Project No. 2005	Drawing No. 2005.2.1
	Revision No.
Plot Date:	10/3/22 3:40 pm



0. GROUND FLOOR - EXISTING PLAN

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DEP. 0000096
VIC No. 20208

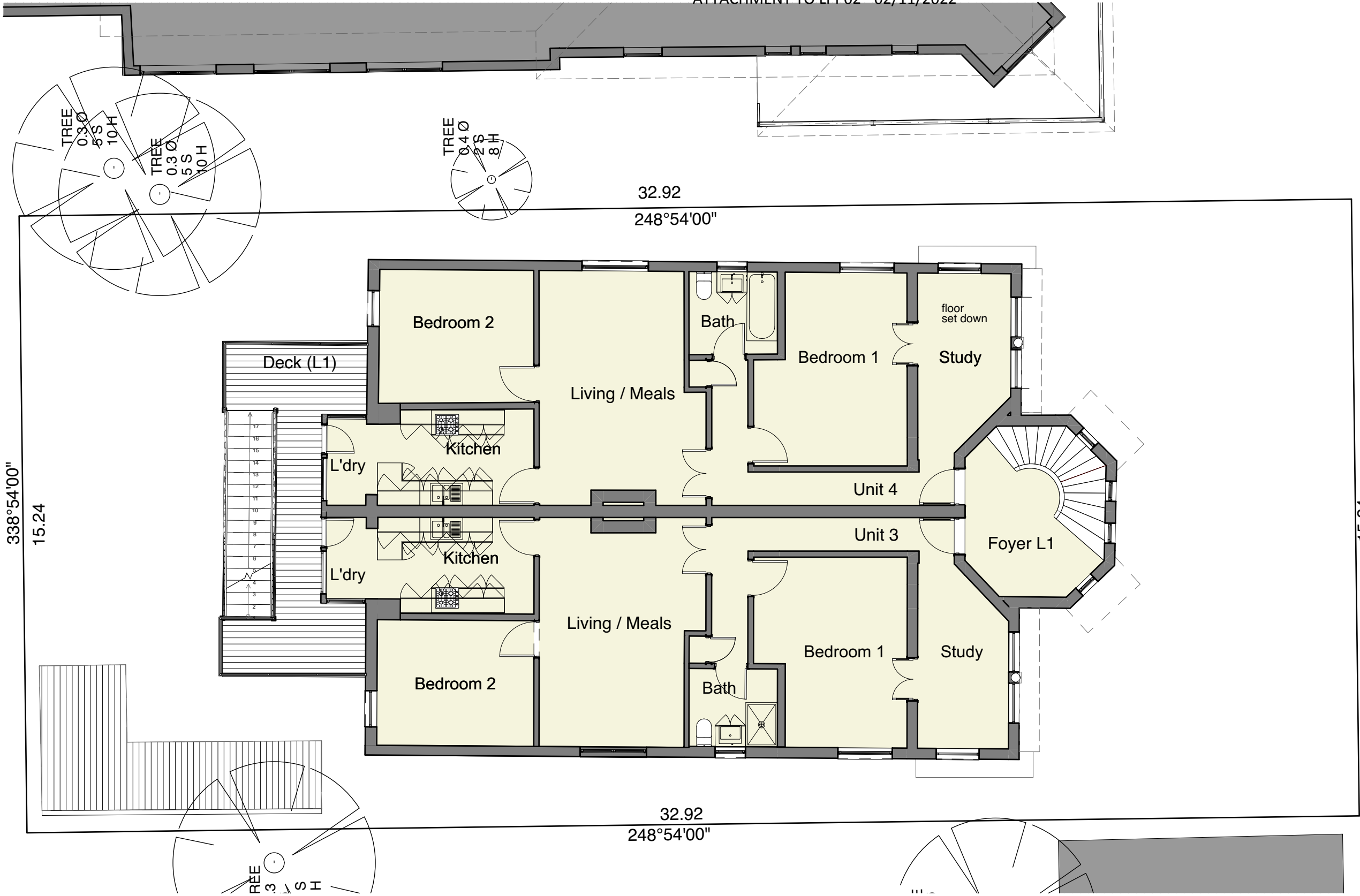
Client
Cathy & Phillip LEAHY
Project
Alterations and Additions to Residential Flat Building
4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA PLANS - EXISTING - GROUND FLOOR PLAN - EXISTING
GROUND FLOOR - EXISTING PLAN

DEVELOPMENT APPLICATION



Scale	Date	
1:100	10/3/22	
@A3		
Status For Approval		
Project No.	Drawing No.	Revision No.
2005	2005.2.2	
Plot Date:		10/3/22 3:40 pm



ROAD

CREMORNE

1. FIRST FLOOR - EXISTING PLAN
1:100

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Client
Cathy & Phillip LEAHY

Project
Alterations and Additions to Residential Flat Building

Nominated Architect
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DEP. 0000096
VIC No. 20208

Drawing Title:
DA PLANS - EXISTING - FIRST FLOOR PLAN - EXISTING
FIRST FLOOR - EXISTING PLAN

Scale
1:100

Date
10/3/22

Project No.
2005

Drawing No.
2005.2.3

Revision No.
For Approval

Plot Date:
10/3/22 3:40 pm

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North

Scale
1:100

Date
10/3/22

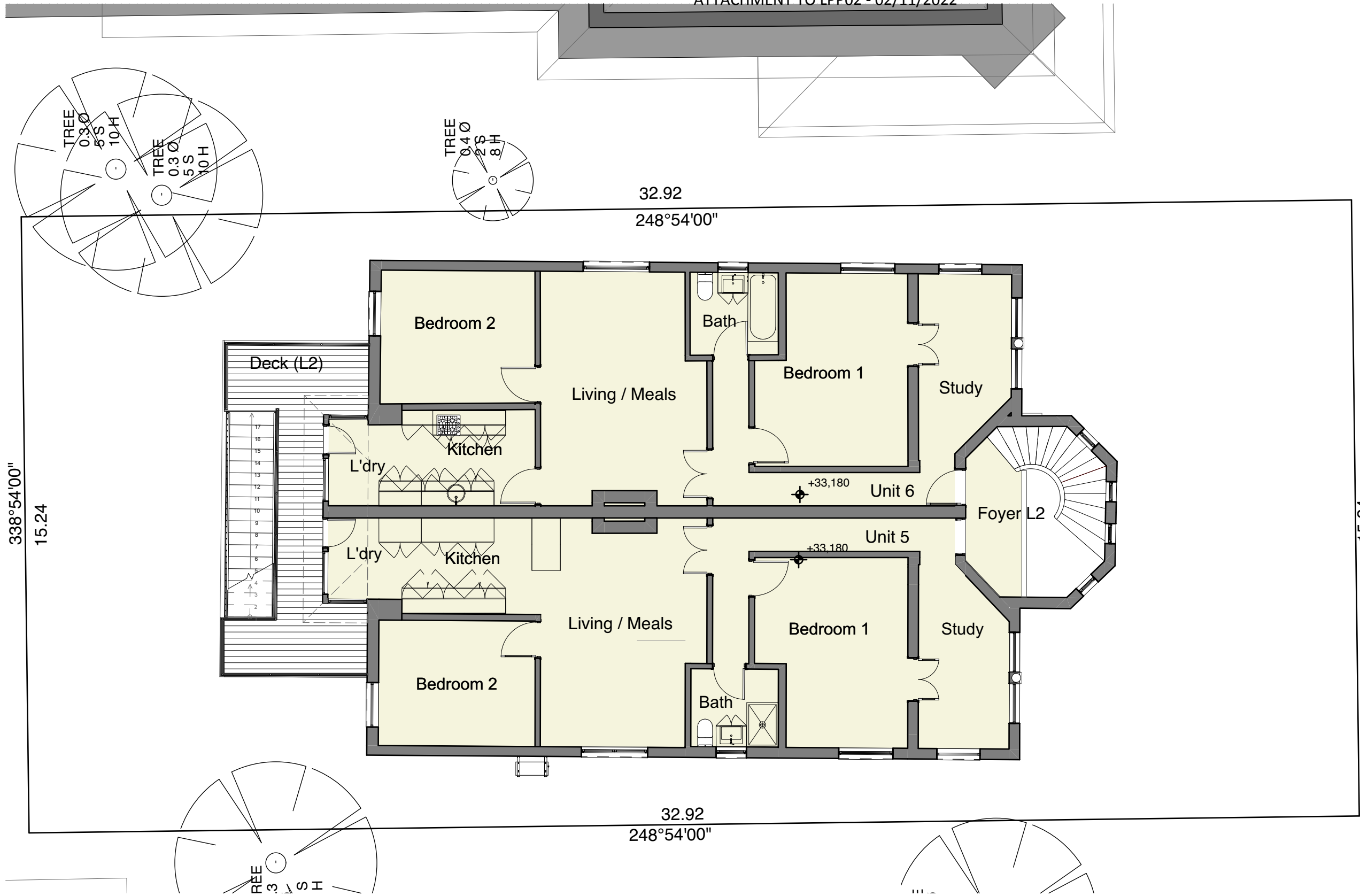
Project No.
2005

Drawing No.
2005.2.3

Revision No.
For Approval

Plot Date:
10/3/22 3:40 pm

DEVELOPMENT APPLICATION



ROAD

CREMORNE

2. SECOND FLOOR - EXISTING PLAN

1:100

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Client
Cathy & Phillip LEAHY
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Alterations and Additions to Residential Flat Building
4 Cremorne Road
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2090
Lot 1 D.P. 77957

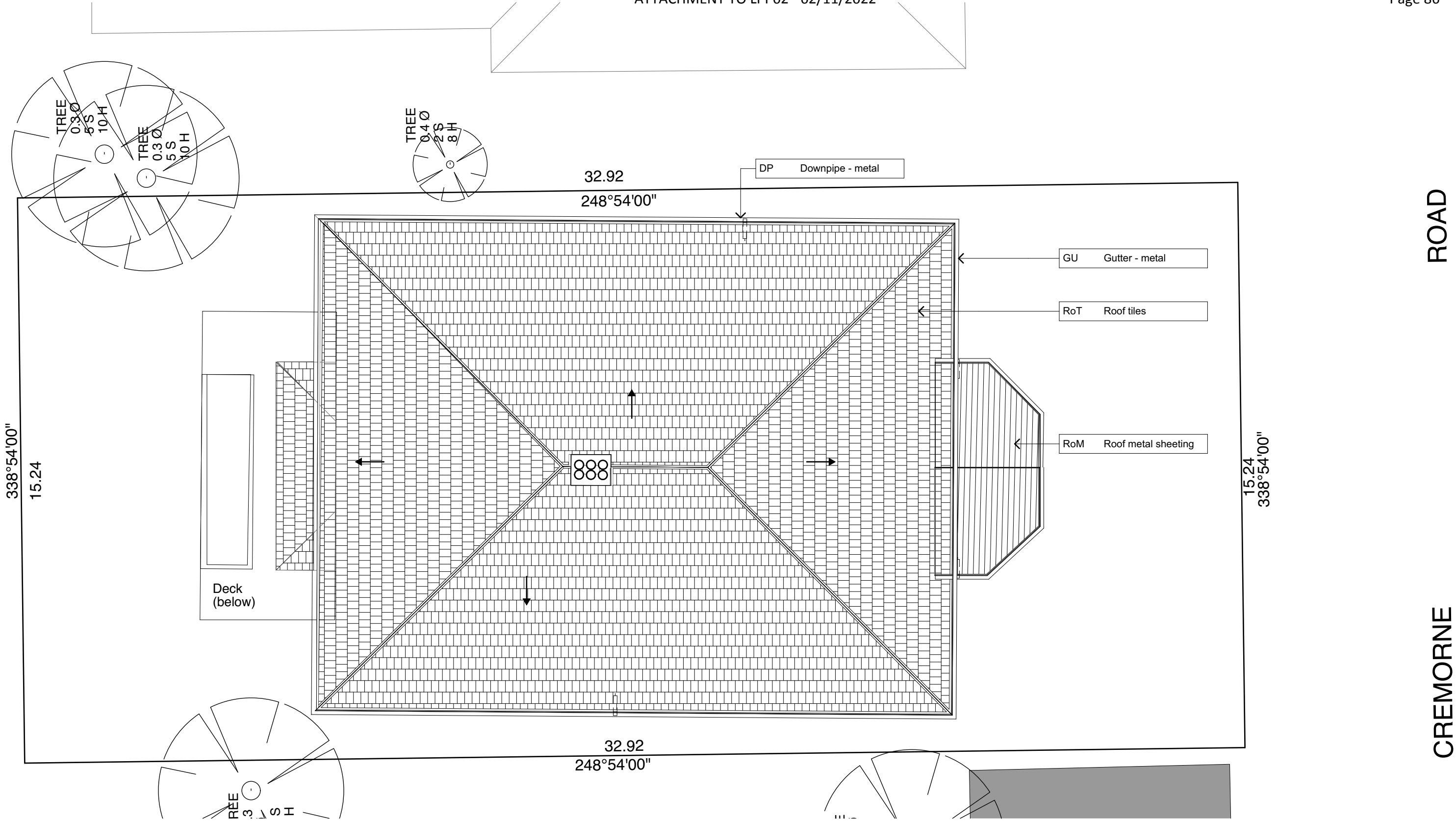
Drawing Title:
DA PLANS - EXISTING - SECOND FLOOR PLAN - EXISTING
SECOND FLOOR - EXISTING PLAN



Scale	Date	
1:100	10/3/22	
@A3		
Status	For Approval	
Project No.	Drawing No.	Revision No.
2005	2005.2.4	

DEVELOPMENT APPLICATION

Plot Date: 10/3/22 3:40 pm



4. ROOF LEVEL PLAN - EXISTING

1:100

4.
3
2
1
A3

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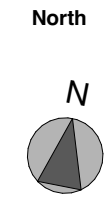
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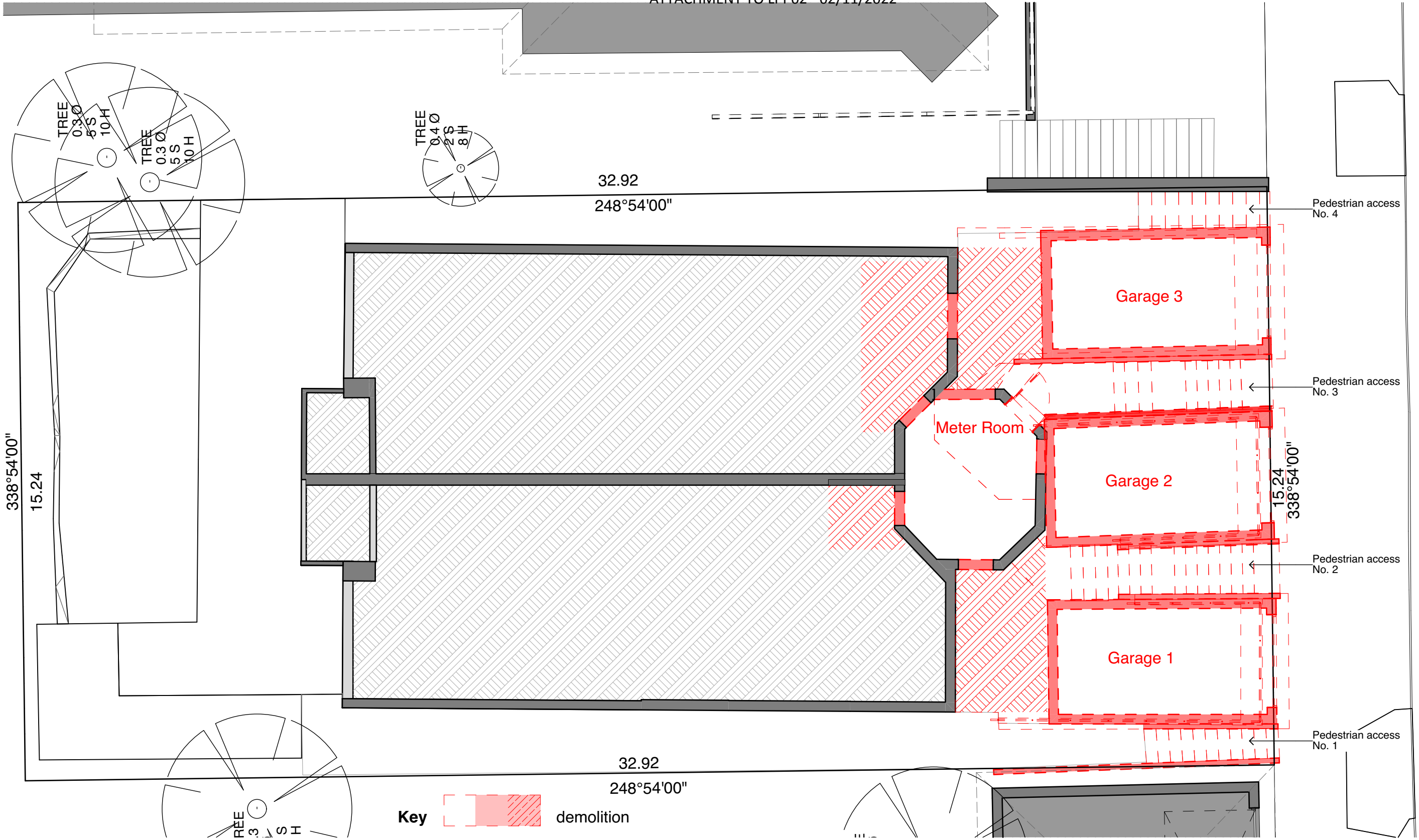
Client
Cathy & Phillip LEAHY
Project
Alterations and Additions to Residential Flat Building
4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA PLANS - EXISTING - ROOF PLAN - EXISTING
ROOF LEVEL PLAN - EXISTING

DEVELOPMENT APPLICATION



Scale	Date	
1:100	10/3/22	
@A3		
Status For Approval		
Project No.	Drawing No.	Revision No.
2005	2005.2.5	
Plot Date:		10/3/22 3:40 pm



338°54'00"
15.24

32.92
248°54'00"

15.24
338°54'00"

32.92
248°54'00"

Key  demolition

GARAGE - DEMOLITION

1:100

-1.
E
3
2
1
A3

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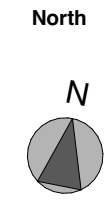
51 Glebe Street,
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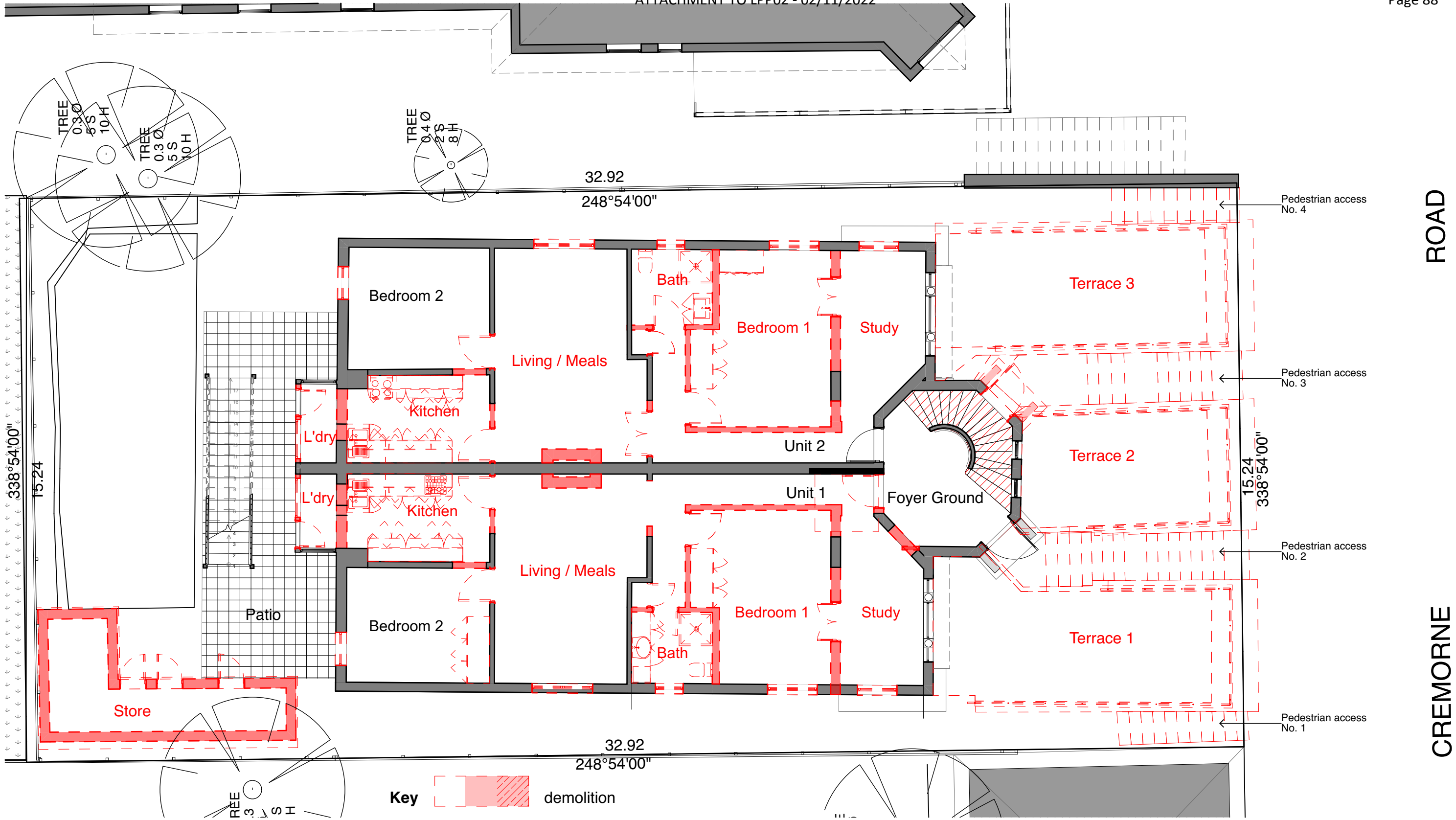
Client
Cathy & Phillip LEAHY
Project
Alterations and Additions to Residential Flat Building
4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA PLANS - DEMOLITION - GARAGE FLOOR PLAN - DEMOLITION
GARAGE - DEMOLITION

DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
Status For Approval	
Project No. 2005	Drawing No. 2005.3.1
Revision No.	
Plot Date: 10/3/22 3:40 pm	



0. GROUND FLOOR - DEMOLITION

1:100

3
2
1
A3

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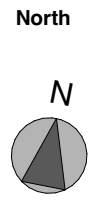
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Nominated Architect
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NSW No. 9696
DEP. 0000096
VIC No. 20208

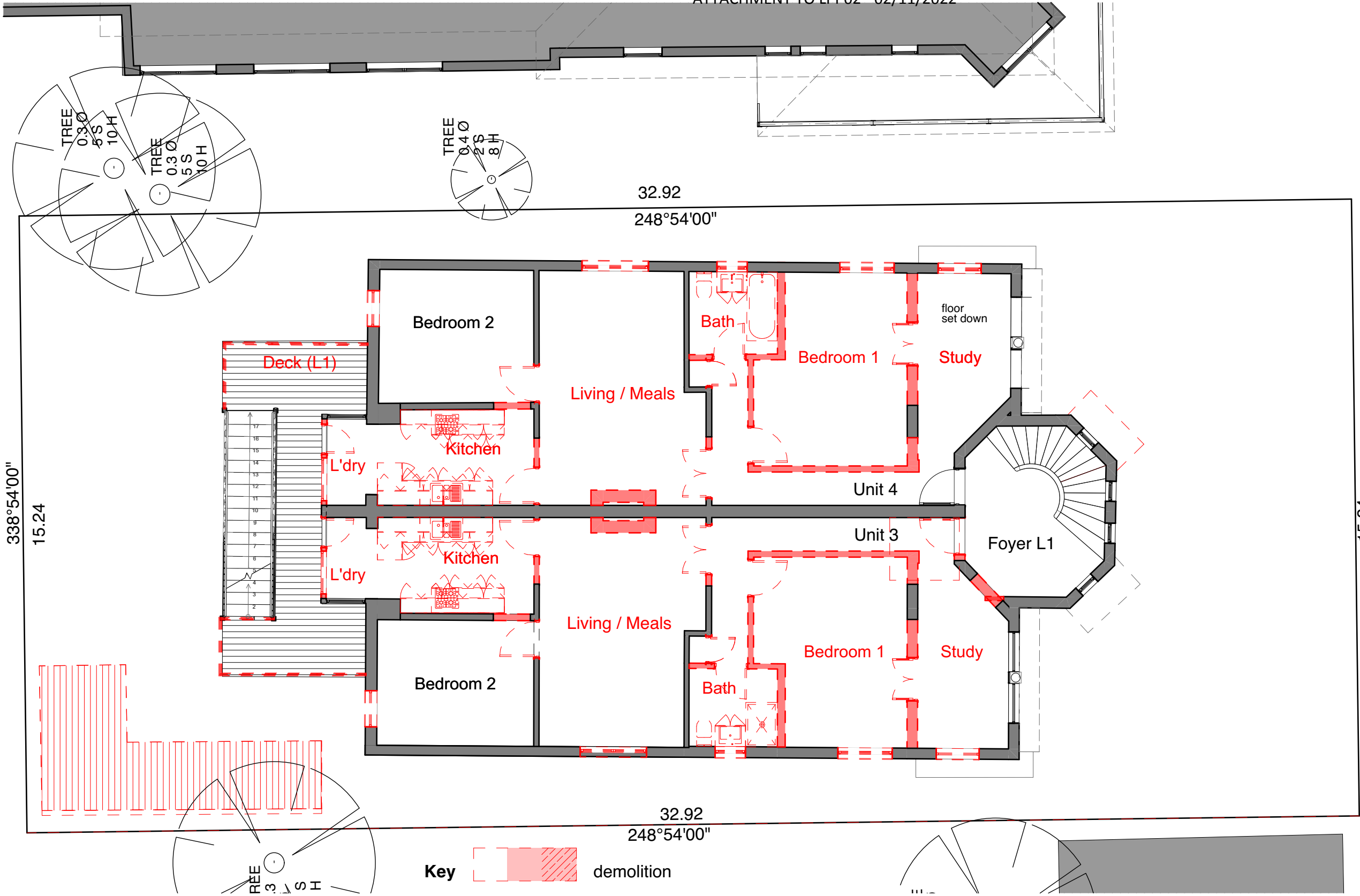
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GROUND FLOOR - DEMOLITION



Scale 1:100	Date 10/3/22
@A3	
Status For Approval	
Project No. 2005	Drawing No. 2005.3.2
	Revision No.

DEVELOPMENT APPLICATION

Plot Date: 10/3/22 3:40 pm



ROAD

CREMORNE

1. FIRST FLOOR - DEMOLITION
1:100

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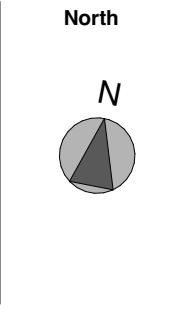
Client
Cathy & Phillip LEAHY

Project
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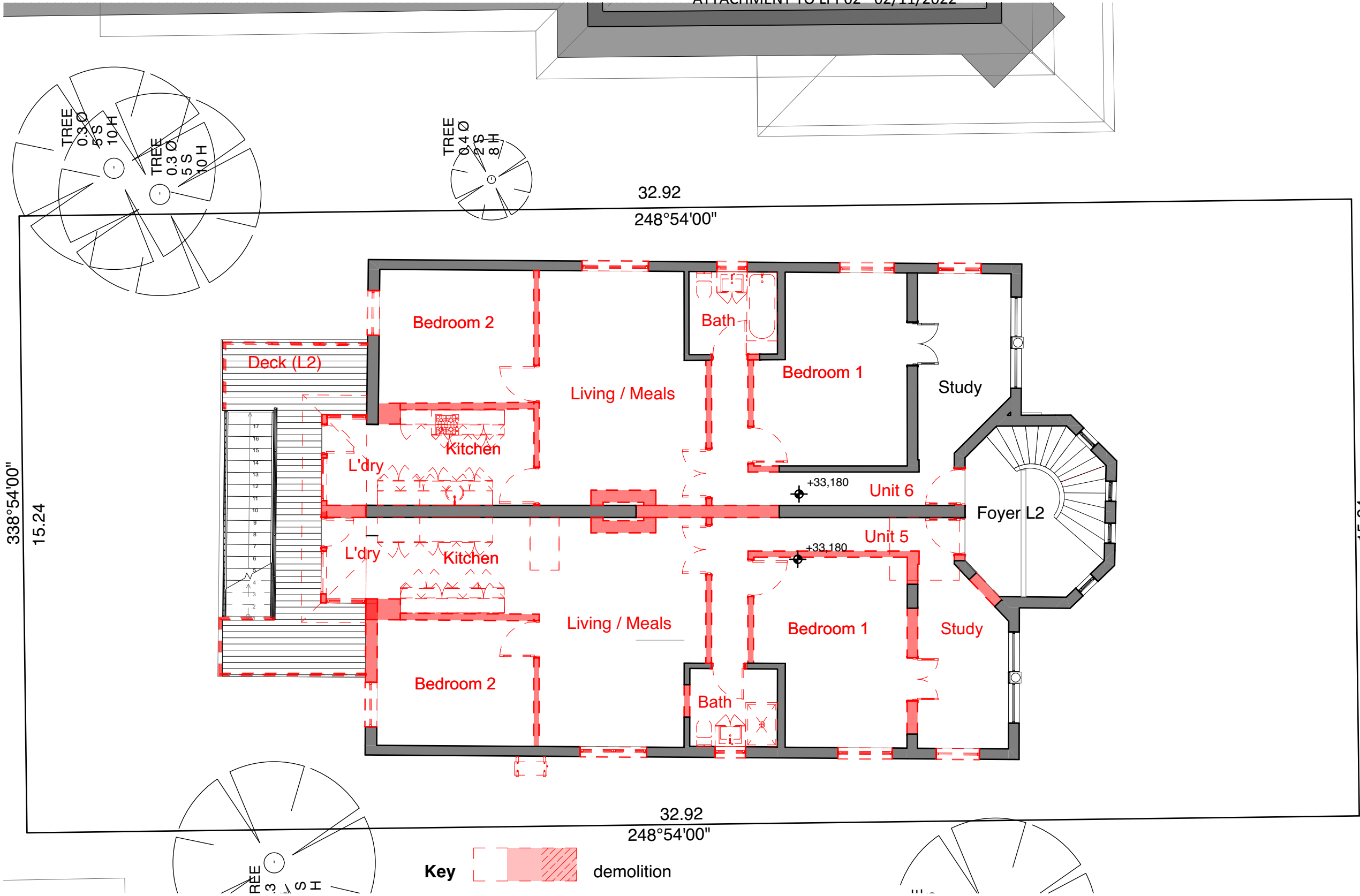
4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA PLANS - DEMOLITION - FIRST FLOOR PLAN - DEMOLITION
FIRST FLOOR - DEMOLITION

DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
Status For Approval	
Project No. 2005	Drawing No. 2005.3.3
Revision No.	
Plot Date: 10/3/22 3:40 pm	



ROAD

CREMORNE

2. SECOND FLOOR - DEMOLITION
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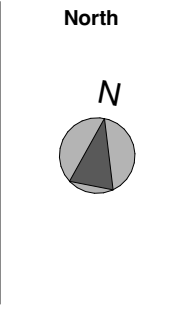
Client
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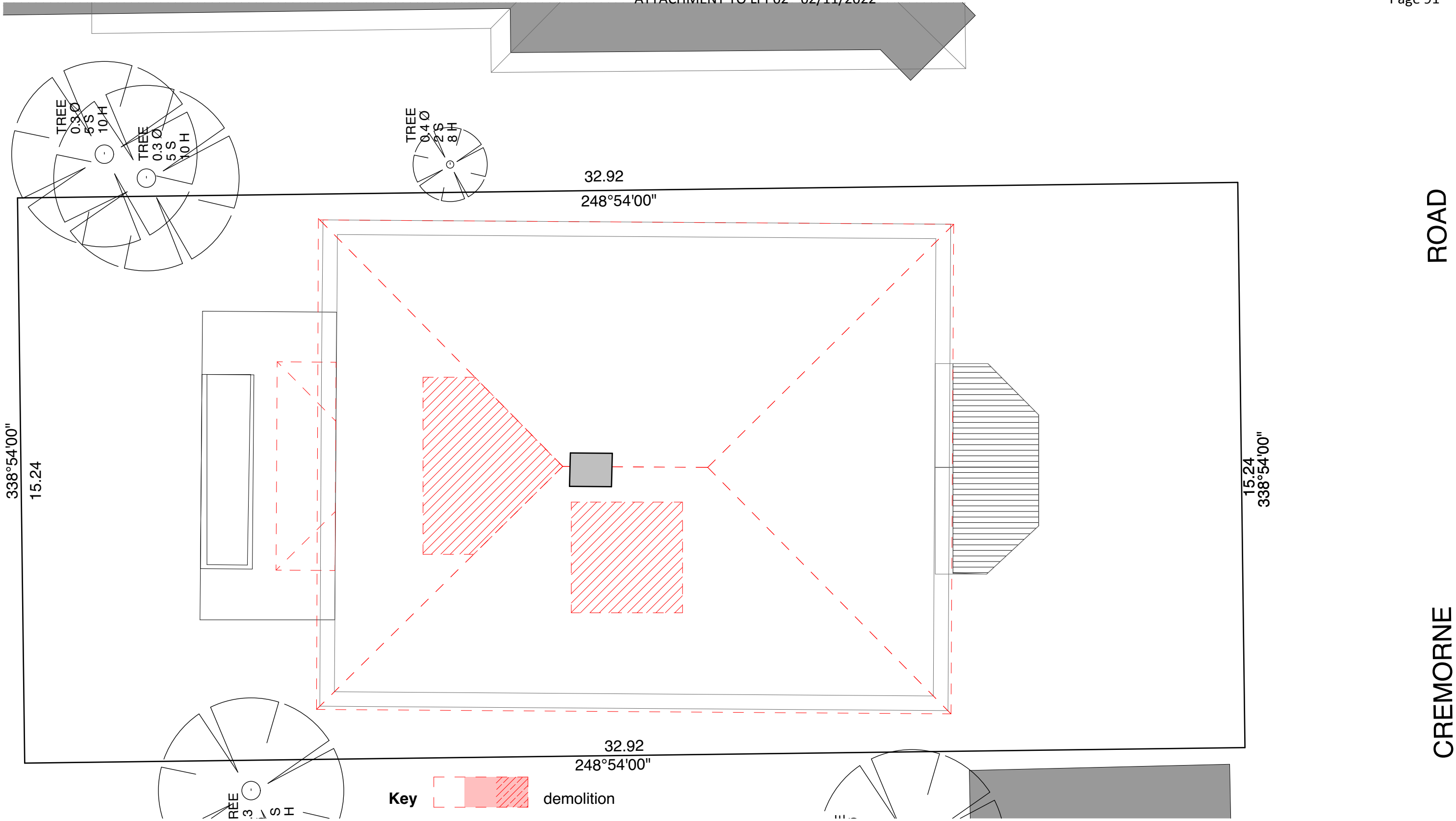
Nominated Architect
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B.Arch AIA
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DEP. 0000096
VIC No. 20208

Drawing Title:
DA PLANS - DEMOLITION - SECOND FLOOR PLAN - DEMOLITION
SECOND FLOOR - DEMOLITION

DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
Project No. 2005	Drawing No. 2005.3.4
Status For Approval	Revision No.
Plot Date: 10/3/22 3:40 pm	



3. ROOF - DEMOLITION

1:100

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 abn 12 131 839 917

Nominated Architect
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 B.Arch AIA
 NSW No. 9696
 DEP. 0000096
 VIC No. 20208

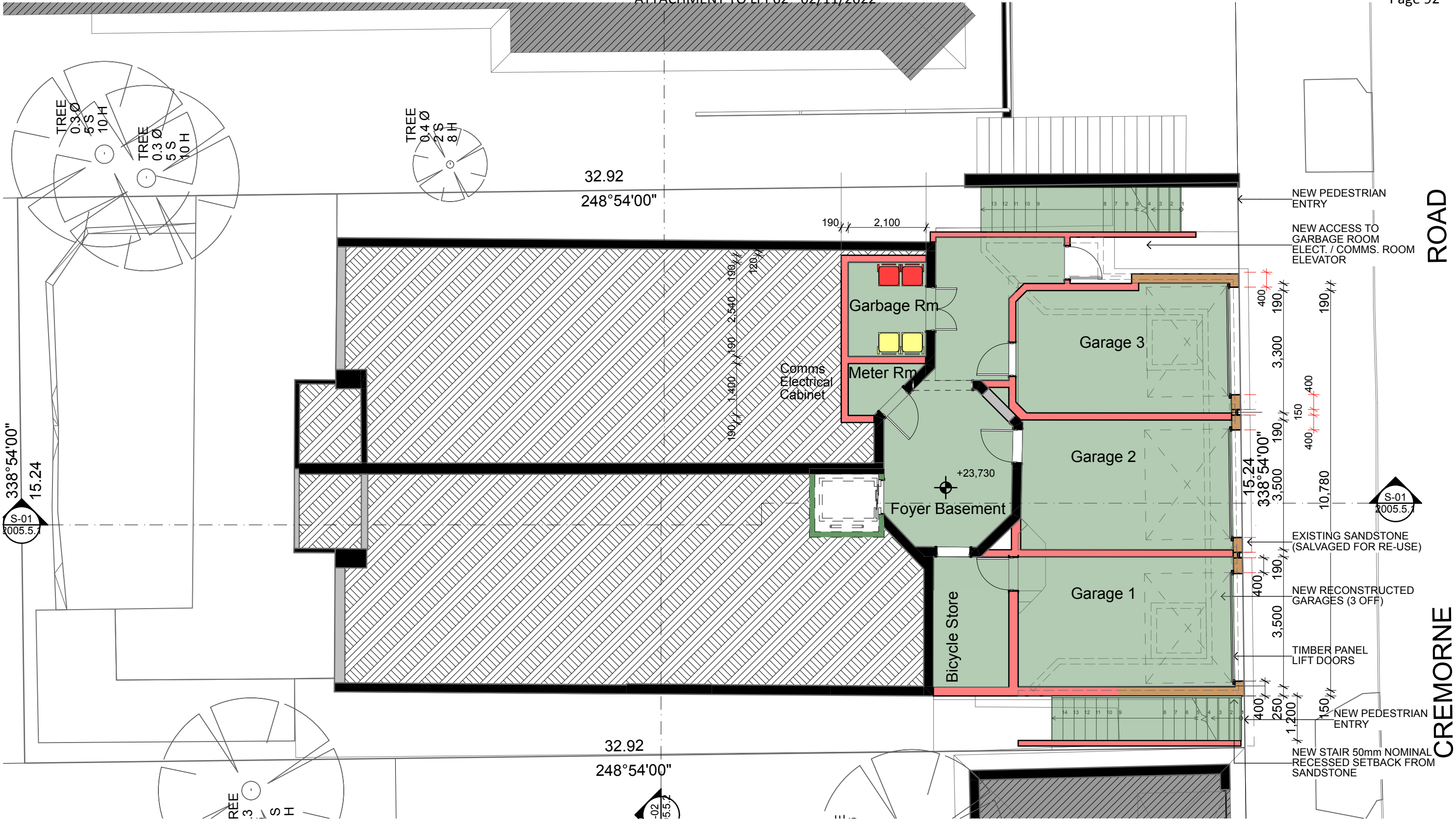
Client
 Cathy & Phillip LEAHY
Project
 Alterations and Additions to Residential Flat Building
 4 Cremorne Road
 Cremorne Point NSW
 2090
 Lot 1 D.P. 77957

Drawing Title:
 DA PLANS - DEMOLITION - ROOF PLAN - DEMOLITION
 ROOF - DEMOLITION

DEVELOPMENT APPLICATION



Scale	Date	
1:100	10/3/22	
@A3		
Status For Approval		
Project No.	Drawing No.	Revision No.
2005	2005.3.5	
Plot Date:	10/3/22	3:40 pm



-1. GARAGE - PROPOSED
1:100

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Existing
Brick
Roof Tiles
Concrete
Tile
F/Cement/Render
Glass / Glass Bricks
Sandstone
Timber
Steel/Galv. Iron

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Client
Cathy & Phillip LEAHY

Project
Alterations and Additions to Residential Flat Building

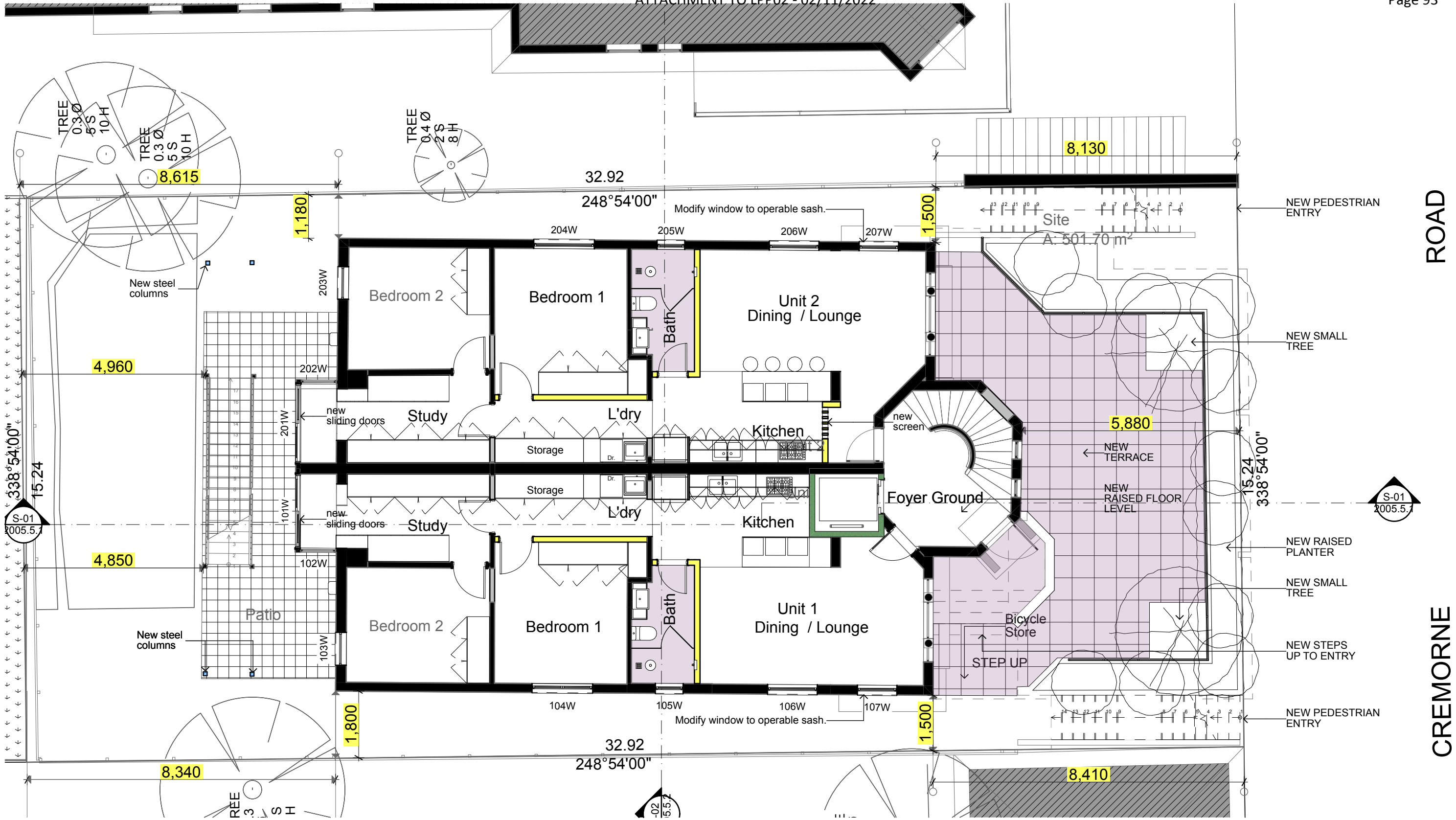
Nominated Architect
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DEP. 0000096
VIC No. 20208

Drawing Title:
DA PLANS - PROPOSED - GARAGE FLOOR PLAN - PROPOSED
GARAGE - PROPOSED

DEVELOPMENT APPLICATION

North
N

Scale	1:100	Date	25/3/22
Status	@A3 For Approval	Project No.	2005
Revision No.		Drawing No.	2005.4.1
Plot Date:	25/3/22	1:51 pm	



0. GROUND FLOOR - PROPOSED
1:100

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Roof Tiles
Concrete
Tile
F/Cement/Render
Glass / Glass Bricks
Sandstone
Timber
Steel/Galv. Iron

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VIC No. 20208

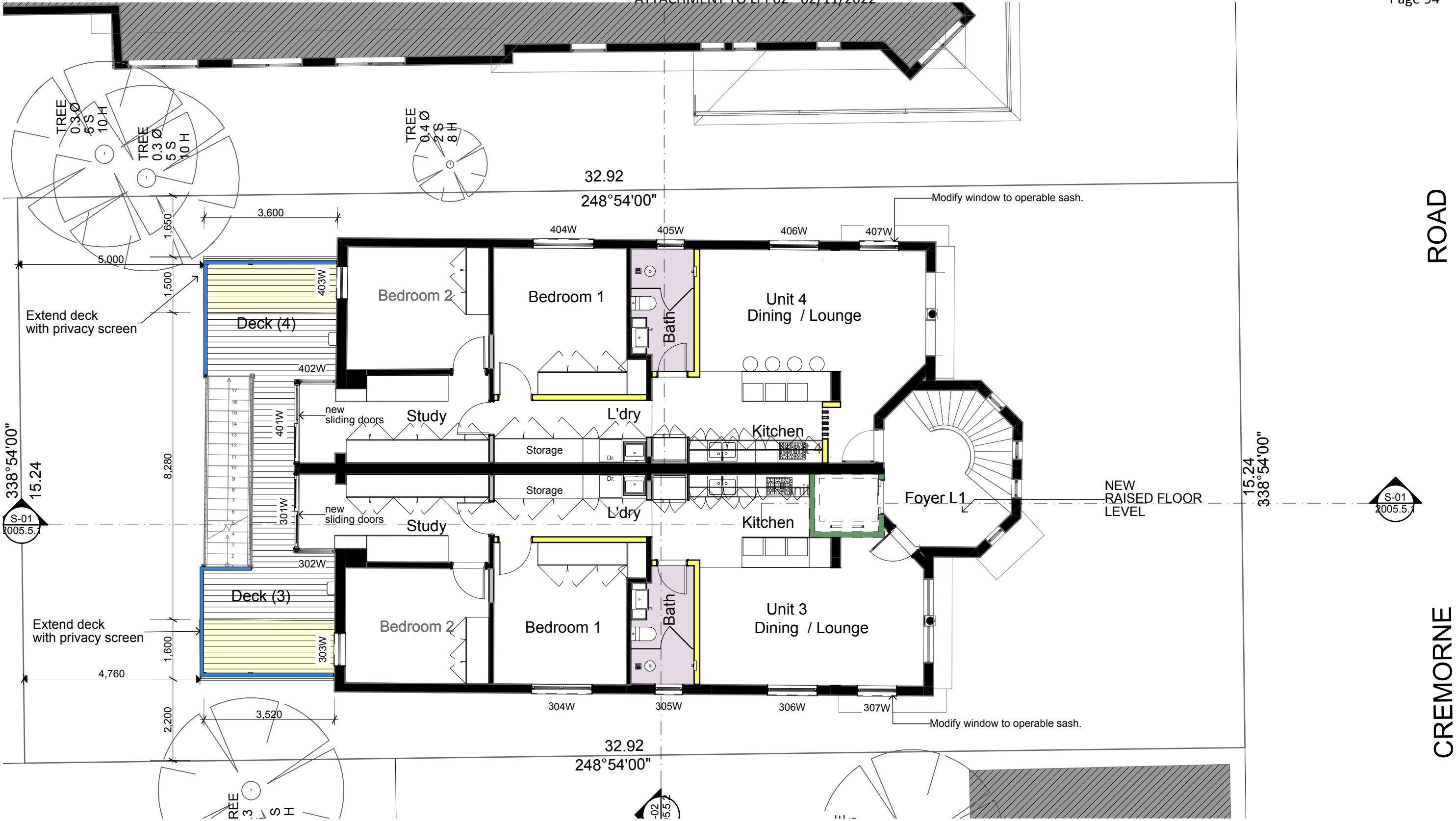
Client
Cathy & Phillip LEAHY
Project
Alterations and Additions to Residential Flat Building
4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA PLANS - PROPOSED - GROUND FLOOR PLAN - PROPOSED
GROUND FLOOR - PROPOSED

DEVELOPMENT APPLICATION



Scale 1:100	Date 25/3/22
Status For Approval	
Project No. 2005	Drawing No. 2005.4.2
Revision No.	
Plot Date: 25/3/22 1:51 pm	



1. FIRST FLOOR - PROPOSED
1:100

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Existing
Brick
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Glass / Glass Bricks
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51 Glebe Street, Glebe NSW 2037
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Nominated Architect
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NSW No. 9696
DEP. 0000096
VIC No. 20208

Drawing Title:
DA PLANS - PROPOSED - FIRST FLOOR PLAN - PROPOSED
FIRST FLOOR - PROPOSED

DEVELOPMENT APPLICATION

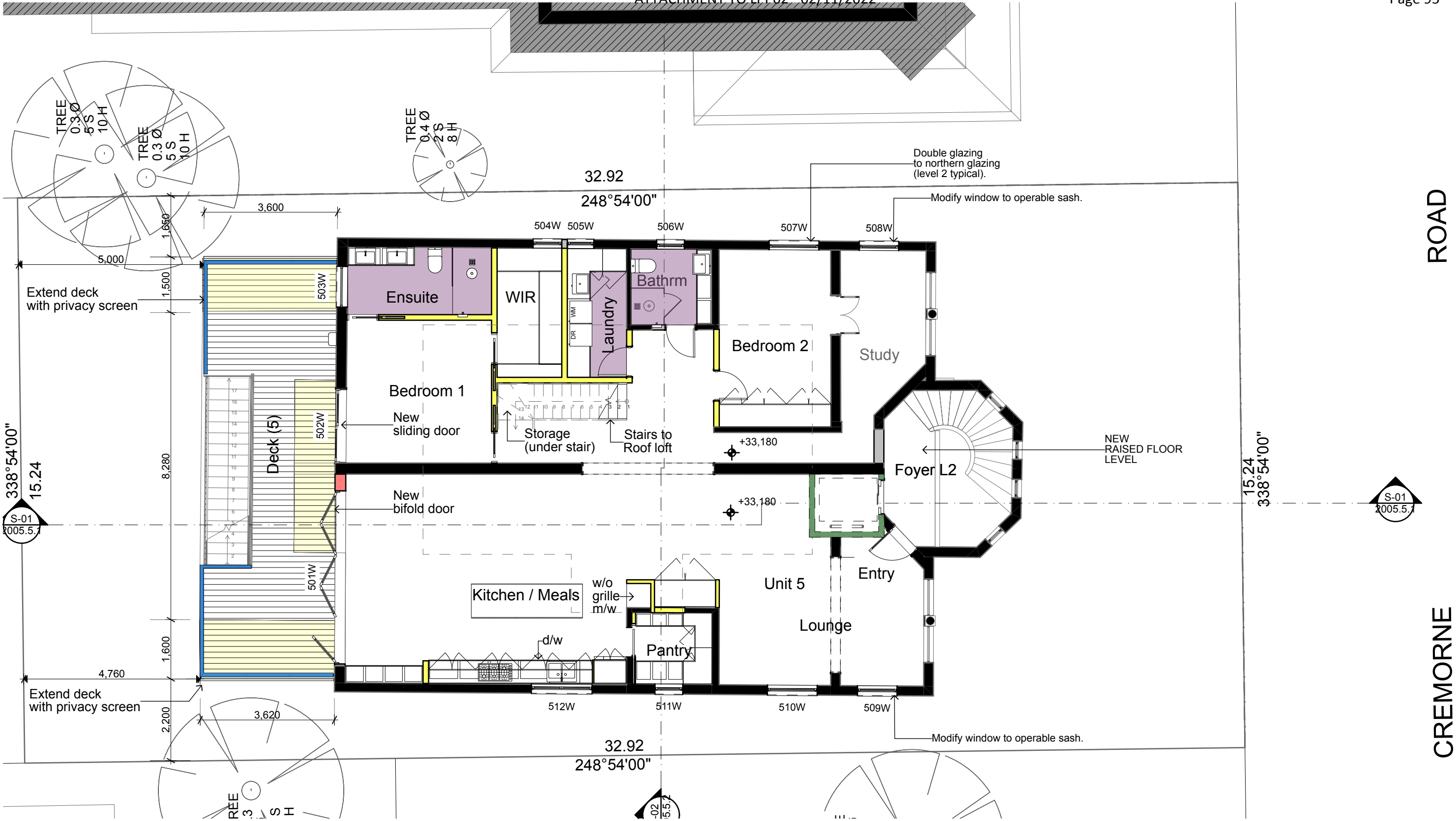
North

Scale 1:100
Date 25/3/22

@A3
Status For Approval

Project No.	Drawing No.	Revision No.
2005	2005.4.3	

Plot Date: 25/3/22 1:51 pm



2. SECOND FLOOR - PROPOSED
1:100

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antonio caminiti architect

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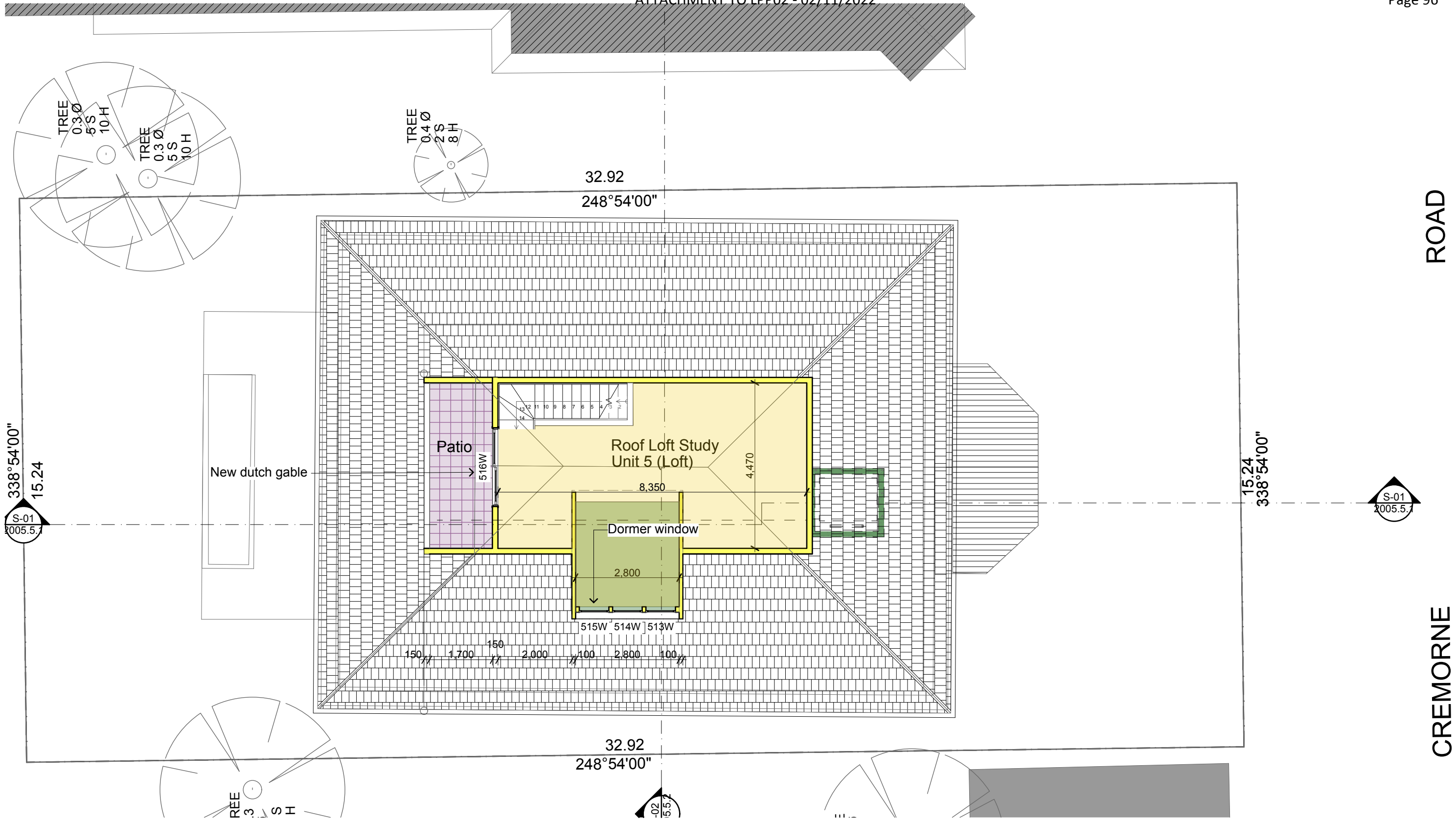
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Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA PLANS - PROPOSED - SECOND FLOOR PLAN - PROPOSED
SECOND FLOOR - PROPOSED

DEVELOPMENT APPLICATION

North
N

Scale	1:100	Date	25/3/22
Status	@A3 For Approval	Project No.	2005
Drawing No.	2005.4.4	Revision No.	
Plot Date:	25/3/22	1:51 pm	



3. ROOF (LOFT) - PROPOSED
1:100

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Existing
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Tile
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Sandstone
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Steel/Galv. Iron

antonio caminiti architect

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P.O. Box 735,
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abn 12 131 839 917

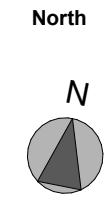
Nominated Architect
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Client
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Alterations and Additions to Residential Flat Building

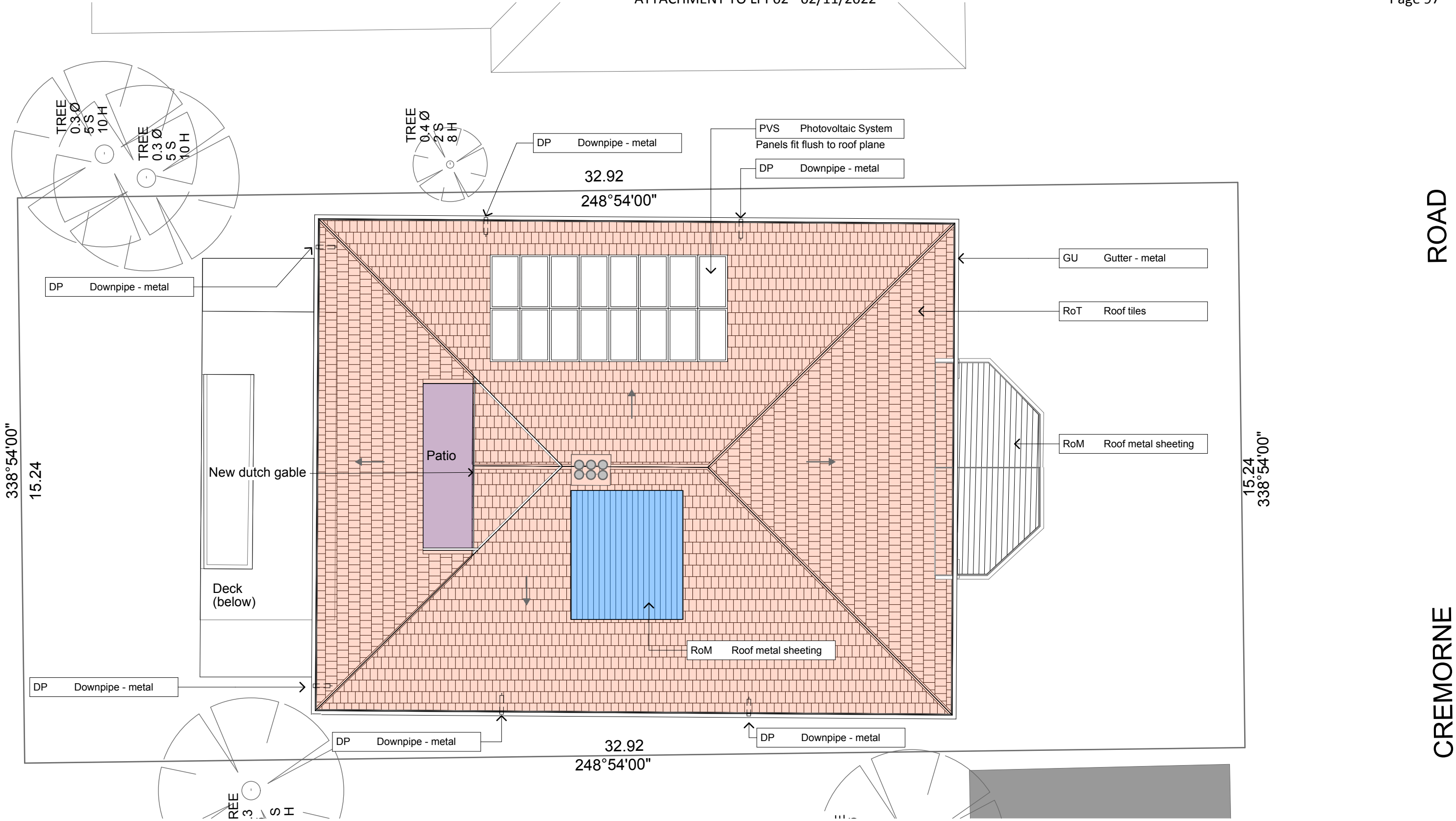
4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA PLANS - PROPOSED - LOFT PLAN - PROPOSED
ROOF (LOFT) - PROPOSED



Scale 1:100	Date 25/3/22
@A3 Status For Approval	
Project No. 2005	Drawing No. 2005.4.5
	Revision No.
Plot Date: 25/3/22 1:51 pm	

DEVELOPMENT APPLICATION



4. ROOF LEVEL PLAN - PROPOSED
1:100

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Existing
Brick
Roof Tiles
Concrete
Tile
F/Cement/Render
Glass / Glass Bricks
Sandstone
Timber
Steel/Galv. Iron

antonio caminiti architect

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B.Arch AIA
NSW No. 9696
DEP. 0000096
VIC No. 20208

Client
Cathy & Phillip LEAHY

Project
Alterations and Additions to Residential Flat Building

4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA PLANS - PROPOSED - ROOF PLAN - PROPOSED
ROOF LEVEL PLAN - PROPOSED

DEVELOPMENT APPLICATION

North
N

Scale	1:100	Date	25/3/22
Status	@A3 For Approval	Project No.	2005
Revision No.	2005.4.6	Drawing No.	2005.4.6
Revision No.		Plot Date:	25/3/22 1:51 pm

METAL WORK - Dormer



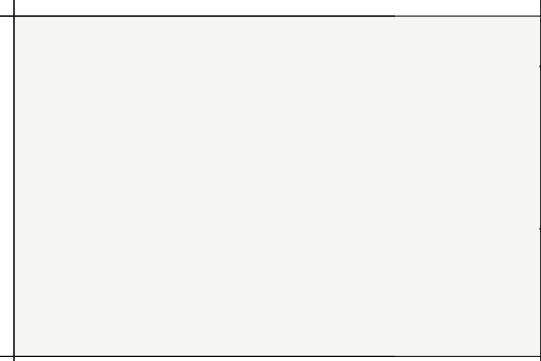
Finish - Dark Grey

EXTERNAL WALLS / TERRACE



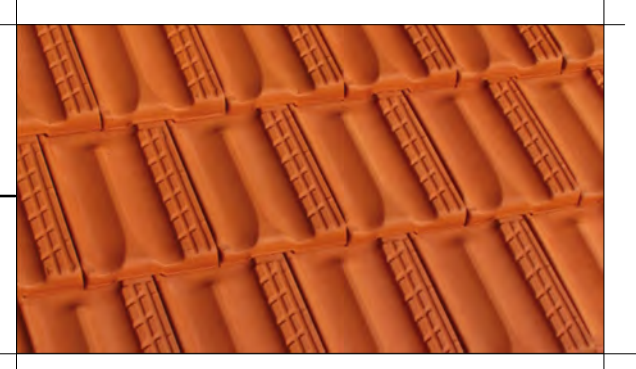
Finish - Rendered and Painted (Match existing)

WINDOW / DOORS / TRIMS



Finish - Off White (Match existing)

ROOFING



Tiles - Monier Marseille - Earth (Match existing)

GUTTERS / FASCIA BOARD / TRIMS



Dark Grey - (Match existing)

GARAGE PIERS



Finish - Sandstone (Existing)



MATERIALS - FINISHES

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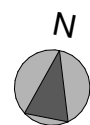
Drawing Title:

DA MATERIALS - MATERIALS - FINISHES

MATERIALS - FINISHES

DEVELOPMENT APPLICATION

North



Scale

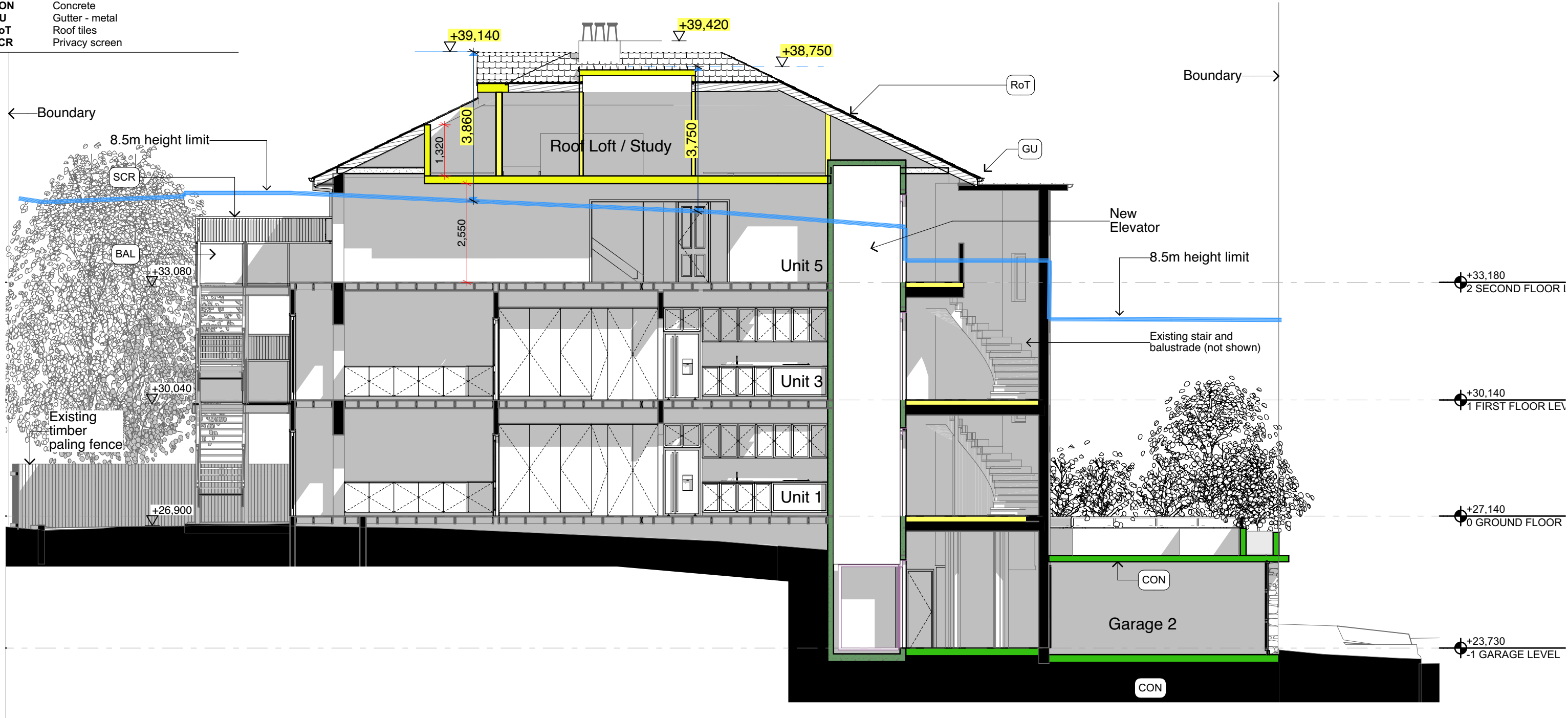
@A3
Status
For Approval

Project No.	Drawing No.	Revision No.
2005	2005.8.1	

Plot Date:	Date
23/3/22	11:26 am

Notes

- A Development Application Notes
- General Annotations
- BAL Balustrade
- CON Concrete
- GU Gutter - metal
- RoT Roof tiles
- SCR Privacy screen



S-01

S-01 SECTION
1:100

<p>E 3 2 1 A3</p>	<p>Copyright Antonio Caminiti Design Pty Ltd (t/a Antonio Caminiti Architect "ACA") retains copyright for all documents including concepts and drawings. This document may only be used for the express purpose for which it has been created. Unauthorised use at the user's sole risk. The user indemnifies and releases ACA from and against all loss so arising.</p>	<p>Notes All dimensions, setbacks and levels to be verified on site prior to commencement of work. Advise Architect of any omissions or discrepancies before commencement. Allow for adjustments to suit discrepancies. Comply with NCC / Building Code of Australia, Australian Standards and relevant authorities requirements. Do not scale from drawings.</p>	<table border="0"> <tr><td>Existing</td></tr> <tr><td>Brick</td></tr> <tr><td>Roof Tiles</td></tr> <tr><td>Concrete</td></tr> <tr><td>Tile</td></tr> <tr><td>F/Cement/Render</td></tr> <tr><td>Glass / Glass Bricks</td></tr> <tr><td>Sandstone</td></tr> <tr><td>Timber</td></tr> <tr><td>Steel/Galv. Iron</td></tr> </table>	Existing	Brick	Roof Tiles	Concrete	Tile	F/Cement/Render	Glass / Glass Bricks	Sandstone	Timber	Steel/Galv. Iron
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Steel/Galv. Iron													

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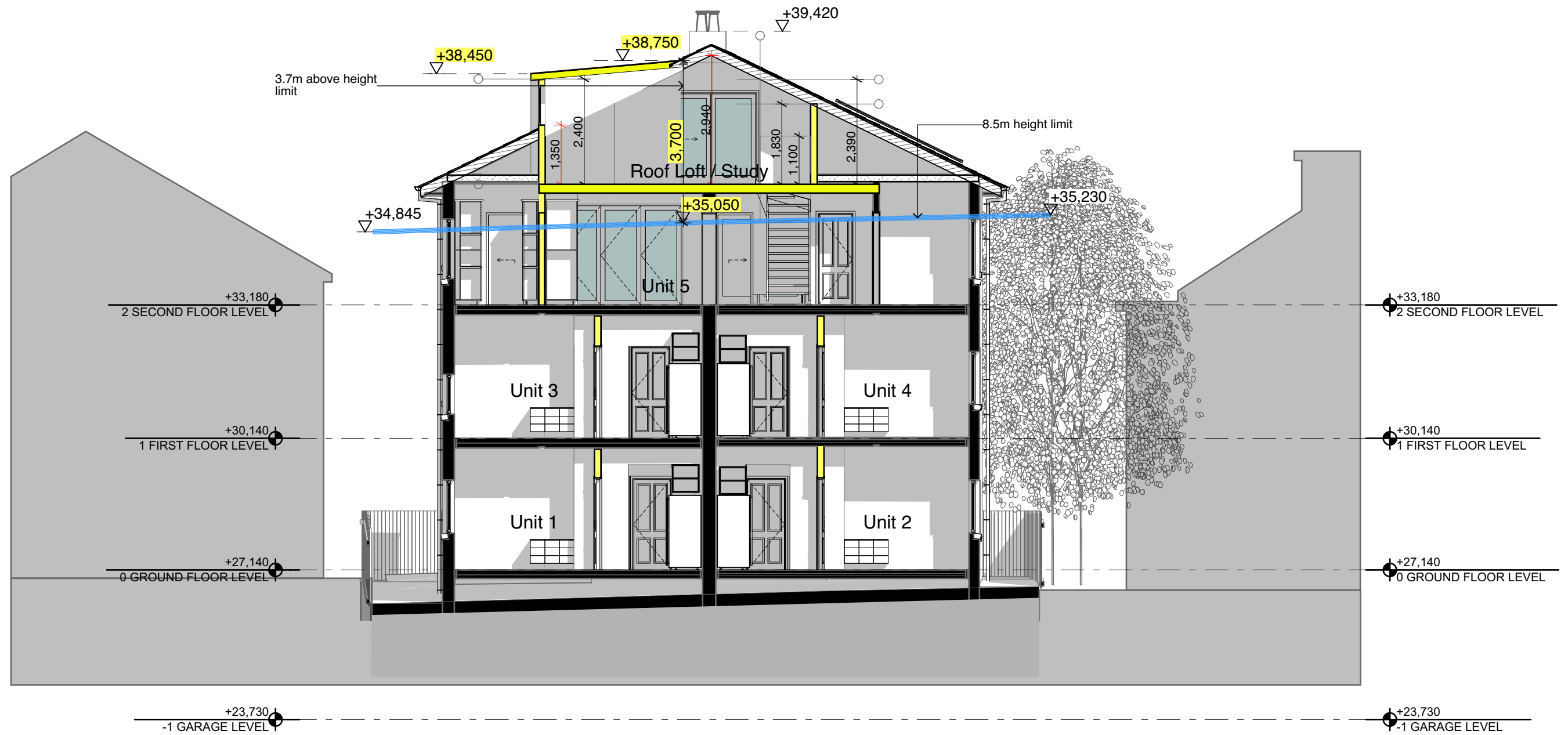
Client
Cathy & Phillip LEAHY
Project
Alterations and Additions to Residential Flat Building
4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA SECTIONS - S-01 SECTION
S-01 SECTION

DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
@A3	
Status For Approval	
Project No. 2005	Drawing No. 2005.5.1
Revision No.	
Plot Date: 10/3/22 3:41 pm	



S-02

S-02 SECTION
1:100

E
3
2
1
A3

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Roof Tiles
Concrete
Tile
F/Cement/Render
Glass / Glass Bricks
Sandstone
Timber
Steel/Galv. Iron

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4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA SECTIONS - S-02 SECTION
S-02 SECTION

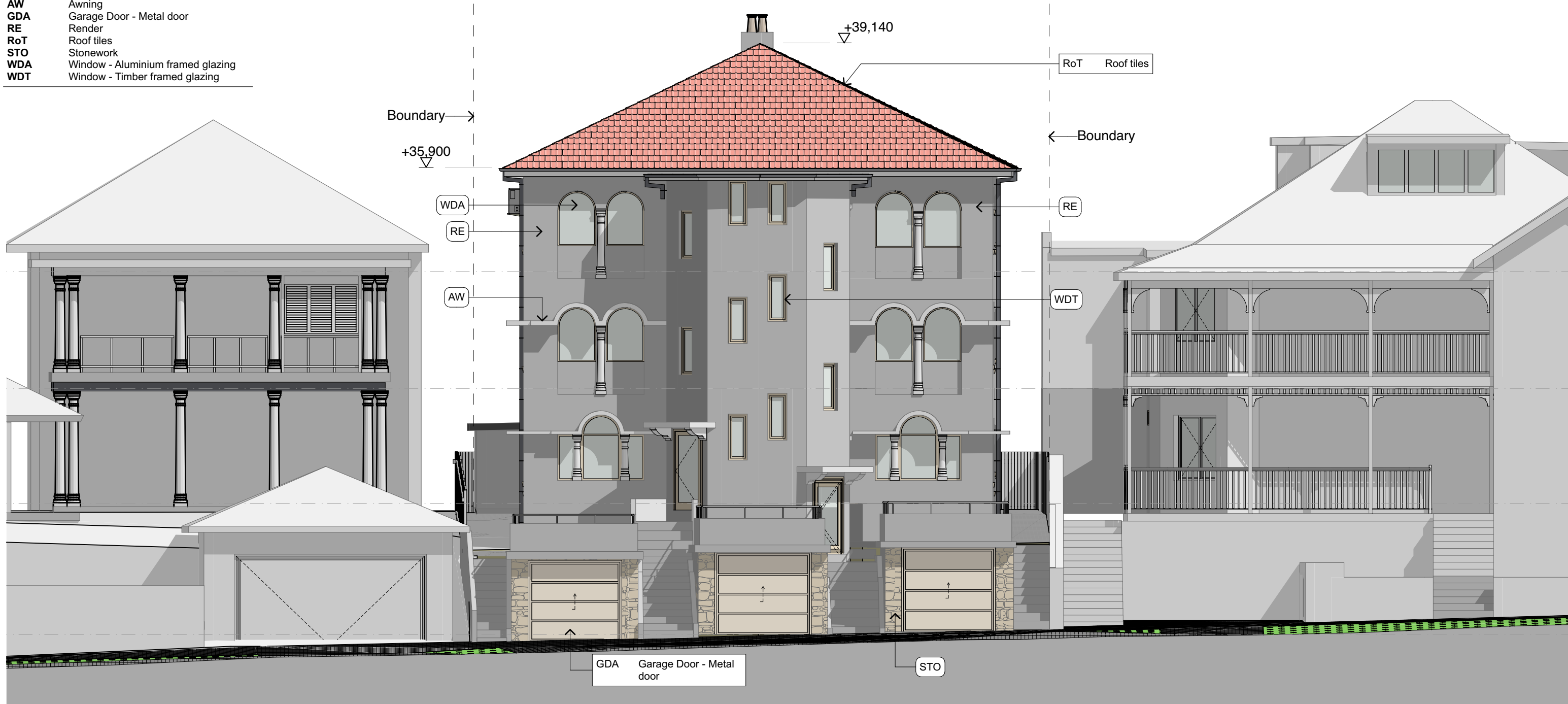
DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
@A3 Status For Approval	
Project No. 2005	Drawing No. 2005.5.2
	Revision No.
Plot Date: 10/3/22 3:42 pm	

Notes

- A Development Application Notes
- General Annotations
- AW Awning
- GDA Garage Door - Metal door
- RE Render
- RoT Roof tiles
- STO Stonework
- WDA Window - Aluminium framed glazing
- WDT Window - Timber framed glazing



E-01 EAST ELEVATION - EXISTING
1:100

<p>E</p> <p>3</p> <p>2</p> <p>1</p> <p>A3</p>	<p>Copyright Antonio Caminiti Design Pty Ltd (t/a Antonio Caminiti Architect "ACA") retains copyright for all documents including concepts and drawings. This document may only be used for the express purpose for which it has been created. Unauthorised use at the user's sole risk. The user indemnifies and releases ACA from and against all loss so arising.</p>	<p>Notes All dimensions, setouts and levels to be verified on site prior to commencement of work. Advise Architect of any omissions or discrepancies before commencement. Allow for adjustments to suit discrepancies. Comply with NCC / Building Code of Australia, Australian Standards and relevant authorities requirements. Do not scale from drawings.</p>	<table border="0"> <tr><td>Existing</td></tr> <tr><td>Brick</td></tr> <tr><td>Roof Tiles</td></tr> <tr><td>Concrete</td></tr> <tr><td>Tile</td></tr> <tr><td>F/Cement/Render</td></tr> <tr><td>Glass / Glass Bricks</td></tr> <tr><td>Sandstone</td></tr> <tr><td>Timber</td></tr> <tr><td>Steel/Galv. Iron</td></tr> </table>	Existing	Brick	Roof Tiles	Concrete	Tile	F/Cement/Render	Glass / Glass Bricks	Sandstone	Timber	Steel/Galv. Iron
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Roof Tiles													
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Glass / Glass Bricks													
Sandstone													
Timber													
Steel/Galv. Iron													

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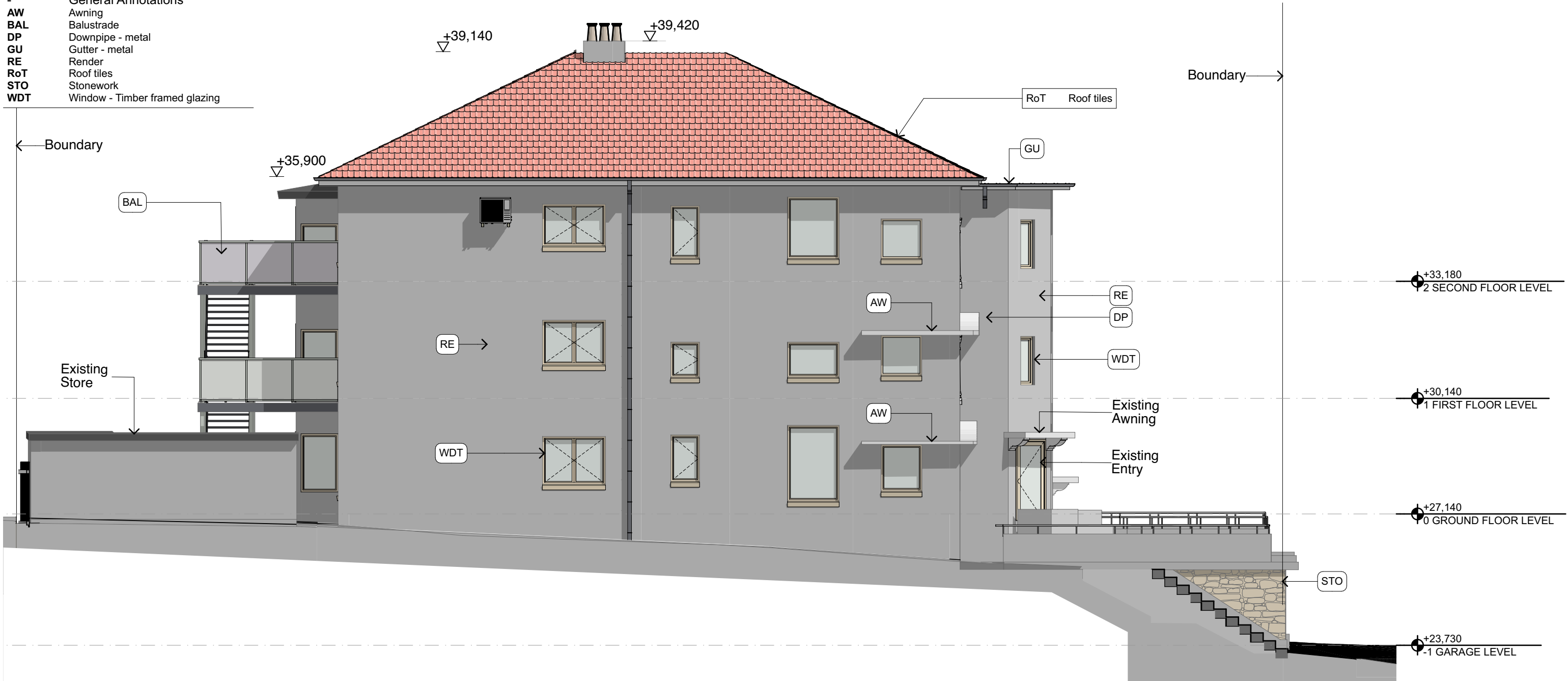
Client
Cathy & Phillip LEAHY
Project
Alterations and Additions to Residential Flat Building
4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA ELEVATIONS - EXISTING - E-01 EAST ELEVATION - EXISTING
EAST ELEVATION - EXISTING
DEVELOPMENT APPLICATION

<p>North</p>	<p>Scale 1:100 @A3 Status For Approval</p>	<p>Date 10/3/22</p>						
	<table border="0"> <tr> <th>Project No.</th> <th>Drawing No.</th> <th>Revision No.</th> </tr> <tr> <td>2005</td> <td>2005.6.1</td> <td></td> </tr> </table>	Project No.	Drawing No.	Revision No.	2005	2005.6.1		<p>Plot Date: 10/3/22 3:42 pm</p>
Project No.	Drawing No.	Revision No.						
2005	2005.6.1							

Notes

- A Development Application Notes
- General Annotations
- AW Awning
- BAL Balustrade
- DP Downpipe - metal
- GU Gutter - metal
- RE Render
- RoT Roof tiles
- STO Stonework
- WDT Window - Timber framed glazing



E-02 SOUTH ELEVATION - EXISTING
1:100

<p>E</p> <p>3</p> <p>2</p> <p>1</p> <p>A3</p>	<p>Copyright Antonio Caminiti Design Pty Ltd (t/a Antonio Caminiti Architect "ACA") retains copyright for all documents including concepts and drawings. This document may only be used for the express purpose for which it has been created. Unauthorised use at the user's sole risk. The user indemnifies and releases ACA from and against all loss so arising.</p>	<p>Notes All dimensions, setouts and levels to be verified on site prior to commencement of work. Advise Architect of any omissions or discrepancies before commencement. Allow for adjustments to suit discrepancies. Comply with NCC / Building Code of Australia, Australian Standards and relevant authorities requirements. Do not scale from drawings.</p>	<table border="0"> <tr><td>Existing</td><td>Existing</td></tr> <tr><td>Brick</td><td>Brick</td></tr> <tr><td>Roof Tiles</td><td>Roof Tiles</td></tr> <tr><td>Concrete</td><td>Concrete</td></tr> <tr><td>Tile</td><td>Tile</td></tr> <tr><td>F/Cement/Render</td><td>F/Cement/Render</td></tr> <tr><td>Glass / Glass Bricks</td><td>Glass / Glass Bricks</td></tr> <tr><td>Sandstone</td><td>Sandstone</td></tr> <tr><td>Timber</td><td>Timber</td></tr> <tr><td>Steel/Galv. Iron</td><td>Steel/Galv. Iron</td></tr> </table>	Existing	Existing	Brick	Brick	Roof Tiles	Roof Tiles	Concrete	Concrete	Tile	Tile	F/Cement/Render	F/Cement/Render	Glass / Glass Bricks	Glass / Glass Bricks	Sandstone	Sandstone	Timber	Timber	Steel/Galv. Iron	Steel/Galv. Iron
Existing	Existing																						
Brick	Brick																						
Roof Tiles	Roof Tiles																						
Concrete	Concrete																						
Tile	Tile																						
F/Cement/Render	F/Cement/Render																						
Glass / Glass Bricks	Glass / Glass Bricks																						
Sandstone	Sandstone																						
Timber	Timber																						
Steel/Galv. Iron	Steel/Galv. Iron																						

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NSW No. 9696
DEP. 0000096
VIC No. 20208

4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA ELEVATIONS - EXISTING - E-02 SOUTH ELEVATION - EXISTING
SOUTH ELEVATION - EXISTING

DEVELOPMENT APPLICATION

North

Scale 1:100	Date 10/3/22
Status For Approval	
Project No. 2005	Drawing No. 2005.6.2
Revision No.	

Plot Date: 10/3/22 3:42 pm

Notes

A	Development Application Notes
-	General Annotations
BAL	Balustrade
GU	Gutter - metal
STA	Steel Stair
STE	Steel Framing
WDT	Window - Timber framed glazing



E-03 WEST ELEVATION - EXISTING
1:100

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	Existing												
Brick													
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Tile													
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architect

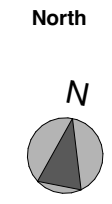
51 Glebe Street,
Glebe NSW 2037
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VIC No. 20208

Client
Cathy & Phillip LEAHY
Project
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4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA ELEVATIONS - EXISTING - E-03 WEST ELEVATION - EXISTING
WEST ELEVATION - EXISTING

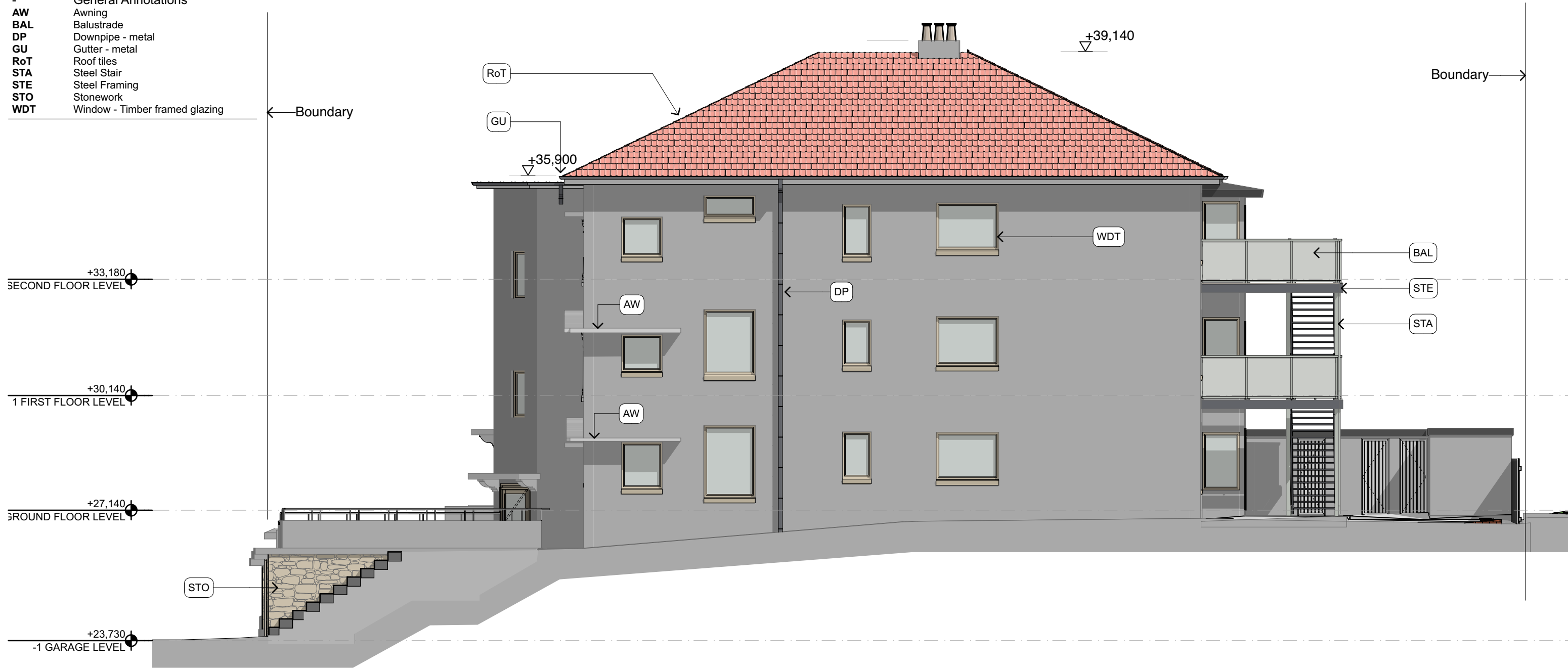
DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
@A3 Status For Approval	
Project No. 2005	Drawing No. 2005.6.3
	Revision No.
Plot Date: 10/3/22 3:43 pm	

Notes

- A Development Application Notes
- General Annotations
- AW Awning
- BAL Balustrade
- DP Downpipe - metal
- GU Gutter - metal
- RoT Roof tiles
- STA Steel Stair
- STE Steel Framing
- STO Stonework
- WDT Window - Timber framed glazing



E-04 NORTH ELEVATION - EXISTING
1:100

<p>E</p> <p>3</p> <p>2</p> <p>1</p> <p>A3</p>	<p>Copyright Antonio Caminiti Design Pty Ltd (t/a Antonio Caminiti Architect "ACA") retains copyright for all documents including concepts and drawings. This document may only be used for the express purpose for which it has been created. Unauthorised use at the user's sole risk. The user indemnifies and releases ACA from and against all loss so arising.</p>	<p>Notes All dimensions, setouts and levels to be verified on site prior to commencement of work. Advise Architect of any omissions or discrepancies before commencement. Allow for adjustments to suit discrepancies. Comply with NCC / Building Code of Australia, Australian Standards and relevant authorities requirements. Do not scale from drawings.</p>	<table border="0"> <tr><td>Existing</td></tr> <tr><td>Brick</td></tr> <tr><td>Roof Tiles</td></tr> <tr><td>Concrete</td></tr> <tr><td>Tile</td></tr> <tr><td>F/Cement/Render</td></tr> <tr><td>Glass / Glass Bricks</td></tr> <tr><td>Sandstone</td></tr> <tr><td>Timber</td></tr> <tr><td>Steel/Galv. Iron</td></tr> </table>	Existing	Brick	Roof Tiles	Concrete	Tile	F/Cement/Render	Glass / Glass Bricks	Sandstone	Timber	Steel/Galv. Iron
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Timber													
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Client
Cathy & Phillip LEAHY

Project
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Nominated Architect
Antonio Caminiti
B.Arch AIA
NSW No. 9696
DEP. 0000096
VIC No. 20208

4 Cremorne Road
Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA ELEVATIONS - EXISTING - E-04 NORTH ELEVATION - EXISTING
NORTH ELEVATION - EXISTING

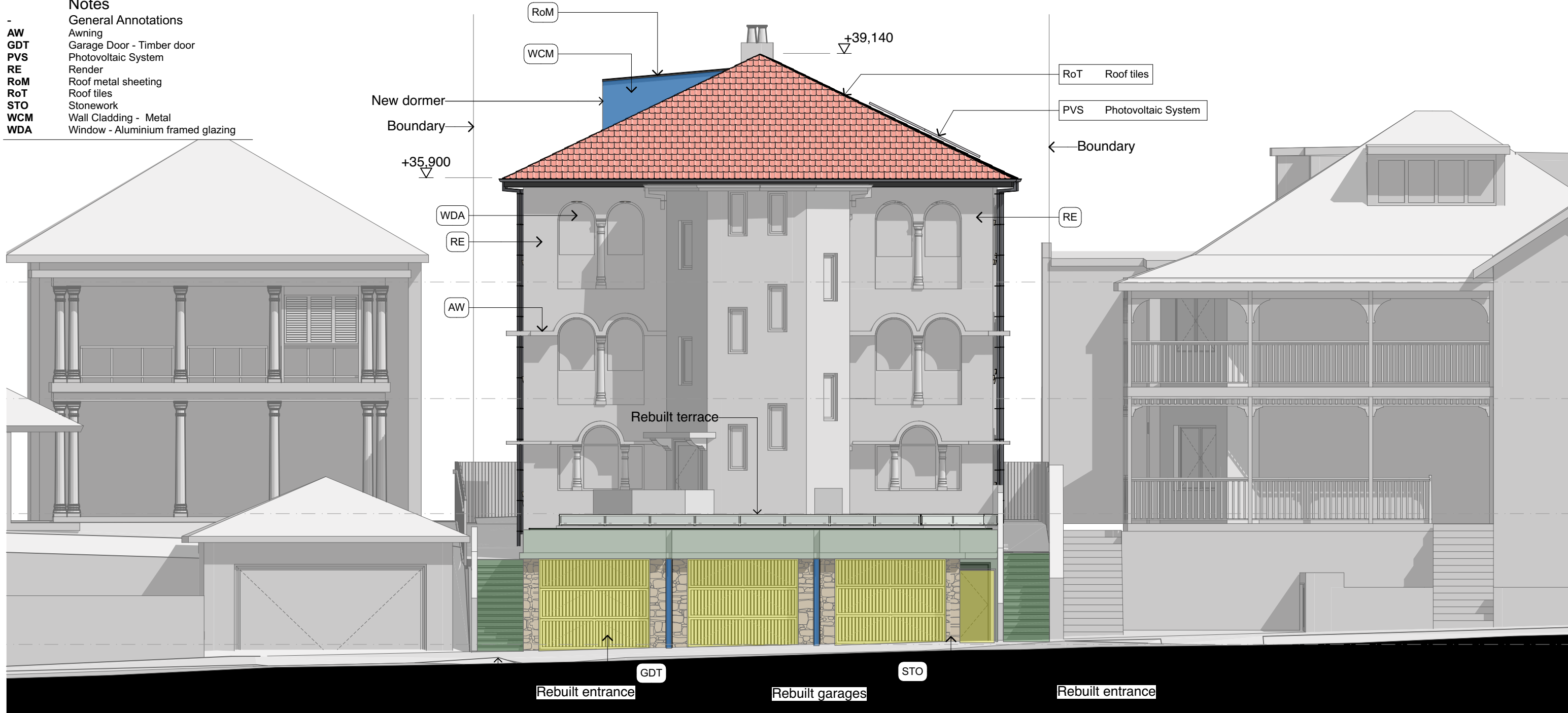
DEVELOPMENT APPLICATION

North

Scale 1:100	Date 10/3/22
Status For Approval	
Project No. 2005	Drawing No. 2005.6.4
	Revision No.
Plot Date: 10/3/22 3:43 pm	

Notes

- A Development Application
- Notes
- General Annotations
- AW Awning
- GDT Garage Door - Timber door
- PVS Photovoltaic System
- RE Render
- RoM Roof metal sheeting
- RoT Roof tiles
- STO Stonework
- WCM Wall Cladding - Metal
- WDA Window - Aluminium framed glazing



E-01 EAST ELEVATION - PROPOSED
1:100

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2090
Lot 1 D.P. 77957

Drawing Title:
DA ELEVATIONS - PROPOSED - E-01 EAST ELEVATION - PROPOSED
EAST ELEVATION - PROPOSED

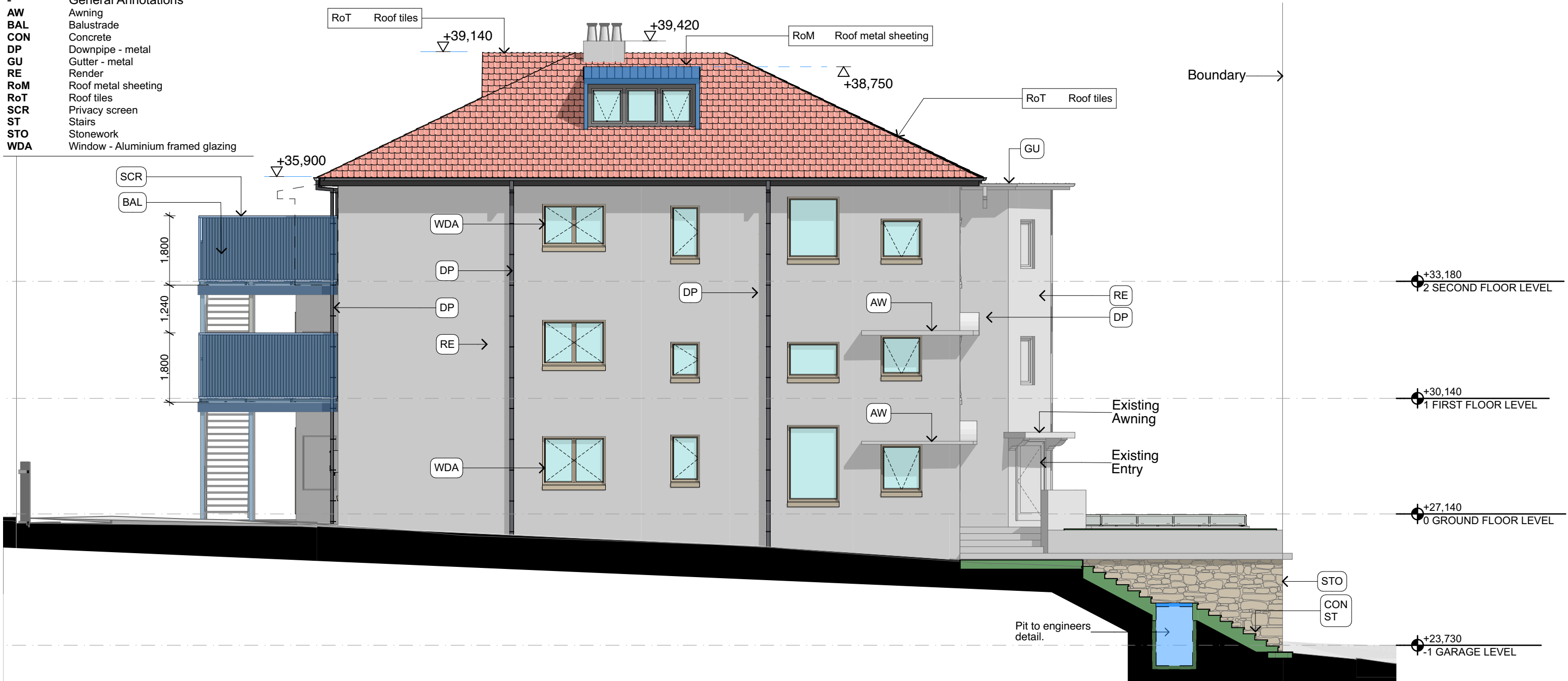
DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
@A3 Status For Approval	
Project No. 2005	Drawing No. 2005.7.1
Revision No.	
Plot Date: 10/3/22 3:43 pm	

Notes

- A Development Application Notes
- General Annotations
- AW Awning
- BAL Balustrade
- CON Concrete
- DP Downpipe - metal
- GU Gutter - metal
- RE Render
- RoM Roof metal sheeting
- RoT Roof tiles
- SCR Privacy screen
- ST Stairs
- STO Stonework
- WDA Window - Aluminium framed glazing



E-02 SOUTH ELEVATION - PROPOSED

1:100

<p>E</p> <p>3</p> <p>2</p> <p>1</p> <p>A3</p>	<p>Copyright Antonio Caminiti Design Pty Ltd (t/a Antonio Caminiti Architect "ACA") retains copyright for all documents including concepts and drawings. This document may only be used for the express purpose for which it has been created. Unauthorised use at the user's sole risk. The user indemnifies and releases ACA from and against all loss so arising.</p>	<p>Notes All dimensions, setouts and levels to be verified on site prior to commencement of work. Advise Architect of any omissions or discrepancies before commencement. Allow for adjustments to suit discrepancies. Comply with NCC / Building Code of Australia, Australian Standards and relevant authorities requirements. Do not scale from drawings.</p>	<table border="0"> <tr><td>Existing</td><td>Existing</td></tr> <tr><td>Brick</td><td>Brick</td></tr> <tr><td>Roof Tiles</td><td>Roof Tiles</td></tr> <tr><td>Concrete</td><td>Concrete</td></tr> <tr><td>Tile</td><td>Tile</td></tr> <tr><td>F/Cement/Render</td><td>F/Cement/Render</td></tr> <tr><td>Glass / Glass Bricks</td><td>Glass / Glass Bricks</td></tr> <tr><td>Sandstone</td><td>Sandstone</td></tr> <tr><td>Timber</td><td>Timber</td></tr> <tr><td>Steel/Galv. Iron</td><td>Steel/Galv. Iron</td></tr> </table>	Existing	Existing	Brick	Brick	Roof Tiles	Roof Tiles	Concrete	Concrete	Tile	Tile	F/Cement/Render	F/Cement/Render	Glass / Glass Bricks	Glass / Glass Bricks	Sandstone	Sandstone	Timber	Timber	Steel/Galv. Iron	Steel/Galv. Iron
Existing	Existing																						
Brick	Brick																						
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Timber	Timber																						
Steel/Galv. Iron	Steel/Galv. Iron																						

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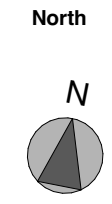
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Cremorne Point NSW
2090
Lot 1 D.P. 77957

Drawing Title:
DA ELEVATIONS - PROPOSED - E-02 SOUTH ELEVATION - PROPOSED
SOUTH ELEVATION - PROPOSED

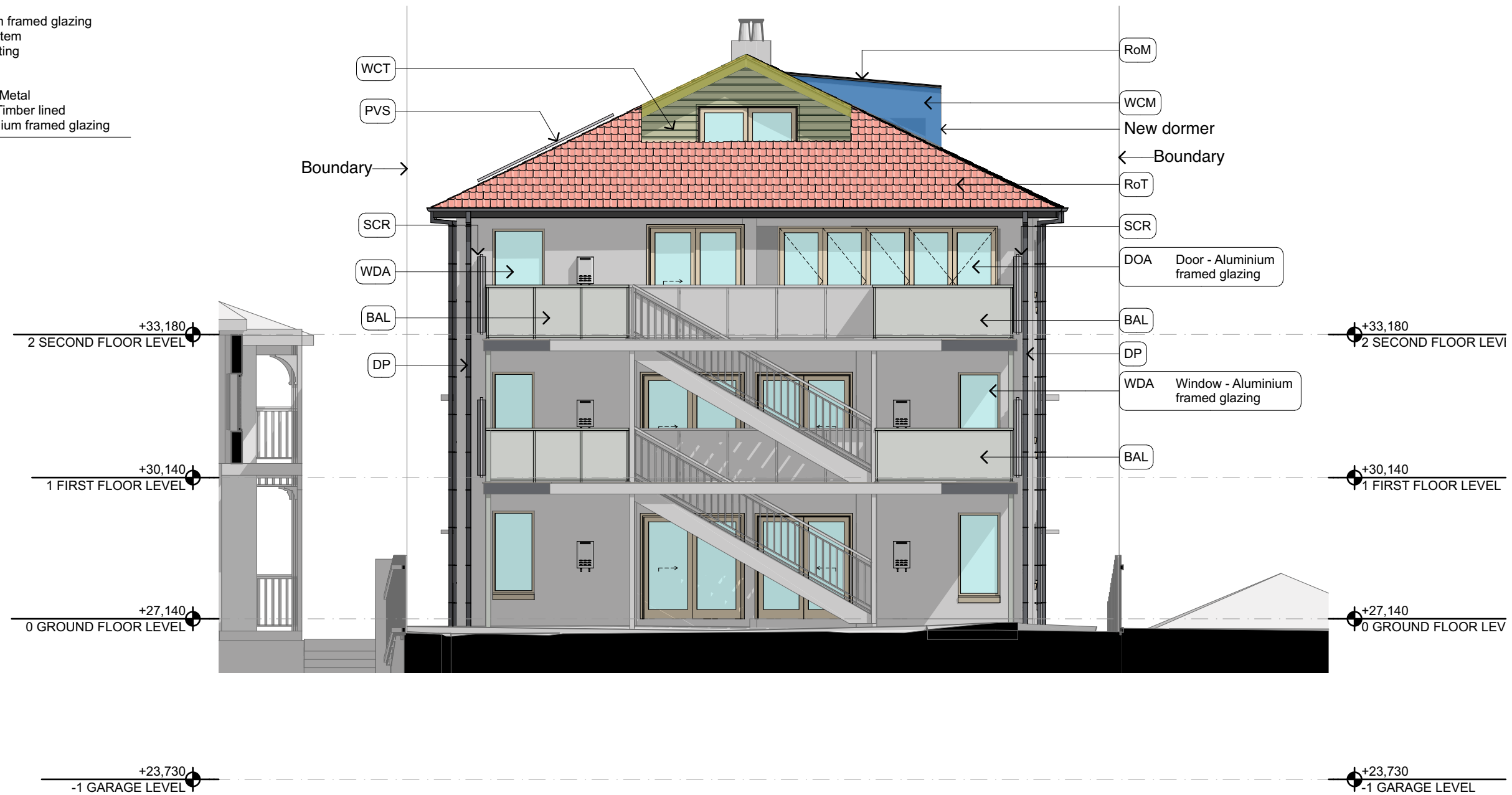
DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
@A3 Status For Approval	
Project No. 2005	Drawing No. 2005.7.2
	Revision No.
Plot Date: 10/3/22 3:44 pm	

Notes

- A Development Application Notes
- General Annotations
- BAL Balustrade
- DOA Door - Aluminium framed glazing
- PVS Photovoltaic System
- RoM Roof metal sheeting
- RoT Roof tiles
- SCR Privacy screen
- WCM Wall Cladding - Metal
- WCT Wall Cladding - Timber lined
- WDA Window - Aluminium framed glazing



E-03 WEST ELEVATION - PROPOSED
1:100

<p>E</p> <p>3</p> <p>2</p> <p>1</p> <p>A3</p>	<p>Copyright Antonio Caminiti Design Pty Ltd (t/a Antonio Caminiti Architect "ACA") retains copyright for all documents including concepts and drawings. This document may only be used for the express purpose for which it has been created. Unauthorised use at the user's sole risk. The user indemnifies and releases ACA from and against all loss so arising.</p>	<p>Notes All dimensions, setouts and levels to be verified on site prior to commencement of work. Advise Architect of any omissions or discrepancies before commencement. Allow for adjustments to suit discrepancies. Comply with NCC / Building Code of Australia, Australian Standards and relevant authorities requirements. Do not scale from drawings.</p>	<table border="0"> <tr><td>Existing</td><td>█</td></tr> <tr><td>Brick</td><td>█</td></tr> <tr><td>Roof Tiles</td><td>█</td></tr> <tr><td>Concrete</td><td>█</td></tr> <tr><td>Tile</td><td>█</td></tr> <tr><td>F/Cement/Render</td><td>█</td></tr> <tr><td>Glass / Glass Bricks</td><td>█</td></tr> <tr><td>Sandstone</td><td>█</td></tr> <tr><td>Timber</td><td>█</td></tr> <tr><td>Steel/Galv. Iron</td><td>█</td></tr> </table>	Existing	█	Brick	█	Roof Tiles	█	Concrete	█	Tile	█	F/Cement/Render	█	Glass / Glass Bricks	█	Sandstone	█	Timber	█	Steel/Galv. Iron	█
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Drawing Title:
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WEST ELEVATION - PROPOSED

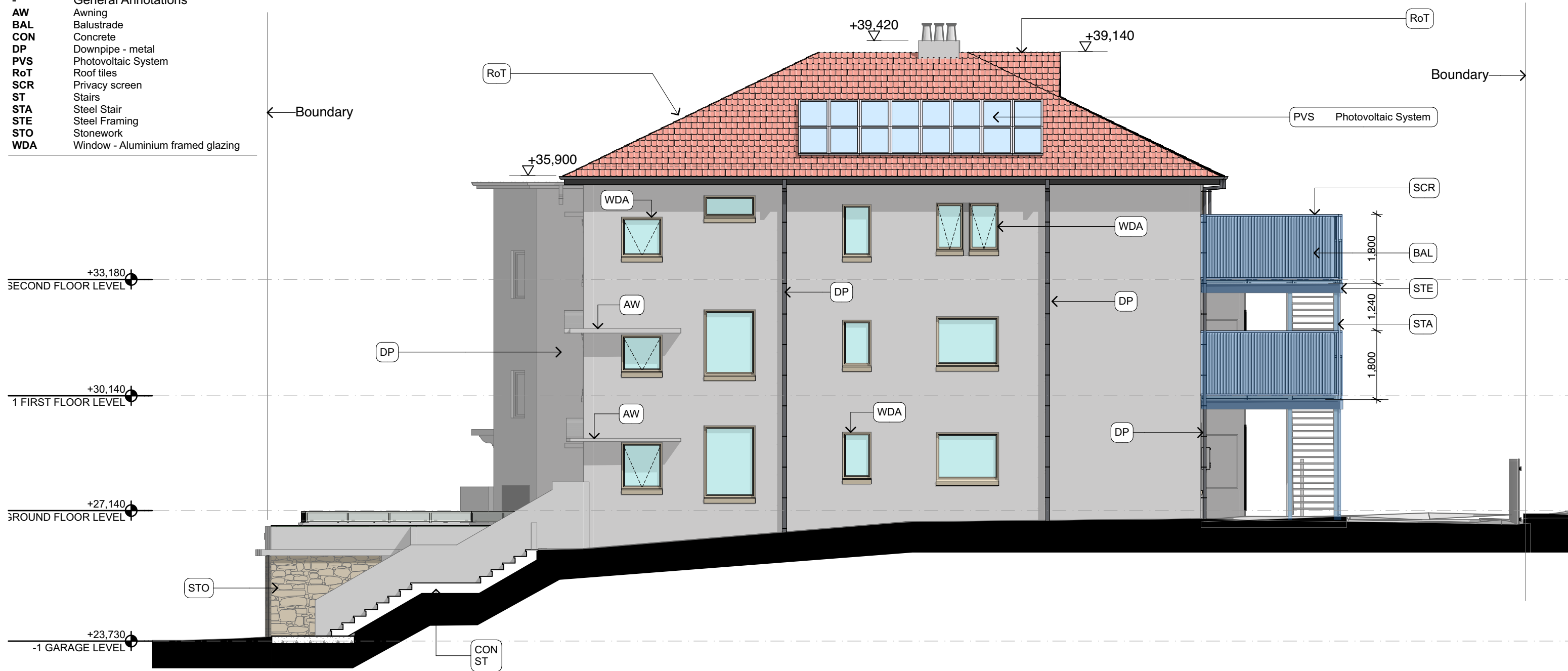
DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
@A3 Status For Approval	
Project No. 2005	Drawing No. 2005.7.3
	Revision No.
Plot Date: 10/3/22 3:44 pm	

Notes

- A Development Application Notes
- General Annotations
- AW Awning
- BAL Balustrade
- CON Concrete
- DP Downpipe - metal
- PVS Photovoltaic System
- RoT Roof tiles
- SCR Privacy screen
- ST Stairs
- STA Steel Stair
- STE Steel Framing
- STO Stonework
- WDA Window - Aluminium framed glazing



E-04 NORTH ELEVATION - PROPOSED
1:100

<p>E</p> <p>3</p> <p>2</p> <p>1</p> <p>A3</p>	<p>Copyright Antonio Caminiti Design Pty Ltd (t/a Antonio Caminiti Architect "ACA") retains copyright for all documents including concepts and drawings. This document may only be used for the express purpose for which it has been created. Unauthorised use at the user's sole risk. The user indemnifies and releases ACA from and against all loss so arising.</p>	<p>Notes All dimensions, setouts and levels to be verified on site prior to commencement of work. Advise Architect of any omissions or discrepancies before commencement. Allow for adjustments to suit discrepancies. Comply with NCC / Building Code of Australia, Australian Standards and relevant authorities requirements. Do not scale from drawings.</p>	<table border="0"> <tr><td>Existing</td><td>Existing</td></tr> <tr><td>Brick</td><td>Brick</td></tr> <tr><td>Roof Tiles</td><td>Roof Tiles</td></tr> <tr><td>Concrete</td><td>Concrete</td></tr> <tr><td>Tile</td><td>Tile</td></tr> <tr><td>F/Cement/Render</td><td>F/Cement/Render</td></tr> <tr><td>Glass / Glass Bricks</td><td>Glass / Glass Bricks</td></tr> <tr><td>Sandstone</td><td>Sandstone</td></tr> <tr><td>Timber</td><td>Timber</td></tr> <tr><td>Steel/Galv. Iron</td><td>Steel/Galv. Iron</td></tr> </table>	Existing	Existing	Brick	Brick	Roof Tiles	Roof Tiles	Concrete	Concrete	Tile	Tile	F/Cement/Render	F/Cement/Render	Glass / Glass Bricks	Glass / Glass Bricks	Sandstone	Sandstone	Timber	Timber	Steel/Galv. Iron	Steel/Galv. Iron
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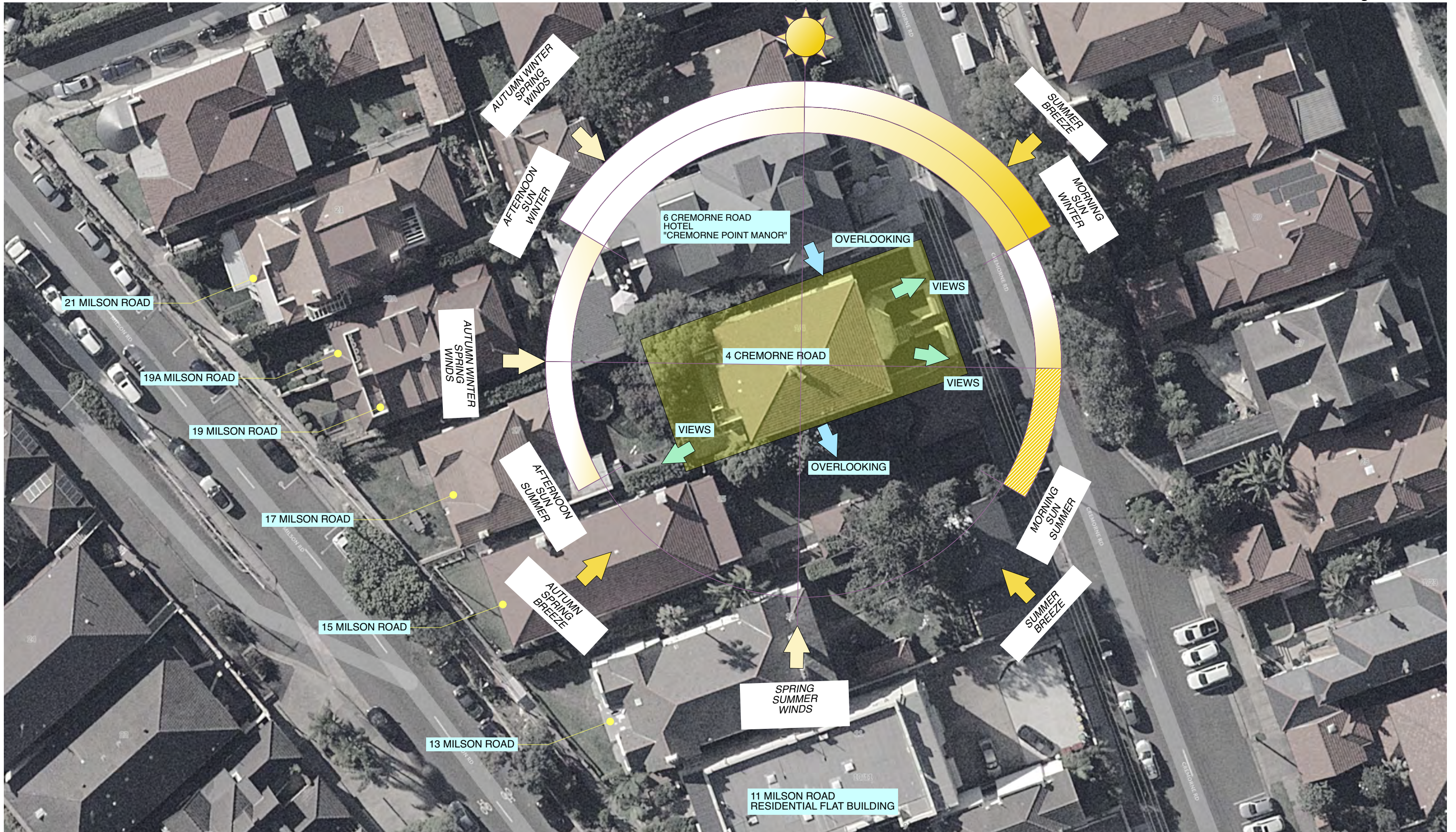
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Drawing Title:
DA ELEVATIONS - PROPOSED - E-04 NORTH ELEVATION - PROPOSED
NORTH ELEVATION - PROPOSED

DEVELOPMENT APPLICATION

North

Scale 1:100	Date 10/3/22
Status For Approval	
Project No. 2005	Drawing No. 2005.7.4
	Revision No.
Plot Date: 10/3/22 3:44 pm	



SITE ANALYSIS PLAN

E
3
2
1
A3

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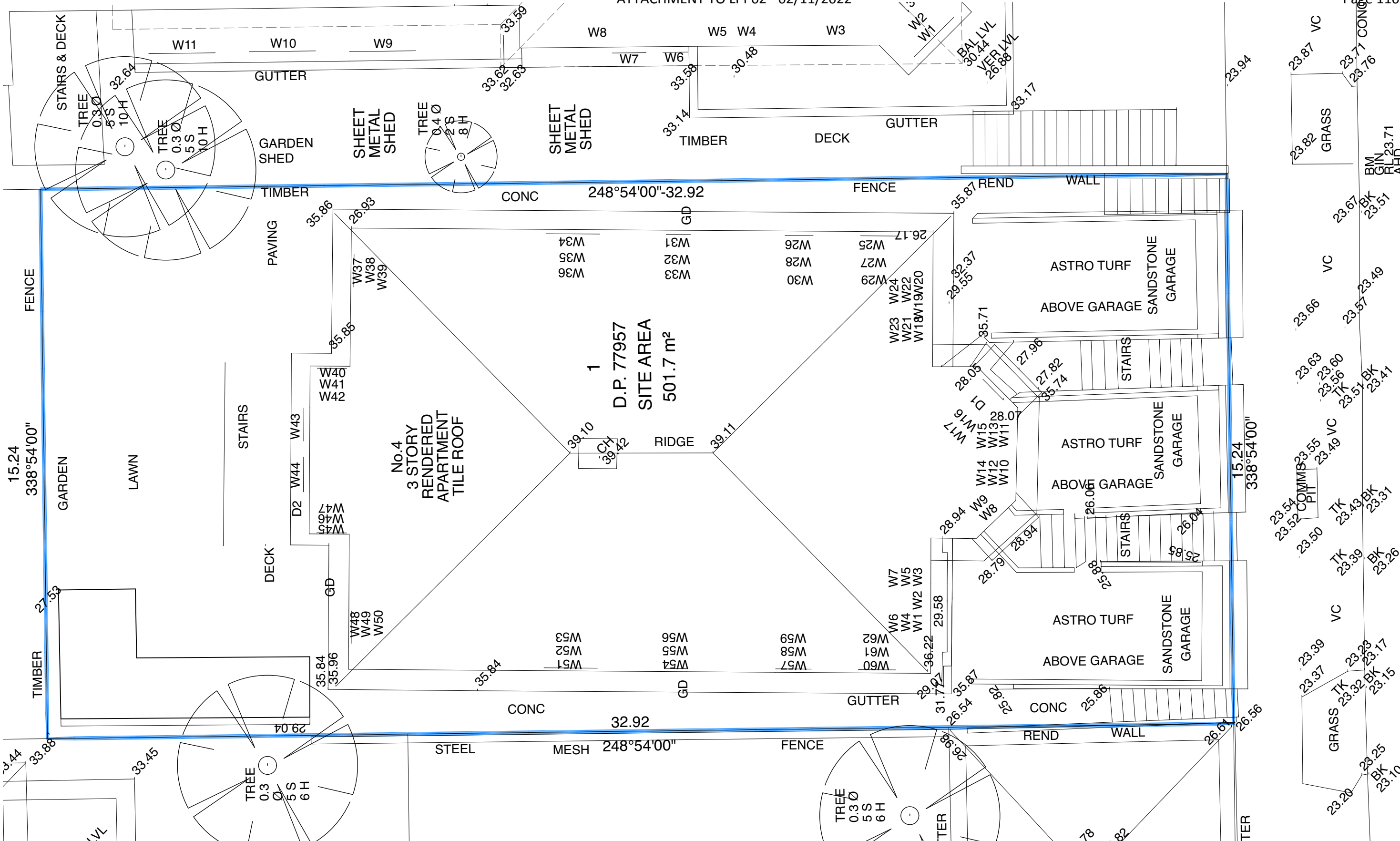
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Drawing Title:
GENERAL - SITE ANALYSIS PLAN
SITE ANALYSIS PLAN

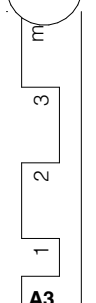
DEVELOPMENT APPLICATION



Scale	Date	
@A3	10/3/22	
Status		
For Approval		
Project No.	Drawing No.	Revision No.
2005	2005.1.4	
Plot Date:		10/3/22 3:39 pm



-2. SITE PLAN



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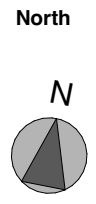
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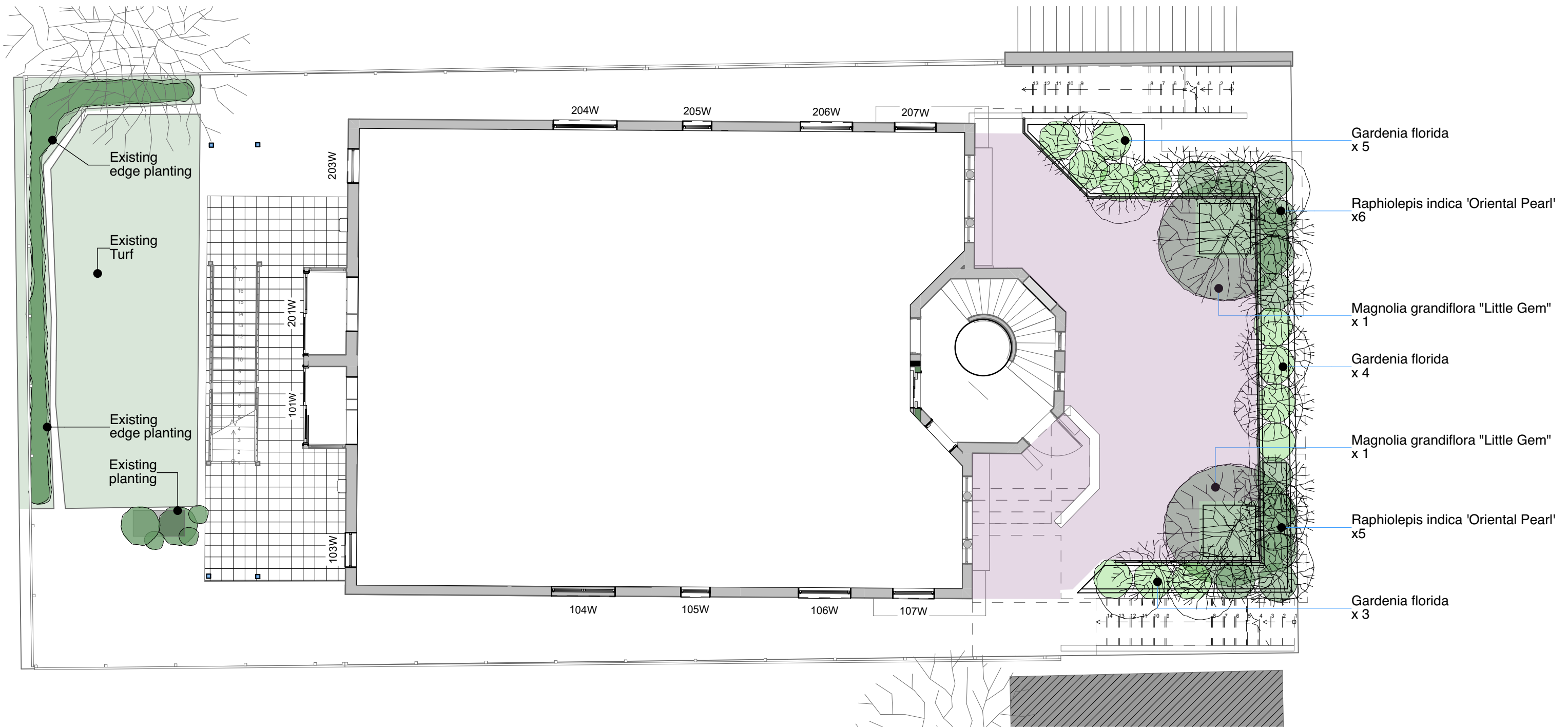
Drawing Title:
 GENERAL - SITE PLAN
 SITE PLAN



Scale 1:100	Date 10/3/22
Status For Approval	
Project No. 2005	Drawing No. 2005.1.3
Revision No.	

DEVELOPMENT APPLICATION

CREMORNE ROAD



0. LANDSCAPE PLAN
1:100

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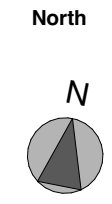
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Drawing Title:
DA LANDSCAPE - LANDSCAPE Sheet 1
LANDSCAPE PLAN

DEVELOPMENT APPLICATION



Scale 1:100	Date 10/3/22
@A3 Status For Approval	
Project No. 2005	Drawing No. 2005.9.1
	Revision No.
Plot Date: 10/3/22 3:44 pm	



Magnolia grandiflora 'Little Gem'

Specifications
 Dimensions Height: 4 to 6m, Width: 3m
 Aspect Full sun



Gardenia augusta 'Florida'

Specifications
 Dimensions Height: 0.75 to 1m, Width: 1m
 Aspect Part shade



Raphiolepis indica 'Oriental Pearl'

Specifications
 Dimensions Height: 0.8 to 1m, Width: 1m
 Aspect Full sun

PLANT SCHEDULE - 4 CREMORNE ROAD CREMORNE

ID	Quantity	Common Name	Botanical Name	Pot Size	Mature Height	Mature Spread	Notes
Trees							
Mg	2	Magnolia Little Gem	<i>Magnolia grandiflora</i>	75L	4000 - 6000mm	3000mm	Lined planter with appropriate membrane and drainage.
Shrubs							
Gjs	12	Gardenia	<i>Gardenia florida</i>	300mm	1000mm	1000mm	Lined planter with appropriate membrane and drainage.
RIOP	11	Oriental Pearl	<i>Raphiolepis indica 'Oriental Pearl'</i>	300mm	1000mm	1000mm	Lined planter with appropriate membrane and drainage.
Total	25						

LANDSCAPE DETAILS

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 Cremorne Point NSW
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Drawing Title:
 DA LANDSCAPE - LANDSCAPE Sheet 2
 LANDSCAPE DETAILS

DEVELOPMENT APPLICATION

North

Scale
 @A3
Status
 For Approval
Project No. 2005
Drawing No. 2005.9.2
Revision No.
 Plot Date: 10/3/22 3:44 pm

18 April 2022



Request to Contravene the Building
Height Standard (Clause 4.6)

4 Cremorne Road, Cremorne Point

(Alterations and Additions to a
Residential Flat Building)



Introduction

This written statement is made pursuant to the provisions of Clause 4.6 of North Sydney Local Environmental Plan 2013 (NSLEP 2013) and supports a development application (DA) for alterations and additions to an existing residential flat building at No. 4 Cremorne Road, Cremorne Point. It should be read in conjunction with the Statement of Environmental Effects by Perica and Associates Urban Planning Pty Ltd to which it is attached, plans by Antonio Caminiti Architect and the information submitted with the DA.

The proposal exceeds the maximum Building Height control in Clause 4.3 of NSLEP 2013. This control is a "development standard" in accordance with the definition in Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act 1979).

Clause 4.6 of NSLEP 2013 relevantly states:

4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*



PERICA & ASSOCIATES
URBAN PLANNING P/L

Clause 4.6 Request – Building Height – 4 Cremorne Road Cremorne Point

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) –(8)... [not relevant]

1. Identifying and quantifying the non-compliance

Clause 4.3 of NSLEP 2013 specifies a maximum Building Height of 8.5m, by reference to the relevant LEP Map (extract below). This building height is uniform for the surrounding area.

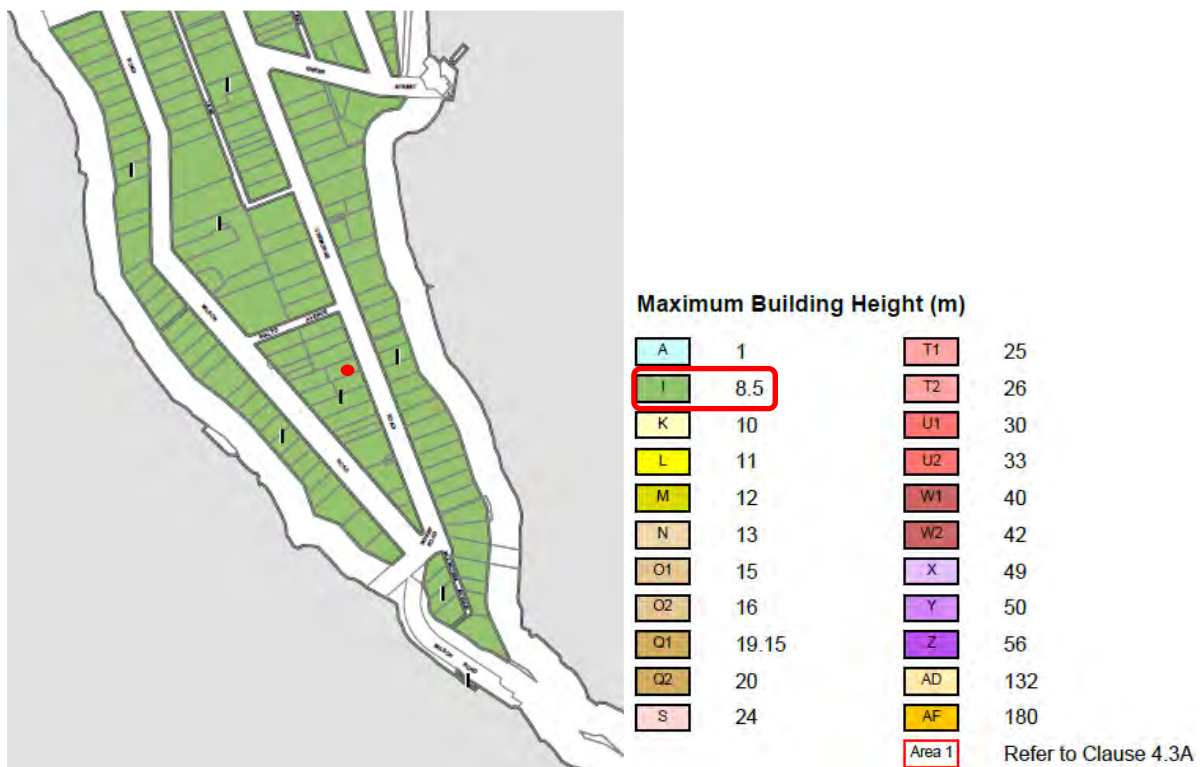


Figure 1 – Height Map extract NSLEP 2013

The proposal does not project above the existing ridge nor extend above the existing maximum height of the existing building. However, the roof of the existing building is over the existing height limit and there are proposed new works within the roof, including two new dormer windows to the west (rear) and south (side) and solar panels (north) which are above the height limit.

The height non-compliance is shown on the elevations and sections within the plans by Antonio Caminiti Architect, with an extract below.



PERICA & ASSOCIATES
URBAN PLANNING P/L

Clause 4.6 Request – Building Height – 4 Cremorne Road Cremorne Point

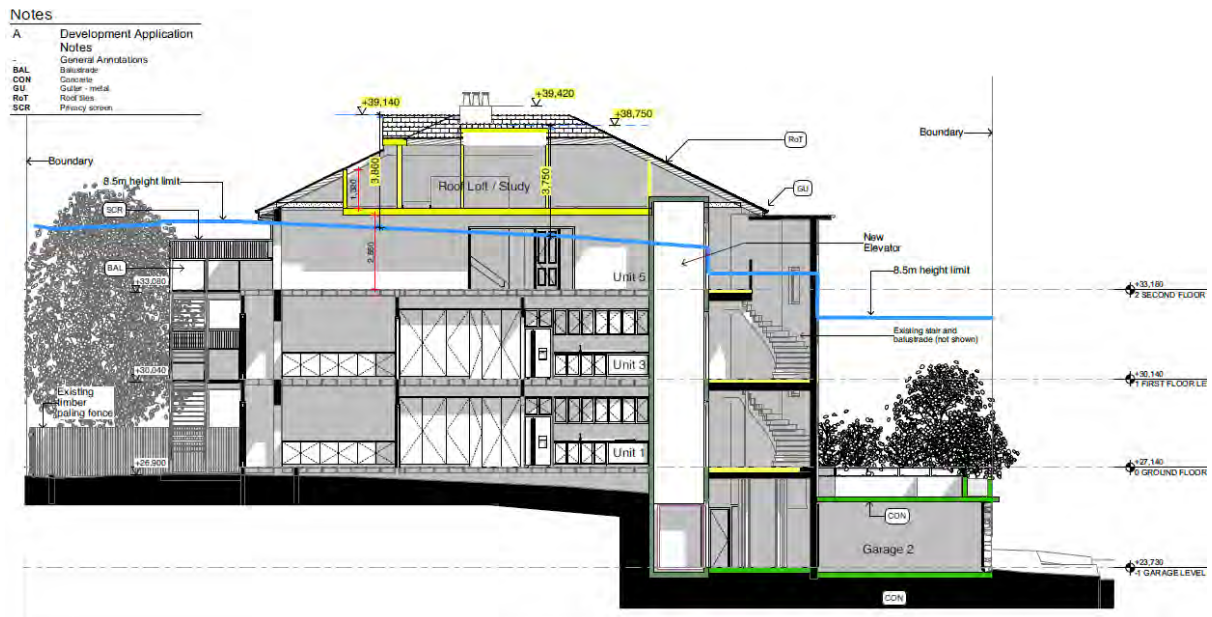


Figure 2 – Height Exceedance - by Antonio Caminiti Architect

In terms of quantifying this non-compliance, the existing ground level vertically below new works to the roof (dormers, skylights) is the RL of the existing ground level of the ground floor units, being RL 27.14. The highest points of the new roof roofs are outlined below:

Rear Roof dormer RL 38.75 = 11.61m

Southern Side Roof dormer RL 39.14 = 12m

(Note existing roof ridge = RL 39.14 = 12m)

3. Clause 4.6 (3)(a) and 3(b) of NSLEP 2013

Clause 4.6(3) of NSLEP 2013 states:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard*

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case



The issue of compliance being “unreasonable or unnecessary” was well summarised in the Land and Environment Court judgement *Wehbe v Pittwater Council* [2007] NSWLEC 827 (“the Wehbe case”).

In this regard, the Wehbe case outlined 5 possible ways to demonstrate whether compliance would be unnecessary or unreasonable, by establishing:

- i. Compliance with the underlying objectives of the standard being breached, notwithstanding the numerical non-compliance; or
- ii. That the objectives of the standard are not relevant to the proposal; or
- iii. Requiring compliance with the development standard would “thwart” the achievement of the objectives of that standard; or
- iv. The development standard in question has been “virtually abandoned” by the Council; or
- v. The zoning of the land is not appropriate for the site and therefore the associated standards are not appropriate (with some qualifications).

This justification does not rely on a case related to pathways 2-5 above. However, it is noted that variations to height controls can and do occur on a case-by-case basis, and are not uncommon. It is also noted there appears to be many buildings within Cremorne Point which appear to be above the 8.5m limit.

This justification does argue compliance with underlying objectives of the standard in question are achieved.

In terms of the objectives of the standard, Clause 4.3(1) of NSLEP 2013 contains the following objectives:

- a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) to promote the retention and, if appropriate, sharing of existing views,*
- (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) to ensure compatibility between development, particularly at zone boundaries,*
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,*
- (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.*

The following responds to these objectives, as relevant to the proposed height non-compliance of new works:



- a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient*

This is achieved, as the works do not alter the ground condition and the new works are below the existing ridge line. The new works are also well setback from the streetscape presentation of the building and cause no significant change to the silhouette of the building.

- b) *to promote the retention and, if appropriate, sharing of existing views*

The proposal is considered to achieve view sharing (with some qualification needed as the site has not been viewed from within adjoining sites). It is reasonably clear from viewing the site and surrounding buildings (from the street, within the site and within the building) that the non-complying height components related to new work, which are minor, would not cause any adverse impact of any consequence upon neighbours.

No public view corridors are affected

- c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development*

The proposed new works do not cause any significant adverse overshadowing impacts, noting the works are within the overall roofscape, below the existing height limit and/or well setback from the southern side boundary.

Similarly, the proposed works will not cause additional overshadowing to any public reserves or streets.

The proposed works are generally within the existing building envelope and do not hinder development of adjoining sites, including to the south, in terms of solar access.

- d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings*

The new works above the height limit have considered privacy both for the site and surrounding properties.

The rear edge of the upper patio/balcony is set within the roof (utilising the existing roof as a balustrade), and setback from the rear wall by approximately 3m, with an overall setback of approximately 12m from the rear boundary. This has the effect of recessing this patio within the roof. The design and siting have the effect of directing outlook across and out from the property, rather than down to neighbours, reasonably minimising any privacy impacts.

Similarly, the southern side dormer is also recessed within the roof, setback from the southern side wall by approximately 3m, and around 6m from the side boundary. This setback and the siting of surrounding development is such that the proposed southern side window will have no adverse privacy impacts on surrounding land.



e) *to ensure compatibility between development, particularly at zone boundaries*

The site is not at a zone boundary.

The height non-compliances do not change the siting of the development, maintaining existing setbacks. The two roof dormers are recessed and set within the roofscape and below the ridge. They are also well setback from the streetscape, of modest scale. The form of the dormers is compatible with the shape of the existing roof and surrounding roof forms.

The height of the proposed works does not increase the maximum building height, while the scale of the roof additions is relatively minor and not excessive. The landscaped element to the street will help visually mitigate the building in the streetscape.

While the site is in a Conservation Area, the scale of buildings is not uniform. Three storey buildings are common on the western side of Cremorne Road, and there is a residential flat building of 9-10 storeys within the visual catchment of the site, to the south. Attic roof forms are also not uncommon, noting a dormer roof form immediately adjoining at No. 6 Cremorne Road.

The proposal is also supported by a HIS undertaken by Touring the Past, which concludes:

The proposal is assessed as broadly compliant with the NLEP and NDCP heritage objectives and policies for a 'neutral' place in the Cremorne Road HCA. On the whole, its heritage impact on the contribution made by the interwar block of flats to the streetscape would be negligible, while a substantial amenity upgrade would be achieved. The built character and aesthetic/historical, significance of the encompassing HCA would not be deleteriously affected by the new work.

Considering the level of change proposed, a professionally prepared Photographic Archival Recording of Kelvin Flats, including a representative selection of the interior, would be recommended as a condition a consent for council's consideration.

The proposed works will not be incompatible within the surrounding context of the site.

f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area*

The density of the development is being reduced, with one less unit compared to the existing situation.

The scale has been addressed above.

In terms of the character of the area, this has been addressed in the S.E.E., including responding to the various objectives and principles related to the South Cremorne Planning Area and the Cremorne Point Conservation Area. The proposal is consistent



with the character of the area and is considered to improve the contribution the building will make to the character of the surrounding area.

- g) *to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living*

The existing building is 3 storeys. The addition to height is within the roof form and below the roof ridge.

It is noted that the definition of a storey is:

storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include—

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) *an attic.*

An attic is defined as follows:

attic means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like

The proposed works at the top roof level are considered to meet the definition of an attic, being within the roof form and including minor elements such as dormer windows and the like.

Apart from this technical and narrow argument, in terms of the objective relating to the built form within the wider R2 zone, the surrounding 1-2 storey buildings will not be altered, the existing building is 3 storeys and the additional works do not significantly change the perceived scale or built form, particularly within the streetscape.

In summary, the proposal is wholly consistent with the objectives of the development standard and using the accepted approach in *Wehbe v Pittwater Council* [2007] NSWLEC 827, compliance with the development standard can therefore be considered unnecessary or unreasonable.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard

The case *Four2Five v Ashfield Council* [2015] NSWLEC 1009, NSWLEC 90, NSWCA 248 raises the issue that the grounds should relate to a site and specific proposal (and non-compliance), rather than generic reasons.

The case *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 highlighted that:



1. The term “environmental planning grounds” is not defined and would include the objects of the EPA Act (Section 1.3);
2. The grounds must relate to the contravention of the development standard in question, not the whole development; and
3. The consent authority must indirectly be satisfied the applicant's written request provides sufficient environmental planning grounds, not directly form an opinion about there being sufficient environmental planning grounds to justify the contravention.

Also, given the term “environmental planning grounds” is wide in its nature, context and understanding, and given the Objects of the EPA Act 1979 give effect to all other planning instruments, DCPs and wide assessment criteria, a wide appreciation of the term is warranted.

In this context, the following environmental planning grounds are given to justify the proposed contravention of the Building Height development standard, on this particular site and for this particular development:

- a) There is benefit in retaining the existing inter-war flat building (due to its contribution to the Conservation Area, and its building typology), such that adaption is preferable to demolition and a new building (also from an ESD perspective).
- b) The building has significant maintenance and structural issues that require attention and remediation (see attached structural engineer's report). At the same time, the existing building has some limitations in terms of modern amenity, including in the context of SEPP 65 and the associated Apartment Design Guide, such as limits to outlook and useable private balconies, and interface issues with adjoining development. The upper-level units (and other units) are arranged such that the southern units have limited solar access to living areas. In this context, amalgamating the upper-level units into one and a modest attic extension will significantly improve amenity to the site and upper new unit.
- c) At the same time the siting, design and nature of the upper-level works are such that the proposed building works above the height limit will have very limited impact on surrounding land and adjoining development. These dormers help to visually break up a large roof area and help contribute to the character of the building and area.
- d) The overall roof form is being retained, and the attic roof extensions are relatively modest so as not to dominate the existing building nor fundamentally alter its scale and relationship with surrounding land. This is particularly the case for the streetscape presentation, with works and non-complying height well set back from the street frontage.
- e) The existing building is higher than immediately adjoining development (although not higher than other buildings within the wider visual catchment of the site) and the location of building works on the site above the height limit directs outlook and impacts over and away from immediately adjoining sites. Similarly, the siting, scale and height causes no overshadowing or view impacts of any significance. The additional height



above the height limit will not have any significant environmental impacts upon neighbours, due to its location. This is aided by the setting and orientation of the site and nature of surrounding development, unique to this site.

- f) The new height is below the existing ridge of the dwelling and no higher than the maximum existing height of the building. At the same time, positive aspects of the existing roof including its tiled finish and central chimney are being retained.
- g) There is mitigation and streetscape improvements by provision of a greater landscaped setting to the streetscape by the front landscape bed and larger areas for planting 2 feature trees, to reduce impacts of scale and height, both of the existing building and the new works.
- h) The scale and height of the works exceeding the height limit is modest and only accommodates one room.
- i) The location of the additional modest additional accommodation is in the most appropriate part of the site, noting the desirability of retaining the front setback and building presentation, limited side setbacks and limited rear setback and open space, and more sensitive interface at lower levels to the rear or sides.
- j) The heritage impacts of the new works and non-complying height will be neutral or positive.
- k) The solar panels above the height limit support sustainable living and energy use (and can be excluded from the building height in accordance with that definition).
- l) In terms of the Objects of the EPA Act, the proposal, specifically including the non-compliant height of the building, is consistent with the following Objects of the Act:
 - i. *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations* – noting adaptive reuse of existing built assets, improved orientation and amenity, use of light and ventilation, solar panels, all while not increasing reliance on car travel;
 - ii. *to promote the orderly and economic use and development of land* – noting the adaptive alterations that balance heritage considerations, amenity for residents at the site and adjoining amenity is orderly, while adaptive reuse represents economic use of land on a well-connected site;
 - iii. *to promote the sustainable management of built and cultural heritage* – noting the acceptable heritage outcome for the site;
 - iv. *to promote good design and amenity of the built environment* – for the same reasons above; and
 - v. *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants* – as the height exceedance and rooftop attic addition allows improved amenity and



thereby a healthy environment for residents, without significant impacts to others.

- m) As noted previously, the Objects of the EPA Act provide a framework for the Act itself, and its operative provisions, which include giving effect to other Environmental Planning Instruments. The proposal and specifically the height non-compliance is also consistent with the aims and objectives within North Sydney LEP 2013 (Clause 1.2(2), as outlined in the S.E.E.).

4. Clause 4.6(4) of NSLEP 2013

Clause 4.6(4) of NSLEP 2013 states:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained*

These are matters for the consent authority to be satisfied (as opposed to the applicant justifying as in Clause 4.6(3)). Despite this, further commentary is given to assist the consent authority in its deliberations.

Clause 4.6(4)(a)(i) has been addressed in the previous Section of this written request. The objectives of the standard have also been addressed in the previous Section of this written request.

In terms of the zone objectives, the objectives of the Low Density R2 zone in NSLEP 2013 are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage development of sites for low density housing, including dual occupancies, if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposal is consistent with these zone objectives, noting:



- The proposal provides diversity of housing both on the site and in the context of the wider R2 zone. The density of the development is reducing as a result of the proposal, with the loss of one unit and two bedrooms. The nature of low-density dwelling use in the surrounding area and zone is not compromised by the proposal.
- The second objective is not relevant to the proposed use.
- The development of dwellings and dual occupancies elsewhere is not compromised by the proposal. The site relies on Existing Use Rights within the meaning of the EPA Act 1979 and associated Regulation and this objective cannot be used to derogate from such rights. The heritage impacts of the proposal are acceptable and have been addressed in the separate Heritage Impact Statement by Touring the Past.
- A high level of amenity is provided for the proposed development, improved compared to the existing situation, yet not at the expense of the loss of any amenity (of any significance) to surrounding land. The mix of uses on the site, which are compatible with each other and complement the diverse nature of the area.

The proposal is consistent (or not inconsistent) with the zone objectives applying to the site.

Clause 4.6(4)(b) – Concurrence of the Secretary

Concurrence of the Secretary is not required.

5. Clause 4.6(5) of NSLEP 2013

Clause 4.6(5) of NSLEP 2013 states:

- (5) In deciding whether to grant concurrence, the Secretary must consider:*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

In these regards, the North Sydney Council is understood to have delegation from the Secretary for the Department of Planning and Environment to consider and decide upon Clause 4.6 Variation Requests.

In terms of Clause 4.6(5) (a)-(c), the following response is given;

- (a) No matter of significance for State or Regional environmental planning arises or is compromised by the non-compliance;
- (b) The integrity of the development standard will not be compromised by granting approval, noting the site-specific and proposal-specific considerations in this instance, which should not give rise to universal precedence elsewhere. In the



Clause 4.6 Request – Building Height – 4 Cremorne Road Cremorne Point

circumstances of this application, there is no public benefit of maintaining the development standard. To the contrary: for the environmental planning reasons outlined in this written request; and given the consistency with the objectives of the development standard and zoning, allowing the proposal, including its height non-compliance, will provide a public benefit in this instance;

- (c) There are no other known required or nominated matters by the Secretary to be taken into account.

For all the reasons given in this written justification, the proposal should be approved and is justified, notwithstanding the numerical non-compliance with the Building Height development standard in Clause 4.3 of North Sydney Local Environmental Plan 2013.

A handwritten signature in blue ink, appearing to read 'JP', with a long horizontal stroke extending to the right.

Jason Perica
Director