

**NSLPP MEETING HELD ON 09/07/2025****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Height of Buildings

ADDRESS/WARD: 43 Wonga Road, Cremorne (S)**APPLICATION No:** DA 59/25 (PAN-516634)**PROPOSAL:** Alterations and additions to an existing dwelling, including addition of double garage, rear extension, and associated site works.**PLANS REF:**

No.	Rev.	Title	Drawn by	Date	Received
A01	A	Site Plan	Ian Poole Architect	06/03/2025	17/03/2025
A08	A	Garage Level – Demolition		06/03/2025	17/03/2025
A09	A	Ground Floor Plan – Demolition		06/03/2025	17/03/2025
A10	A	First Floor Plan – Demolition		06/03/2025	17/03/2025
A11	A	Garage Level – Proposed		06/03/2025	17/03/2025
A12	A	Ground Floor Plan – Proposed		06/03/2025	17/03/2025
A13	A	First Floor Plan – Proposed		06/03/2025	17/03/2025
A14	A	Roof Plan – Proposed		06/03/2025	17/03/2025
A16	A	Section A – Proposed		06/03/2025	17/03/2025
A17	A	Section B – Proposed		06/03/2025	17/03/2025
A19	A	Section C – Proposed		06/03/2025	17/03/2025
A21	A	West Elevation – Proposed		06/03/2025	17/03/2025
A23	A	South Elevation – Proposed		06/03/2025	17/03/2025
A25	A	East Elevation – Proposed		06/03/2025	17/03/2025
A27	A	North Elevation – Proposed		06/03/2025	17/03/2025
A28	A	External Finishes Schedule		06/03/2025	17/03/2025
A45	A	Window Schedule 1		06/03/2025	17/03/2025
A46	A	Window Schedule 2		06/03/2025	17/03/2025
A50	A	Landscape Plan		18/09/2024	17/03/2025

OWNER: Alexander Zylberberg and Nicole Zylberberg**APPLICANT:** Vaughan Milligan Development Consulting Pty Ltd**AUTHOR:** Andrew Beveridge, Senior Assessment Officer**DATE OF REPORT:** 19 June 2025**DATE LODGED:** 17 March 2025**SUBMISSIONS:** Three (3)**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks NSLPP approval for alterations and additions to an existing detached dwelling including the addition of double garage, rear extension, and associated site works, at 43 Wonga Road, Cremorne.

The application is reported to the North Sydney Local Planning Panel for determination as the application is seeking a variation to a development standard by more than 10%.

The proposed development breaches the maximum permitted building height of 8.5m by 2.93m or 34.47%. The applicant's submission has been considered with reference to the Land and Environment Court's decision in *Wehbe v Pittwater Council [2007] NSWLEC 827* in order to justify the proposed variation. The applicant's Clause 4.6 is considered to be satisfactory given the site circumstances and on the basis that it will not have a significant impact upon the general amenity of adjoining properties. In particular reasonable view sharing will be maintained for adjoining sites, and while some overshadowing is noted to the rear an adjoining site, the overall impact is considered to be acceptable on balance, when considering the overall solar access to the site.

The application was notified in accordance with the community engagement protocol and Council received three (3) submissions raising various matters, including view loss and solar access amenity impacts. The amenity impacts upon adjoining site have been assessed and are considered to be relatively minor and acceptable within the site circumstances. The works will also maintain a sympathetic scale that is consistent with the existing building and surrounding buildings, and accords with the built form of the neighbourhood and the sloping topography of the site. Conditions are recommended for the preparation of an appropriate landscape scheme for the site, including new landscaping for the driveway area, and for the protection of significant trees.

The works will also maintain a sympathetic scale that is consistent with the existing building and surrounding buildings, and accords with the built form of the neighbourhood and the sloping topography of the site. Conditions are recommended for the preparation of an appropriate landscape scheme for the site, including new landscaping for the driveway area, and for the protection of significant trees.

There would be no significant or unreasonable privacy loss and/or excessive bulk and scale as a result of the proposal given that the proposed alterations and additions will be relatively sympathetic to the surrounding area, and are generally in-keeping with the character and scale of the neighbourhood.

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

LOCATION MAP



DESCRIPTION OF PROPOSAL

The application seeks approval for alterations and additions to the existing detached single dwelling, on the site at 43 Wonga Road, Cremorne, as detailed below:

Garage Level

- Alterations to provide for a gym, bathroom/laundry and the addition of double garage and access stairs. The double garage will be added in front of the existing building line to partially fill the existing double parking area.

Ground Level

- New entry to existing living/dining with a new north facing terrace with louvered roof over the proposed double garage.
- New rear extension to the south, comprising an extension to the family room, deck area, new WC, and external stair access to the garden.

First Floor

- Minor internal alterations to existing bedrooms
- Two new bedrooms and bathroom
- New skylight and roof extension to rear.

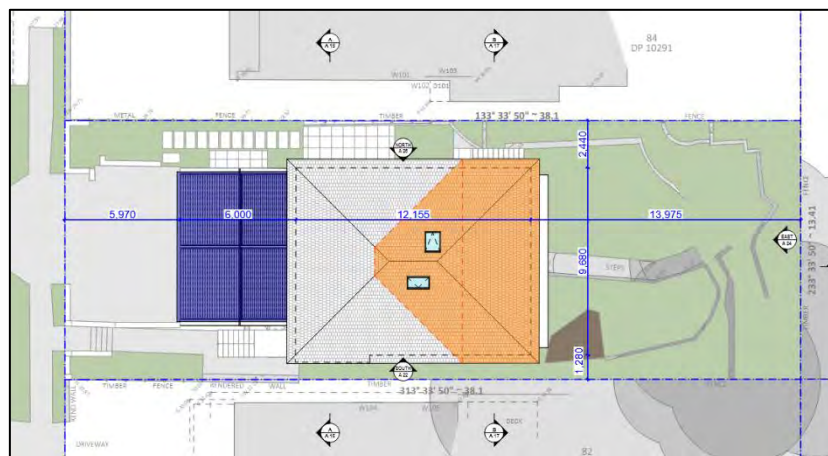


Figure 1. Site plan.

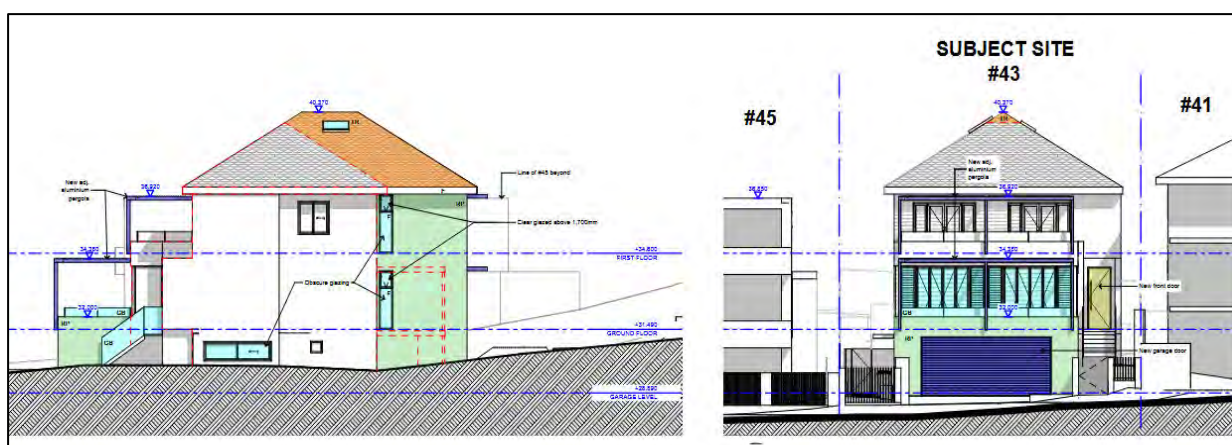


Figure 2. Southern side elevation (L) and the western front elevation (R).

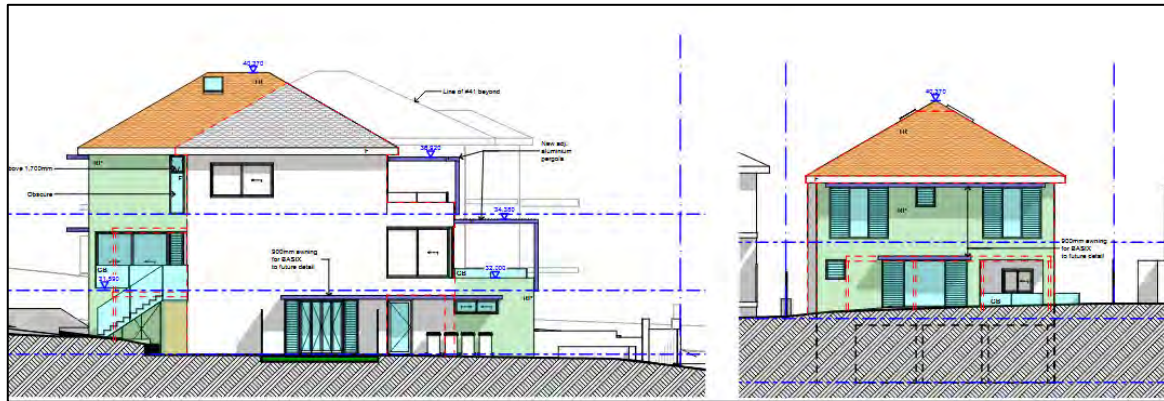


Figure 3. Northern side elevation (L) and the eastern rear elevation (R).

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013 (NSLEP 2013)

- Zoning – C4 Environmental Living
- Item of Heritage – No
- In Vicinity of Item of Heritage – No
- Conservation Area – No
- Foreshore Building Line – No

Environmental Planning & Assessment Act 1979

SEPP (Biodiversity and Conservation) 2021

- Chapter 2 – Vegetation in non-rural areas
- Chapter 6 – Water Catchments

SEPP (Resilience and Hazards) 2021

- Chapter 4 – Remediation of Land

SEPP (Sustainable Buildings) 2022

Local Development

POLICY CONTROLS

North Sydney Development Control Plan 2013 (NSDCP 2013)

- Bushland Buffer – Buffer Area B (300m)

North Sydney Local Infrastructure Contributions Plan 2020

DESCRIPTION OF LOCALITY

The subject site known as 43 Wonga Road, Cremorne (Lot 83 DP 10291), is located on the south eastern side of Wonga Road, near the eastern termination with Lodge Road and the Lodge Road Island Reserve. The site has an overall site area of 505.9m² and currently supports an existing 3-storey dwelling originally approved in 1955 with a double hardstand parking area within the front setback, and a full-width timber deck at the rear. The rear garden contains some natural sandstone outcrops and several significant trees, including an 8m-high Jacaranda and two 22-25m-high Casuarina trees.

Surrounding development is predominately residential with a mixture of low density buildings: single dwellings, semi-detached, and dual occupancies, with sloping blocks down to the Middle Harbour waterfront.



Figure 4. Aerial photograph of subject site (outlined yellow) and surrounding

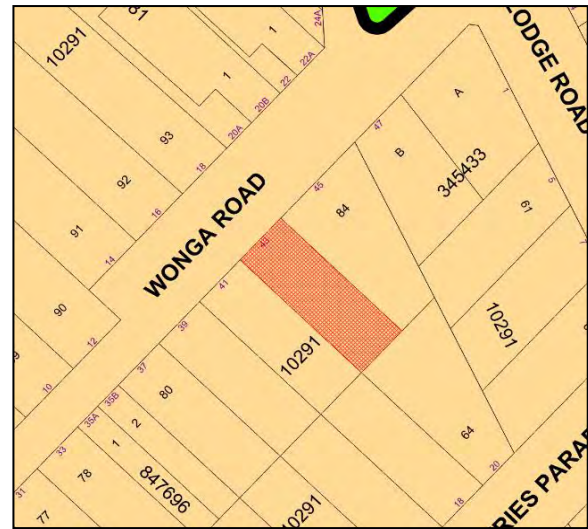


Figure 5. NSLEP Zoning map with the subject site hatched red in the C4 Zone.



Figure 6. View of the subject site from Wonga Road.



Figure 7. View of the garden from the existing rear deck.



Figure 8. View of the rear elevation of the subject dwelling from the garden.



Figure 9. View of the rear elevation of the subject dwelling from the garden of 41 Wonga Road.

RELEVANT HISTORY

Building Application No. 55/50 (lodged 4 March 1955) for the construction of a single residence at a cost of £7,000, was approved by Council on 15 March 1955. G. C. Walton, builder. Further amendments to the plans were subsequently approved on 6 September 1955.

Building Application No. 83/472 (lodged 22 September 1983) for the addition of a timber rear deck and various internal alterations, was approved by Council on 10 November 1983.

Building Application No. 87/416 (lodged 2 June 1987) for the addition of a brick boundary fence along the side behind the building line, was approved by Council on 5 June 1987.

Building Application No. 87/516 (lodged 2 July 1987) for the addition of a timber picket fence above the existing front retaining wall, was approved by Council on 3 December 1987.

Development Application No. 463/99 (lodged 12 December 1999) for the conversion of a single car garage under the house to a new bedroom, including the provision of new doors and windows, and replacement of the existing garage door, was approved by Council on 11 April 1999.

Development Application No. 976/01 (lodged 17 September 2001) for the erection of a double garage in the front garden of the site, a new render brick front fence, and associated landscaping, was refused by Council at its meeting on 11 March 2002, due to its detrimental visual impact on the streetscape.

Development Application No. 248/02 (lodged 29 May 2002) for the construction of a paved double parking area within the front setback, with an automatic sliding gate, new front fence, and associated landscaping, was approved by Council under delegation on 29 August 2002.

Current Application History

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

Date	Action
17 March 2025	The application was lodged with Council.
21 March 2025	The subject application was notified to adjoining properties and the Willoughby Bay Precinct Committee between 4 April 2025 and 18 April 2025. Three (3) submissions were received.
11 April 2025	A site inspection was undertaken by Council Officers.
16 April 2025	A site inspection to an adjoining site (20 Ryries) was undertaken by Council Officers.
7 May 2025	A site inspection to an adjoining site (41 Wonga) was undertaken by Council Officers.
13 May 2025	Additional information was requested from the applicant in the form of additional solar/shadow diagrams/perspectives to more clearly understand the solar impacts upon neighbouring sites.
4 June 2025	A Request for Information letter was sent to the applicant raising concerns regarding solar access amenity impacts, and landscaping/trees, and requesting additional information to resolve these issues. The applicant was given 7 days (11 June) to respond.
5 June 2025	The applicant provided additional solar/shadow diagrams to satisfy part of Council's RFI request.
11 June 2025	The applicant provided an arborist report to satisfy the remaining part of Council's RFI request.

REFERRALS

Building

The proposed works as amended have not been assessed in accordance with the National Construction Code of Australia. This would need to be undertaken prior to the issue of a Construction Certificate. Should significant changes be required to achieve compliance with NCC standards, a Section 4.55 application may be necessary.

Engineering

The application was referred to Council's Development Engineer who raised no objection, nor recommended any special conditions.

Landscaping

The proposal was referred to Council's Landscape Officer, who raised no overall objection subject to conditions to ensure appropriate management of trees and vegetation, provision of replenishment trees and to ensure an appropriate landscape response to the proposal.

SUBMISSIONS

On 21 March 2025, the subject application was notified to adjoining properties and the Willoughby Bay Precinct Committee between 4 April 2025 and 18 April 2025. Three (3) submissions were received. The issues raised in the submissions are summarised below and addressed later.

Basis of Submissions

- Generally support of the proposal as it maintains the character and improves amenity.
- Request that the existing landscape buffer/trees along the northern boundary be retained to maintain visual separation between neighbours.
- Oppose the proposed new roof height as it will add significant additional bulk and impact upon water views.
- The existing hedge along the rear of the property is obstructing water views and should be restricted in height.
- The proposed rear additions are inconsistent with the prevailing rear setbacks and creates significant overshadowing to the rear elevation and private open space of 41 Wonga.
- The proposed front additions will diminish views and privacy for adjoining sites.

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

Section 2.6 of the Policy specifies that a person must not clear declared vegetation in a non-rural area of the State without the consent of Council. The Policy confers the ability for Council to declare vegetation that consent is required in a Development Control Plan. Section 16 of Part B in NSDCP 2013 specifies declared trees for the purpose of the SEPP.

Subject to appropriate conditions, the proposed development would not require the removal of any significant vegetation defined under this SEPP or have any impact upon any bushland areas. Appropriate conditions have been recommended to ensure the retention of significant trees and the maintenance of an appropriate landscaped context.

SEPP (Biodiversity and Conservation) 2021 – Chapter 6 – Water Catchments

Under Chapter 6 of this SEPP, the subject site does not include land in the Sydney Harbour foreshores and waterways area, and subject to conditions the proposed works will not adversely affect the scenic, ecological, or water quality of Sydney Harbour and its waterways and is considered acceptable with regard to the above SEPP.

SEPP (Resilience and Hazards) 2021 – Chapter 4 – Remediation of Land

Chapter 4 of this SEPP requires 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 (Sustainable Buildings) 2022

The applicant has submitted a valid BASIX Certificate (A1764686_04, dated 28 February 2025) to satisfy the requirements of the above SEPP.

North Sydney Local Environmental Plan 2013

Permissibility

The subject site is Zoned C4 Environmental Living under the provisions of the *NSLEP 2013*. The proposal involves alterations and additions to an existing detached dwelling house, which is a permissible form of development in the Zone C4 with consent from Council.

Objectives of the zone

The objectives of the Zone C4 are stated below:

- *To provide for low-impact residential development in areas with special ecological, scientific, or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposed development will retain the existing detached dwelling in an area characterised by lower density residential development, and will ensure that a high level of amenity for the residents, as well as those of neighbouring properties, is likely to be maintained. The proposal also involves relatively minor alterations and additions that will not have a significant impact upon the natural or cultural heritage of the area.

Clause 4.3 – Height of Buildings

A maximum height of buildings of 8.5m is permitted on this site under *NSLEP 2013*. The proposal will increase maximum height of the development on the site to 11.43m (a maximum variation of 2.93m or 34.47%) and consequently requires a variation to the development standard in clause 4.6 in *NSLEP 2013* (see discussion below).

Clause 4.6 – Contravention of a Development Standard

Extent of the Variation

The proposed works located above the height limit result in an extended maximum height of the building to be 11.43m. This represents a maximum variance of 2.93m or 34.47%. It is to be noted that the non-compliant elements above the height limit comprise only the roof and attic level storage, and not usable floor space.

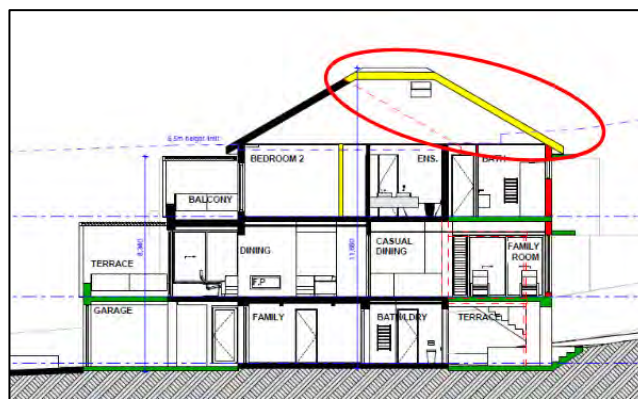


Figure 10. Section plan diagram showing the elements of the development that breach the height limit.

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 the *Webbhe Test* 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 above the height limit will be mostly contained within the existing building footprint above ground level and would not alter the development's overall relationship to the topography with minimal excavation, continuing the characteristic built form of the existing development, with developments accommodating the sloping topography of the area towards the harbour foreshores.

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

The proposed rear addition with a hipped roof will not have a significant impact upon the existing water views enjoyed towards Middle Harbour and district views towards Northbridge from the north-facing windows and terraces on the northern rear elevation of No. 20 Ryries Parade (See Figure 11 below). There is also likely to be only a minor impact upon north-easterly views across the front of the site from the north facing balcony of 41 Wonga Road (see Figures 12-13). A view impact assessment on these views is provided below.



Figure 11. View from the First floor north-facing kitchen/living space (L) and the Ground Floor outdoor roof terrace looking over the subject site.



Figure 12. View looking north-east from the ground floor level front balcony of 41 Wonga Road.



Figure 13. View looking north-east from the first floor level front balcony of 41 Wonga Road.

Planning Principle – View Sharing

To understand whether the proposal will ensure a reasonable level of view sharing for adjoining private property, consideration is given to the four (4) step process adopted by Commissioner Roseth of the NSW Land and Environment Court in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

- 1. Assessment of views to be affected;**
- 2. Consider from what part of the property the views are obtained.**

The affected views are as follows:

- A highly filtered northern view through mature trees and buildings to the waters of Middle Harbour and Northbridge, from the northwest-facing rear elevation of 20 Ryries Parade. This view is obtained from the first-floor level living room/kitchen windows and balcony over the rear boundary between Nos. 43 and 45 Wonga Road and over the top of the existing dwelling on the subject site and through dense vegetation/tree canopy. No water view or land/water interface is currently visible to the west or over the top of the existing dwelling roof of 43 Wonga, although it is possible that some glimpse of water may be viewed during the winter period for the large Jacaranda tree on the subject site. The best portions of the view, namely to water and foreshore of northbridge accessed over the top of 45 Wonga Road, and between 43-45 Wonga, will be unaffected.
- A highly filtered view to the northeast over the front of the subject site, 45 Wonga Road, Wonga Road, and the Lodge Road Island Reserve to the waters of Middle Harbour. This is accessed from the north-west facing front elevation ground level and first floor level balconies of 41 Wonga Road. The ground level balcony is accessed via a primary lounge/living space, and the first-floor level balcony is accessed via a master bedroom suite.

It is to be noted that this water view was not able to be viewed from the ground level balcony due to the growth of mature trees within the front setbacks of 43-45 Wonga Road. It is noted that the extensive north-west water and district views will be unaffected. The first-floor level water view is unlikely to be affected by the works due to the elevation above the subject site and proposed works.

3. Assess the extent of the impact in qualitative terms as negligible, minor, moderate, severe, or devastating.

20 Ryries Parade

The northwest-facing first floor level living room/kitchen windows and balcony over the rear boundary and ground floor level terrace may lose a very small portion of the existing heavily filtered district view and/or possible a small water glimpse. This loss will be created through the proposed rear addition and roof extension. The affected view is considered to be negligible given the existing dense vegetation and buildings that already obscure this section of the views accessed from this property overall. It is to be noted that the best parts of the view, being the panoramic land-sky interface and district view of Northbridge, and the land-water interface and water view of Middle Harbour between 43-45 Wonga and over 45 Wonga, will not be affected by this proposal. Overall, the view impacts to this property are assessed as negligible.

41 Wonga Road

The northwest-facing ground floor front balcony of 41 Wonga may lose a portion of the water view/glimpse accessed over the front setback of 43-45 Wonga Road. However, as previously noted, it was not possible to clearly identify this view due to the presence of large trees that block and obscure this view within the front of 43-45 Wonga Road. This loss will be created through the front garage and terrace addition, but proposed elements creating this view loss are at a height compliant level. The remaining views of the district and the water to the north and north-west, as well as the north-east view at first floor level balcony, will be retained.

The affected view is considered to be negligible given the existing dense vegetation and buildings that already obscure the view, the views are obtained across multiple side boundaries, and the ground floor balcony retains the majority of its views elsewhere. Overall, the view impacts to this property are assessed as negligible.

4. Assess the reasonableness of the proposal that is causing the impact.

The view impacts for 20 Ryries and 41 Wonga are considered to be relatively minor and reasonable due to the mostly obscured nature of the views/glimpses impacted that are heavily filtered through vegetation and existing buildings, and the nature of the affected views, with the majority of the significant views from both properties elsewhere to water and the broader district being retained.

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

The proposal will result in some additional overshadowing to the northern side elevation and rear terrace/garden of 41 Wonga Road, with the majority of this overshadowing being created by height-compliant elements. Additional shadows will be cast over the rear terrace and garden from 9am to 12pm, when these areas will be overshadowed in the afternoon by the existing building at 41 Wonga Road.

While this will create overshadowing to a primary private open space area of the adjoining property, reducing the level of solar access to below the required 3-hours at mid-winter, the proposal is considered to be acceptable on merit for the following reasons:

1. The level of solar access to majority of the private open space at the rear of 41 Wonga Road, particularly towards the southern end of the site and the swimming pool will be mostly unaffected, retaining 3 hours solar access. The overshadowing only relates to the terraced/pergola areas attached to the dwelling at the rear and some adjoining landscaped area.
2. While the ground floor living/kitchen area is attached to the rear terrace, and are primary indoor/outdoor living areas, the property, like the majority of houses along this side of Wonga Road, have primary indoor and outdoor living spaces facing the northern street elevation to take advantage of the solar access and water/district views of this aspect. 41 Wonga is no different, with large balconies facing the north and a large indoor living space on the ground floor level which enjoy more than 3-hours of solar access.
3. Based upon the 3D Shadow Elevations provided by the applicant, it has been demonstrated that the proposed overshadowing is mostly created by the height-compliant elements of the proposal, with no significant difference on shadows between the proposal and a height compliant development in the same footprint.

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

The proposal is unlikely to create significant additional privacy impacts when compared to existing. The non-height-compliant elements do not contribute to any privacy impact, being only the roof and top of the top level of the rear addition. The 4.6 statement has adequately addressed this provision.

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

The site is located within the C4 Environmental Living zone and adjoins the C4 zone on all sides. The proposed works will retain the existing built form character, with some extensions to the rear, with a development that is broadly consistent with residential developments in the C4 zone.

(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 a non-compliance in building height and further extends this non-compliance, the overall development is generally compatible with the existing building and surrounding buildings, with the changes occurring in manner that is consistent with character of the surrounding area.

(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 3-storey building, and will maintain and extend this built form. Consequently the built form character of the area is unlikely to be significantly changed by this development, which comprises 2-3+ storeys to accommodate the sloping topography of the area down to the foreshore.

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, per the objectives in Section 1.3 of the EPAA 1979:

- *The proposed building height departure occurs largely as a consequence of the existing floor levels and roofline of the dwelling house, and the sloping topography of the site. The building retains a compatible three storey height and form. Reducing the building height to strictly comply with the 8.5m height control would result in a notable reduction to the amenity of each level or result in further excavation to the site which is a less desirable outcome for this particular lot.*
- *The design of the new development maintains sufficient solar access to the primary living spaces and takes advantage of the outstanding views by locating the principal living towards the northern aspect.*
- *The proposed development will reinforce the existing streetscape, be consistent with the general bulk and scale of the existing surrounding development and respect the prevailing development pattern. This promotes the orderly and economic use of the land (cl 1.3(c)).*
- *Similarly, the proposed development will provide for improved amenity within a built form which is compatible with the streetscape of Wonga Road which also promotes the orderly and economic use of the land (cl 1.3(c)).*

- The proposed new development is considered to promote good design and enhance the residential amenity of the buildings' occupants and the immediate area, which is consistent with the Objective 1.3 (g).*
- The proposed development improves the amenity of the occupants of the subject site and respects surrounding properties by locating the development where it will not unreasonably obstruct views across the site and will maintain the views from the site (1.3(g)).*
- The height non-compliance can be attributed to the form of the existing dwelling and the sloping topography of the site which is considered to be an environmental planning ground which supports the variation to the control.*

The above environmental planning grounds are considered to be well-grounded and are adequately justified within the submitted 4.6 variation request. Furthermore, the amenity impacts of the development are considered to be minor and mostly compliant with Council's controls in Part B of NSDCP 2013. The proposed alterations to the existing building will not significantly alter the existing scale of the building and have been designed to be relatively sympathetic to the existing building and with reference to the surrounding area. The proposal is therefore considered to be acceptable within the site circumstances.

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.

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 acceptable because it is consistent with the relevant development standard and the objectives of the zone.

Clause 6.10 – Earthworks

The proposal includes some minor excavation to facilitate the proposed extension, with some minor alterations to the rear ground level. These excavation works are unlikely to affect the stability and topography of the site and adjoining sites, and subject to conditions will not affect significant trees or natural features like sandstone outcrops. Council's Development Engineer and Landscape Officer have raised no objection in this regard, subject to appropriate conditions. The works are therefore considered compliant in this regard.

North Sydney Development Control Plan 2013

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013		
PART B - SECTION 1 - Residential Development		
	<i>Complies</i>	<i>Comments</i>
1.2 Function		
Mixed residential population Maintaining residential accommodation	Yes	The proposal will not change the accommodation provision or use of the existing dwelling.

1.3 Environmental criteria		
Topography	Yes	<p>The proposed works would be mostly contained within the existing building footprint above ground level and would not alter the development's overall relationship to the topography, and continuing the existing built form. These excavation works are unlikely to affect the stability and topography of the site and adjoining sites, and subject to conditions will not affect significant trees or natural features like sandstone outcrops.</p> <p>This excavation will not be visible from the public domain and the overall form and character of the existing dwelling, with its characteristic relationship to the area's topography, will be maintained. Council's Development Engineer has also raised no objection.</p>
Properties in proximity to Bushland	Yes	<p>While the site is within a bushland buffer zone, the proposal will not have a significant adverse impact upon any nearby bushland area, with a significant landscaped area across the site being retained, along with all significant site trees. Appropriate conditions are recommended to account for the changes in site landscaping and protection of significant trees during construction.</p>
Properties on Bush Fire Prone Land	N/A	<p>The site is not classified as Bush Fire Prone Land.</p>
Properties with a foreshore building line	N/A	<p>The site does not contain or adjoin any foreshore areas.</p>
Views	Yes	<p>See the discussion on view impacts on pages 11-14 of this report, where it was considered that the view impacts are relatively minor and acceptable within the site circumstances.</p>
Solar access	No (Acceptable on merit)	<p>The new rear additions will not result in significant new overshadowing for adjoining sites. See the discussion on solar impacts on page 14 of this report, where it was considered that the solar access impacts are relatively minor and acceptable within the site circumstances.</p>
Acoustic privacy Visual privacy	Yes	<p>41 Wonga Road: The proposed rear addition will extend further towards the rear boundary. The proposed south-facing window (W3.05) at first floor level will be for a bedroom and will have obscured glazing up to 1.7m, with clear glazing above. Consequently, the privacy impact for this window is likely to be limited. The same obscured treatment is included for the same window below (W2.12), which will minimise any privacy impact. The presence of significant trees and boundary screen planting will also assist in minimising any additional overlooking arising from the proposed rear facing bedroom windows at the first floor level (W3.04 and W3.02).</p> <p>The proposed ground floor terrace at the northern front above the double garage may create some additional overlooking towards the ground floor level balcony of 41 Wonga and perhaps obliquely into the indoor living area that accesses this space. However, this is at the street frontage of the site, with a highly level of mutual overlooking between the sites as well as from the public domain/street. As such, privacy is not considered to be a significant concern, as this will not significantly change. It should also be noted that views and outlooks across the front of sites is likely to be further impacts should privacy screening be considered.</p>

		<p>45 Wonga Road: The proposed rear extension has been appropriately designed to minimise privacy impacts in this regard. The proposed ground level terrace/balcony and associated openings will mostly overlook the rear yard and the substantial boundary screen planting, which is not being altered by this proposal. The proposed north-facing side bedroom window on the first floor level (W3.01) will have obscured glazing up to 1.7m, with clear glazing above. The presence of significant trees and boundary screen planting will also assist in minimising any additional overlooking arising from the proposed rear facing bedroom windows at the first floor level (W3.04 and W3.02).</p> <p>20 Ryries Parade: While the proposal will extend further to the rear, the proposal maintains a significant setback from the rear boundary and any openings to the rear of 20 Ryries. The presence of significant trees and boundary screen planting along the rear boundary will also be maintained, which will ensure that any privacy impacts are minimal.</p>
1.4 Quality Built Form		
Siting	Yes	The works are consistent with the existing siting of the building.
Setbacks	Yes/No (Acceptable on merit)	<p><u>Side Setbacks</u></p> <p>The proposed additions maintain the existing dwelling side setbacks at 2.44m on the northeastern side boundary with 45 Wonga Road, and 1.28-2.7m on the south-western side boundary with 41 Wonga Road. The setbacks to 45 Wonga are compliant with the control whereas, side setback of the rear addition from the boundary with 41 Wonga, whereby a 1.5m setback applies between 4-7m and 2.5m side setback applies above 7m, and a setback of 1.28m is proposed. This variation is relatively minor and is consistent with the existing side setback established by the original dwelling. It is noted that this setback continues to provide sufficient separation between buildings and does not result in significant amenity impacts as established elsewhere in this report.</p>
	No (Acceptable on merit)	<p><u>Front</u></p> <p>The proposal will reduce the existing front setback at lower ground level (11.97m) and ground level (9.23m) to 5.97m. The first floor level setback will be maintained at 11.97m. While this is not consistent with the setbacks of 45 Wonga (8.5m) or 41 Wonga (8.78m), the reduced setback only applies to the two lower levels, allowing for a stepped and articulated built form that is consistent with the surrounding area, and does not create significant amenity or character impacts to the surrounding area.</p>
	Yes/No (Acceptable on merit)	<p><u>Rear</u></p> <p>The character statement for the Northern Foreshores Neighbourhood specifies a characteristic rear setback of 10m. The proposal has a setback from the rear boundary of 13.97m, a reduction on the existing setback (17.8m). The approximate rear setbacks of adjoining properties along Wonga Road vary:</p> <ul style="list-style-type: none"> - 45 Wonga (8.9m) - 41 Wonga (17.7m) - 39 Wonga (15.9m) - 38 Wonga (14.2m)

		While the rear addition will reduce the rear setback away from the adjoining sites to the west, as shown in this report, the setback will not create significant amenity impacts for adjoining sites and will not affect the character of neighbourhood. Consequently, the proposed rear setback is considered appropriate for the subject site and the surrounding area within the circumstances.																
Form, massing and scale	Yes	The proposed works are consistent with the built form, massing, and scale within the area by maintaining the overall maximum height and scale of the existing terraced dwelling. The proposed additions will not result in a built form that is significantly out of scale with nearby developments.																
Built form character	Yes	The visual appearance and materials of the proposed additions are consistent with the existing dwelling and surrounding developments.																
Dwelling entry	N/A	The proposed modifications will have no impact on the dwelling entry.																
Roofs	Yes	The existing hipped and tiled dwelling roof will be maintained and extended, which is consistent with the characteristic roof forms of the surrounding area.																
Colours and materials	Yes	The proposed colours and materials are generally consistent with the existing and surrounding dwellings.																
1.5 Quality urban environment																		
High quality residential accommodation	Yes	The amenity of the dwelling will be enhanced by this proposal through a rationalised internal floorplan and improved usability/accessibility of internal spaces.																
Safety and security	Yes	Safety and security would not be compromised as a result of the subject development application.																
Site Coverage, Unbuilt-Upon Area, and Landscaped Area	Yes	<div>The proposed and existing levels of site coverage, landscaped area and unbuilt-upon area indicated in the table below:</div> <table><tr><th>Site Area: 505.9m²</th><th>Existing</th><th>Proposed</th><th>Complies</th></tr><tr><td>Site Coverage 40% (max)</td><td>26.21% 132.6m²</td><td>36.22% 183.27m²</td><td>Yes</td></tr><tr><td>Landscaped area 40% (min)</td><td>48.05% 243.1m²</td><td>45% 227.69m²</td><td>Yes</td></tr><tr><td>Unbuilt-upon area 20% (max)</td><td>25.73% 130.2m²</td><td>18.76% 94.94m²</td><td>Yes</td></tr></table>	Site Area: 505.9m ²	Existing	Proposed	Complies	Site Coverage 40% (max)	26.21% 132.6m ²	36.22% 183.27m ²	Yes	Landscaped area 40% (min)	48.05% 243.1m ²	45% 227.69m ²	Yes	Unbuilt-upon area 20% (max)	25.73% 130.2m ²	18.76% 94.94m ²	Yes
Site Area: 505.9m ²	Existing	Proposed	Complies															
Site Coverage 40% (max)	26.21% 132.6m ²	36.22% 183.27m ²	Yes															
Landscaped area 40% (min)	48.05% 243.1m ²	45% 227.69m ²	Yes															
Unbuilt-upon area 20% (max)	25.73% 130.2m ²	18.76% 94.94m ²	Yes															

Vehicle Access and Car parking	Yes	The proposal includes what is effectively the conversion of the two uncovered hardstand parking spaces within the front setback into a double garage in the same location. While this is the addition of covered parking to the front setback, which will result in the loss of some landscaping in the front setback, the development is generally considered to be acceptable as garages are common within the street context and the new garage will be an integrated addition that will read as part of the existing dwelling. The loss of landscaping within the front setback is recommended to be offset by the conversion of the driveway and associated paving with new landscaping and planters and the vehicular access to be tyre strips between soft landscaping (see Condition C13).
Landscaping and front gardens	Yes	The proposal will maintain a generally high level of landscaped area across the site (45%), and will retain all significant site trees and natural sandstone outcrops. The proposal includes some loss of landscaping and trees within the front setback, which is recommended to be offset by the conversion of the driveway and associated paving into new landscaping and planters and the vehicular access to be tyre strips between soft landscaping (see Condition C13).
Private and communal open space	Yes	A substantial area of private open space is retained for the dwelling.
1.6 Efficient use of resources		
Stormwater management	Yes	The proposal is unlikely to have a significant impact upon stormwater flows. New pipes will connect to the existing system draining to the street.
Energy Efficiency	Yes	A valid BASIX Certificate has been lodged with this proposal.

North Cremorne Planning Area (Northern Foreshores Neighbourhood)

Consideration has been given to the Character Statement for the North Cremorne Planning Area in Part C of NSDCP 2013, particularly Section 5.4 (Benelong and Northern Foreshores Neighbourhood). The proposal is acceptable as the works will generally have a sympathetic scale to existing neighbouring development, sloping topography, and the majority of the additions are confined to the rear away from the public domain and have a submissive scale to the original dwelling. Subject to conditions, it is considered that the materials and overall appearance of the proposal will be sympathetic with the existing dwelling and development in the neighbourhood, and the development generally conforms to the relevant provisions in Part B in NSDCP 2013.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The proposal, which involves development where the cost of the proposed development is more than \$100,000, is classified under the North Sydney Local Infrastructure Contributions Plan 2020 as a 'Type (c) development' that triggers a Section 7.12 contribution of **\$9,827.00**, for the purposes of local infrastructure provision.

Contribution amounts payable

Applicable contribution type		
s7.12 contribution details	Development cost:	\$982,676.56
(Payment amount subject to indexing at time of payment)	Contribution:	\$9,827.00

A condition is recommended requiring payment prior to issue of any Construction Certificate (refer to **Condition C16**).

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 EPA&A 1979)

The application was notified to surrounding properties and the precinct committee. Three individual submissions were received. The following matters were raised in the submissions (summarised, *in italics*):

- ***Request that the existing landscape buffer/trees along the northern boundary be retained to maintain visual separation between neighbours.***

The existing landscaped buffer of Tuckeroo trees along the side boundary of the front setback between Nos. 43 and 45 Wonga Road will be retained and the trees are recommended for protection during construction. Additional landscaping for the front setback is also recommended by condition to ensure an appropriate landscaped context (see **Condition C13**).

- ***Oppose the proposed new roof height as it will add significant additional bulk and impact upon water views.***
- ***The existing hedge along the rear of the property is obstructing water views and should be restricted in height.***

See the discussion regarding views elsewhere in the report, where it was considered that while some district views/water glimpses may be affected by the proposal, this is considered to be acceptable within the site circumstance and the majority of significant water and district views will be retained by this proposal.

The comments regarding maintaining boundary trees for view maintenance is noted. However, these trees fall outside the scope of works and further action is recommended in this regard. This is regard as a civil matter between neighbours under the *Trees (Disputes Between Neighbours) Act 2006*.

- ***The proposed front additions will diminish views and privacy for adjoining sites.***
- ***The proposed rear additions are inconsistent with the prevailing rear setbacks and creates significant overshadowing to the rear elevation and private open space of 41 Wonga.***

See the comments elsewhere in this report regarding amenity impacts, where it was concluded that the proposal is unlikely to have significant impacts upon neighbouring sites in this regard.

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 THE COMMUNITY VIEWS WERE TAKEN INTO CONSIDERATION

The subject application was notified to surrounding properties and the precinct committee seeking comment and three submissions were received, raising various concerns. Subject to conditions, it is considered that the proposal would provide improved amenity for the residents without causing any significant unreasonable impacts to the streetscape and/or upon the general amenity of adjoining properties.

CONCLUSION AND 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 proposed development is also generally in accordance with the objectives in *NSDCP 2013*.

The proposed additions are mostly compliant with Council's controls in *NSDCP 2013*, with alterations and additions that are generally in keeping with the built form character and bulk and scale of the surrounding area and the existing dwelling. 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.

The works will also maintain a sympathetic scale that is consistent with the existing building and surrounding buildings, and accords with the built form of the neighbourhood and the sloping topography of the site. Conditions are recommended for the preparation of an appropriate landscape scheme for the site, including new landscaping for the driveway area, and for the protection of significant trees.

There would be no significant or unreasonable overshadowing, view loss, privacy loss and/or excessive bulk and scale as a result of the proposal given that the proposed alterations and additions will be relatively sympathetic to the surrounding area, and are generally in-keeping with the character and scale of the neighbourhood.

Subject to conditions, the proposed works will provide additional resident amenity through improved accessibility and the enhancement of private indoor and outdoor spaces, without significantly impacting upon the character and scale of the surrounding area, significant trees and the landscaped context of the site, or the amenity of adjoining properties.

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, Housing and Infrastructure 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. 59/25 for alterations and additions to an existing detached dwelling, on land at 43 Wonga Road, Cremorne, subject to the attached standard conditions:-

ANDREW BEVERIDGE
SENIOR ASSESSMENT OFFICER

ISOBELLA LUCIC
TEAM LEADER ASSESSMENTS

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
43 WONGA ROAD, CREMORNE
DEVELOPMENT APPLICATION NO. 59/25

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 endorsed with Council's approval stamp and other documentation listed in the tables to this condition, or cited by other conditions, and as amended by other conditions of this consent.

No.	Rev.	Title	Drawn by	Date	Received
A01	A	Site Plan	Ian Poole Architect	06/03/2025	17/03/2025
A08	A	Garage Level – Demolition		06/03/2025	17/03/2025
A09	A	Ground Floor Plan – Demolition		06/03/2025	17/03/2025
A10	A	First Floor Plan – Demolition		06/03/2025	17/03/2025
A11	A	Garage Level – Proposed		06/03/2025	17/03/2025
A12	A	Ground Floor Plan – Proposed		06/03/2025	17/03/2025
A13	A	First Floor Plan – Proposed		06/03/2025	17/03/2025
A14	A	Roof Plan – Proposed		06/03/2025	17/03/2025
A16	A	Section A – Proposed		06/03/2025	17/03/2025
A17	A	Section B – Proposed		06/03/2025	17/03/2025
A19	A	Section C – Proposed		06/03/2025	17/03/2025
A21	A	West Elevation – Proposed		06/03/2025	17/03/2025
A23	A	South Elevation – Proposed		06/03/2025	17/03/2025
A25	A	East Elevation – Proposed		06/03/2025	17/03/2025
A27	A	North Elevation – Proposed		06/03/2025	17/03/2025
A28	A	External Finishes Schedule		06/03/2025	17/03/2025
A45	A	Window Schedule 1		06/03/2025	17/03/2025
A46	A	Window Schedule 2		06/03/2025	17/03/2025
A50	A	Landscape Plan		18/09/2024	17/03/2025

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

Plans on Site

- A2. A copy of all plans endorsed with Council's approval stamp, specifications and documents (including the plans, specifications and documents submitted and approved with all Construction Certificates) must be always kept on site and be readily available for perusal by an officer of Council or the Principal Certifier.

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DEVELOPMENT APPLICATION NO. 59/25**

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All documents kept on site in accordance with this condition must be provided to any officer of the Council or the Principal Certifier 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 (Plan No. A28, Revision A), prepared by Ian Poole, Architect and dated 6 March 2025, unless otherwise modified by Council in writing. Substitution of materials must not be undertaken, except where otherwise approved in writing by Council.

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

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 predeveloped condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any infrastructure damaged before development commences, so 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 Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

The Applicant 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 Applicant shall be responsible for the cost of repairing any public infrastructure damaged during the course of the development. No occupancy of the development shall be permitted until all such damage has been rectified.

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

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

Dilapidation Survey Private Property (Neighbouring Buildings)

- C2. A photographic survey and dilapidation report of adjoining property No 41 Wonga Road (northern side setback only) detailing the physical condition of the property, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of the relevant Construction Certificate.

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

Should access for undertaking the photographic survey and dilapidation report be 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)

Structural Adequacy of Existing Building

- C3. 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 Principal Certifier for approval prior to issue of the relevant 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)

Erosion and Sediment Control

- C4. Where any works authorised by this consent require disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication, *Managing Urban Stormwater: Soils and Construction*, (4th Edition, Landcom, 2004) commonly referred to as the "Blue Book," or a suitable and effective alternative method.

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An Erosion and Sediment Control Plan must be prepared and implemented prior to any works commencing. The Erosion and Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained;
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Erosion and Sediment Control Plan.

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

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

Waste Management Plan

- C5. A Waste Management Plan prepared in accordance with the provisions of Part B Section 19 of *the North Sydney DCP 2013*, must be submitted for approval by the Principal Certifier prior to the issue of the relevant 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)

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Work Zone

- C6. If a Work Zone is required a Work Zone permit is to be obtained from Council prior to the issue of any Construction Certificate.

Note: For major development, an application for work zone permit must be considered by the North Sydney Local Traffic Committee.

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. Work 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 Principal Certifier to enable issue of the relevant Construction Certificate.

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 Applicant is required to remove the Work Zone signs and reinstate any previous signs, all at the Applicant'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)

Stormwater Disposal

- C7. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the NCC and current plumbing standards and guidelines. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure appropriate provision for disposal and stormwater management arising from the development)

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

- C8. Prior to the issue of the relevant Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$2,500.00 to be held by Council for the payment of the cost for the following relevant matters:
- 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 6 months after the work is completed, and
- d) Council reserves the right to retain all bonds on infrastructure works relating to the completion of required Infrastructure work for a 12-month defect liability period. Council may elect to provide a lesser period for minor residential work.

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 the relevant Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Development Engineers or Manager of Development Services.

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 Principal Certifier must ensure that security is provided to North Sydney Council prior to issue of the relevant Construction Certificate.

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

Tree Protection Measures to be shown on Construction Drawings

- C9. The tree protection measures contained in the arborist report prepared by Mark Bury Consulting, dated 11 June 2025 and as subsequently amended by conditions contained herein, shall be shown clearly on the relevant Construction Certificate drawings, and other relevant plans for works authorised by this consent. Plans and specifications showing the said tree protection measures must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure that appropriate tree protection measures are shown on construction drawings)

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Protection of Trees

- C10. 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:

Tree Species	Location	Height
T1 <i>Jacaranda mimosifolia</i>	Rear garden of 43 Wonga Road	8x6m
<i>Camellia</i> sp.	Rear garden of 43 Wonga Road – on side boundary with 45 Wonga Road.	4-5m
2 x <i>Cupaniopsis anacardiodes</i>	Front setback of 43 Wonga Road – on side boundary with 45 Wonga Road.	4-5m

Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant 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. No canopy pruning shall be permitted to any protected tree. All scaffolding and associated building works shall be designed such that no canopy pruning is required.

(Reason: Protection of existing environmental and community assets)

Approval for Removal of Trees

- C11. The following tree(s) are approved for removal in accordance with the development consent:

Trees for Removal	Location	Height
<i>Acer palmatum</i>	Front setback – 43 Wonga Road.	~3-4m

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Section 16 of the *North Sydney Development Control Plan 2013*.

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.

(Reason: Protection of existing environmental/community assets, and to ensure that plants identified as weed species are not allowed to proliferate or interfere with a quality landscaping outcome)

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Pruning of Trees

- C12. All pruning works to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

Tree	Location	Height
T1 <i>Jacaranda mimosifolia</i>	Rear garden of 43 Wonga Road	8x6m
<i>Camellia</i> sp.	Rear garden of 43 Wonga Road – on side boundary with 45 Wonga Road.	4-5m

A report detailing the measures to be employed during works authorised by this consent shall be submitted to Council and the Principal Certifier for approval prior to the issue of any Construction Certificate.

All measures required by the said report must be complied with at all times in the carrying out of the development.

(Reason: To ensure the protection and longevity of existing significant trees)

Amendments to the Landscape Plan

- C13. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

1. The landscape plan must include all changed elements of on-site landscaping, including showing trees to be retained/removed as per **Conditions C10-C11**.
2. The driveway paved area in between the boundary and the garage is to be redesigned to comprise the minimum amount of paving possible, and include the following:
 - a. The two vehicular access ways to the garage are to only comprise two sets of paved tyre tracks between some kind of soft landscaping (such as lawn or other ground cover).
 - b. The sides of the vehicular crossings are to comprise landscaped planters of a minimum width of 500mm on the northern side and 1m on the southern side. This should also include a new tree that is capable of attaining a minimum mature height of 7m.
3. Any new planting must be identified, including the following:
 - a. species, plant numbers, and pot size.
 - b. 50% of the overall number of new trees, shrubs and groundcovers being locally occurring native species (see Council's website: <https://www.northsydney.nsw.gov.au/native-environment/biodiversity-conservation/1>).

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 within a bushland buffer zone)

Asbestos and Hazardous Material Survey

- C14. 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 SafeWork NSW licensed contractor;
- b) all removal must be in strict accordance with the requirements of the SafeWork NSW in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- 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 Principal Certifier as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Air Conditioners in Residential Premises

- C15. The use of any air conditioner installed on the premises must comply with the requirements of *the Protection of the Environment Operations (Noise Control) Regulations 2017* and *State Environmental Planning Policy (Transport and Infrastructure) 2021* and must not:

- a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - i. before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
 - ii. before 7.00am or after 10.00pm on any other day
- b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of *the Environment Protection Authority Noise Policy for Industry 2017* will be applied.

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“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

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

(Reason: To maintain residential amenity)

Local Infrastructure Contributions

- C16. A monetary contribution pursuant to the provisions of section 7.12 of the *Environmental Planning and Assessment Act 1979* is to be paid to Council, in accordance with the North Sydney Council’s Local Infrastructure Contributions Plan. Based on the cost of development a total contribution of **\$9,827.00** is to be paid to Council to provide for additional local infrastructure improvements.

The contribution MUST BE paid prior to the 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.

A copy of the *North Sydney Local Infrastructure Contribution Plan 2020* can be viewed at North Sydney Council’s Customer Service Centre, 200 Miller Street, NORTH SYDNEY, or downloaded via Council’s website at www.northsydney.nsw.gov.au.

(Reason: To provide for local infrastructure identified in the *North Sydney Council Local Infrastructure Contributions Plan 2020*)

Security Deposit/Guarantee Schedule

- C17. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of the relevant Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Footpath Damage Bond	\$2,500.00
TOTAL BONDS	\$2,500.00

Note: The following fees applicable

Fees	
Section 7.12 Development Contributions	\$9,827.00
TOTAL FEES	\$9,827.00

(Reason: Compliance with the development consent)

BASIX Certificate

- C18. Under section 75 of the *Environmental Planning and Assessment Regulation 2021*, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A1764686_04, dated 28 February 2025 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

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

- D1. 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).

The tree protection measures detailed in the approved Tree Protection and Management Plan, and as directed by the project arboriculturist must be established before work commences and be maintained at all times during construction activity.

Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of piers/footings shall be used within the TPZ of any protected tree. No roots greater than 40mm shall be cut. No stormwater or any underground services shall be directed through the TPZ of any protected tree.

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

Temporary Fences and Tree Protection

- D2. All protected trees on-site that are specifically nominated to be retained by notation on plans or by a condition 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 builder's waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), not less than the distance shown in the schedule hereunder, must be installed to the satisfaction of the Project Arborist prior to 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)

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Public Liability Insurance - Works on Public Land

- D3. 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

- D4. Works in accordance with this development consent must not be commenced until the Applicant has given at least two days' notice to North Sydney Council of the person's intention to commence works 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***Parking Restrictions**

- E1. 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 Applicant 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

- E2. 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 accessways fronting the construction site.

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Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers (at full Applicant 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

- E3. During construction, stormwater runoff must be disposed of 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 Principal Certifier.

(Reason: Stormwater control during construction)

Removal of Extra Fabric

- E4. 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)

Dust Emission and Air Quality

- E5. 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)

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Noise and Vibration

- E6. 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)

No Work on Public Open Space

- E7. No work can be undertaken within adjoining public lands (i.e., parks, reserves, roads, etc.) without the prior written consent of Council. In this regard the Applicant is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land, and to ensure public safety and proper management of public land)

Applicant's Cost of Work on Council Property

- E8. The Applicant or the person, company or other entity that is acting upon this consent, 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

- E9. 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

- E10. 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 recommendations contained within the tree report prepared by Mark Bury Consulting g, dated 11 June 2025, as subsequently amended by conditions contained herein, must be implemented for the duration of the works. 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.

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Notes:

- 1) 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.
- 2) An application to modify this consent pursuant to Section 96 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)

Trees to be Removed

- E11. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal:

Trees for Removal	Location	Height
<i>Acer palmatum</i>	Front setback – 43 Wonga Road.	~3-4m

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

Special Permits

- E12. 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 Applicant, 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**

For example, 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 Applicant'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)

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

- E13. Construction activities and works approved under this consent must be restricted to within the hours stipulated in the following table:

Standard Construction Hours	
Day	Hours
Monday - Friday	7.00am - 7.00pm
Saturday	8.00am - 1.00pm
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, *the EPA Noise Policy for Industry 2017* 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 *Environmental Planning and Assessment 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 Erosion and Sediment Controls

- E14. 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 relevant Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication *Managing Urban Stormwater: Soils and Construction 4th ed. 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)

Site Amenities and Facilities

- E15. Where work involved in the erection and/or demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW 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

- E16. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW 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.

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

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

Archaeological Discovery During Works

- E17. Should any historical or Aboriginal relic be discovered on the site during demolition, excavation or site preparatory works, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW must be informed in accordance with the provisions of *the Heritage Act 1977* and/or *National Parks and Wildlife Act 1974*. Works must not recommence until such time as approval to recommence is given in writing by Council or a permit from the Director of the NPWS is issued.

(Reason: To prevent the unnecessary destruction or removal of unrecorded historical or Aboriginal relics)

Prohibition on Use of Pavements

- E18. 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

- E19. 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

- E20. 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 Environment Protection Authority.

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

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Asbestos Removal

- E21. All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current SafeWork NSW Asbestos or "Demolition Licence," and a current SafeWork NSW "Class 2 (Restricted) Asbestos Licence" (or equivalent). Removal must be carried out in accordance with National Occupational Health and Safety Commission requirements.

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

Service Adjustments

- E22. The adjustment or inclusion of any new utility service or facilities must be carried out by an appropriately qualified contractor in accordance with the requirements of the relevant utility authority.

These works shall be at no cost to Council. It is the Applicant's responsibility to contact the relevant utility authorities to ascertain the impacts of the proposal upon utility services prior to the commencement of any work, including demolition (including water, phone, gas and the like).

Council accepts no responsibility for any impact on, or influence upon, utility services provided by another authority.

(Reason: To ensure the service requirements are met)

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 Certifier 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:

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- 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 condition is out of date, work must cease, and no further work may be carried out unless the Principal Certifier 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 condition, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifier

- F3. Building or excavation works in accordance with the development consent must not be commenced until the Applicant has appointed a Principal Certifier for the building work in accordance with the provisions of *the Environmental Planning and Assessment Act 1979* and its Regulation.

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

Construction Certificate

- F4. Building or excavation works in accordance with the development consent must not be commenced until the Construction Certificate for the relevant part of the work has been issued.

Note: For clarity, this condition does not apply to demolition of whole buildings and works. A Construction Certificate is not required for these works. Demolition is controlled by AS 2601-2001 - Demolition of Structures. This Australian Standard requires safeguards to be in place before demolition commences, including traffic control and management, which may form part of the Construction Traffic Management Plan. Vegetation may also be removed or cleared unless the development consent requires that specified vegetation must not be removed.

(Reason: Statutory, to ensure appropriate safeguards are in place prior to the commencement of any works)

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Occupation Certificates

- 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 the relevant Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory compliance)

Mandatory Critical Stage Inspections

- F6. Building work must be inspected by the Principal Certifier at the critical stages prescribed by the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021*, and as directed by the appointed Principal Certifier.

(Reason: Statutory)

Excavation/Demolition

- F7. Excavation and demolition shall be carried out as follows:

- a) All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- b) All excavation 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.
- c) 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.

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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 Certifier for the work.
- 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 the relevant 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. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(Reason: Maintain quality of Public assets)

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Certification - Civil Works

- G2. a) An appropriately qualified and practising Civil Engineer must certify to the Principal Certifier 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 Principal Certifier) upon completion of the development works and prior to the issue of the relevant Occupation Certificate.
- b) An appropriately qualified and practising Civil Engineer must certify to the Principal Certifier that the vehicular crossing and associated works, and road works were constructed in accordance with this consent and any approval for works in the road reserve issued by the Council. A copy of the certificate must be submitted to Council (if it is not the Principal Certifier), upon completion of the development works and prior to the issue of the relevant 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)

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 the relevant Occupation Certificate. This shall be at no cost to Council.

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

Asbestos Clearance Certificate

- G5. 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 Principal Certifier (and a copy forwarded to Council if it is not the Principal Certifier) for the building work prior to the issue of the relevant 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.

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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

- G6. Prior to the issue of the relevant Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Principal Certifier, describing the health of the tree(s) specifically nominated below:

Tree Species	Location	Height
T1 <i>Jacaranda mimosifolia</i>	Rear garden of 43 Wonga Road	8x6m
<i>Camellia</i> sp.	Rear garden of 43 Wonga Road – on side boundary with 45 Wonga Road.	4-5m
2 x <i>Cupaniopsis anacardiodes</i>	Front setback of 43 Wonga Road – on side boundary with 45 Wonga Road.	4-5m

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

- G7. In accordance with section 45 *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, prior to issuing the relevant Occupation Certificate the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

Landscaping

- G8. The landscaping shown in the approved landscape documentation cited in condition A1 and as amended by this consent, must be completed prior to the issue of the relevant Occupation Certificate.

(Reason: To ensure compliance)

Compliance with Certain Conditions

- G9. Prior to the issue of the relevant Occupation Certificate, Condition C13 (Amendments to the Landscape Plan), 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)

**43 WONGA ROAD, CREMORNE
DEVELOPMENT APPLICATION NO. 59/25**Page 25 of 25

I. Ongoing/Operational Conditions**Single Occupancy**

11. Nothing in this consent authorises the use of the premises other than for a single <specify what type of occupancy as necessary> occupancy.

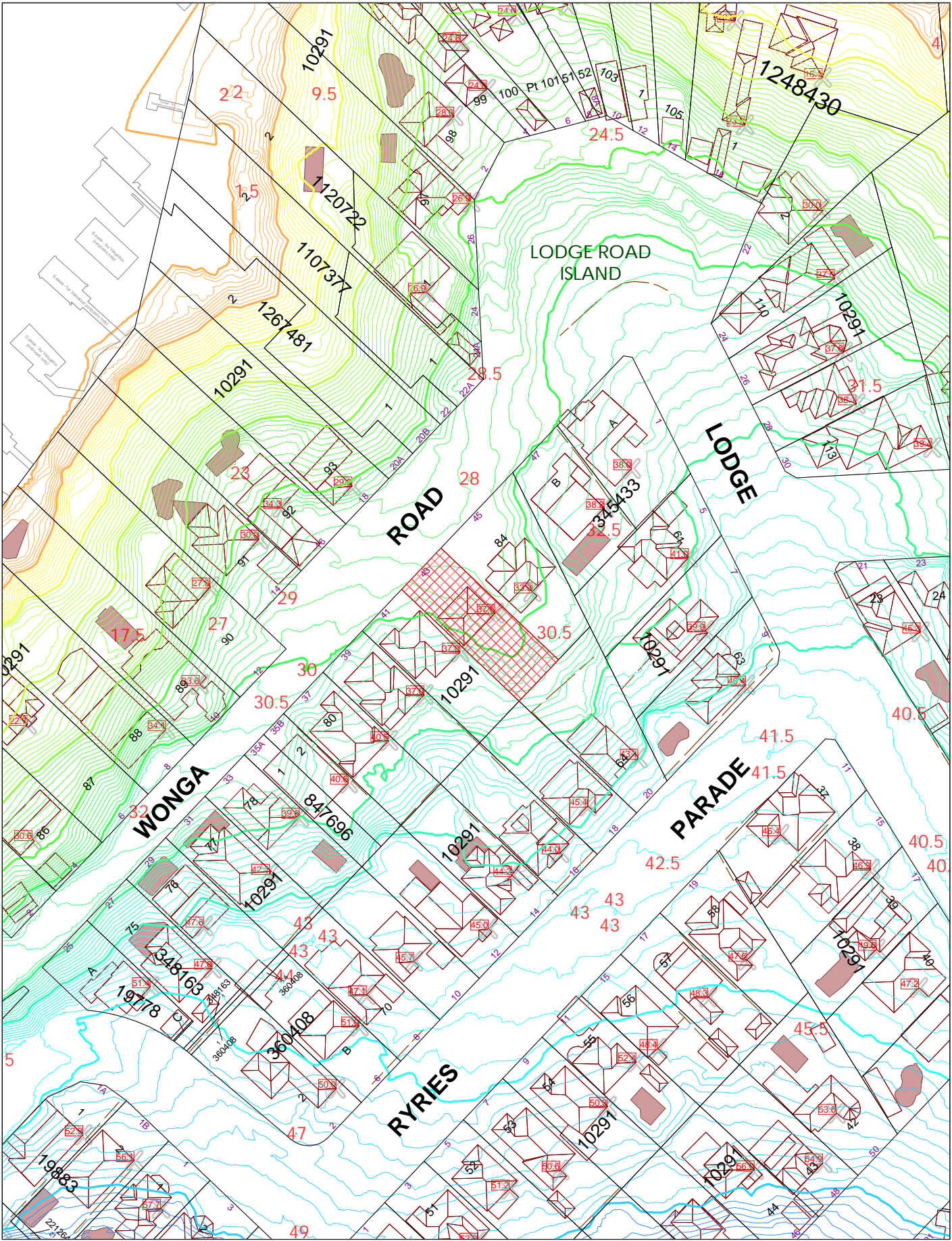
(Reason: To ensure compliance with the terms of this consent)

Maintenance of Approved Landscaping

12. The owner of the premises at 43 Wonga Road, Cremorne is to maintain the landscaping approved by this consent generally in accordance with the approved landscape plans, and as amended by this consent.

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 of adjoining properties)



North Sydney Council

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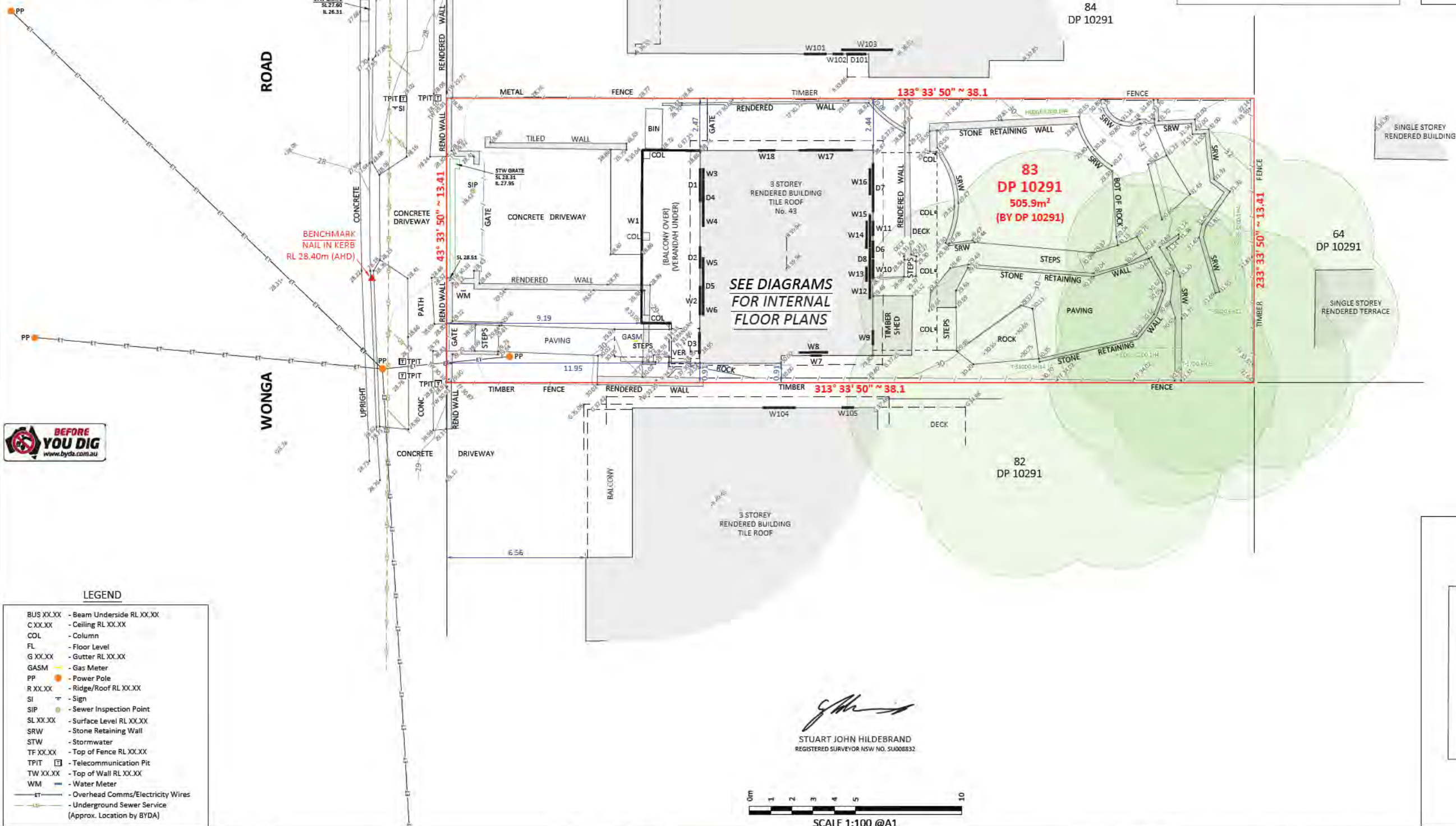
Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.

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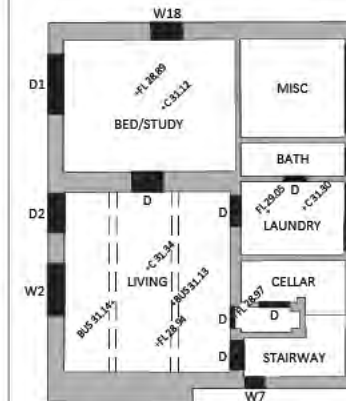


NOTES

- Do not scale from this plan.
- Boundary locations and boundary setbacks have been identified using survey marks and monuments in existence on the date of survey. Boundary locations and boundary setbacks shown are intended for planning and design purposes only and must not be used for construction set-out or any other purpose. If any construction is proposed on or adjacent to a boundary then that boundary must be defined by a Registered Surveyor prior to commencement.
- The purpose of this Detail Survey plan is to show detail, levels and setbacks for planning and design. Do not use the information shown for any other purpose.
- Contours are an indication of the topography and should only be used for planning purposes. Spot levels only should be used for detailed design.
- The location of any easements and interests shown has been calculated from the creating document noted in the Certificate of Title(s) for the subject site only and current at the date of survey. Easements and interests remote to the survey area have not been investigated. We strongly recommend obtaining an updated Certificate of Title prior to any design or construction.
- Building and feature descriptions are to be used for general identification purposes only and may require further investigation.
- Underground sewer service locations are approximate only and have been scaled using Before You Dig Australia service diagrams current on the date of survey (except sewer house connection lines). Other visible services have been located by survey. It is recommended to contact Before You Dig Australia and the relevant service authority prior to commencement of any work.
- Only those windows visible and unobscured from within the subject property on the date of survey have been located.
- Tree information and canopy location is approximate (and not necessarily symmetrical) and if critical may require further assessment.
- The DWG format file for this plan is integral and contains additional spatial information not able to be displayed in the PDF file.
- This drawing and the information it contains is copyright and remains the property of SurveyPlus Pty Ltd. It must not be copied, used or altered without the express authority of SurveyPlus.
- These notes and interests noted in the Certificate of Title form an integral part of this plan and must not be erased.



INTERNAL FLOOR PLAN GROUND FLOOR



INTERNAL FLOOR PLAN LEVEL 1



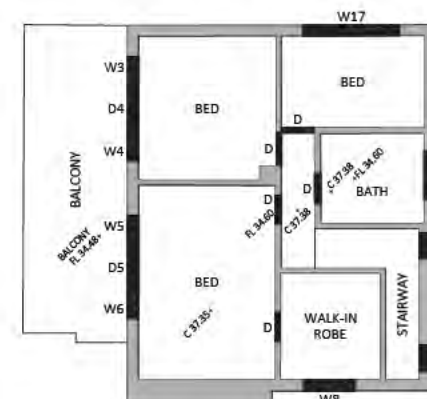
WINDOW/DOOR SCHEDULE (LOT 83 DP 10291)

No.	TOP RL	BOT. RL
W1	34.08	32.00
D1	31.13	28.88
D2	31.13	28.94
W2	31.12	29.63
D3	34.03	31.94
W3	36.67	34.77
D4	36.67	34.59
W4	31.13	28.94
W5	36.67	34.77
D5	36.67	34.59
W6	36.67	34.78
W7	31.01	30.53
W8	36.72	35.37
W9	35.07	32.88
W10	31.03	29.93
D6	31.16	29.00
W11	31.03	30.51
D7	31.13	28.93
W12	33.50	31.47
W13	36.41	34.25
D8	33.51	31.47
W14	36.95	35.56
W15	33.51	32.52
W16	33.51	32.52
W17	36.69	35.28
W18	31.42	29.58

WINDOW/DOOR SCHEDULE (ADJOINING LOTS)

No.	TOP RL	BOT. RL
W101	33.35	NOT VIS
W102	32.58	31.53
D101	32.58	NOT VIS
W103	26.06	35.54
W104	37.17	36.07
W105	34.31	32.16

INTERNAL FLOOR PLAN LEVEL 2



CLIENT
ALEX ZYLBERBERG

REVISION / DATE		REVISION DETAILS	SURVEY BY	DRAWN BY	CHECKED BY
A	8.11.2023	AS SURVEYED ON SITE	DO	CE	DO

surveyplus
land development consultants
www.surveyplus.com.au

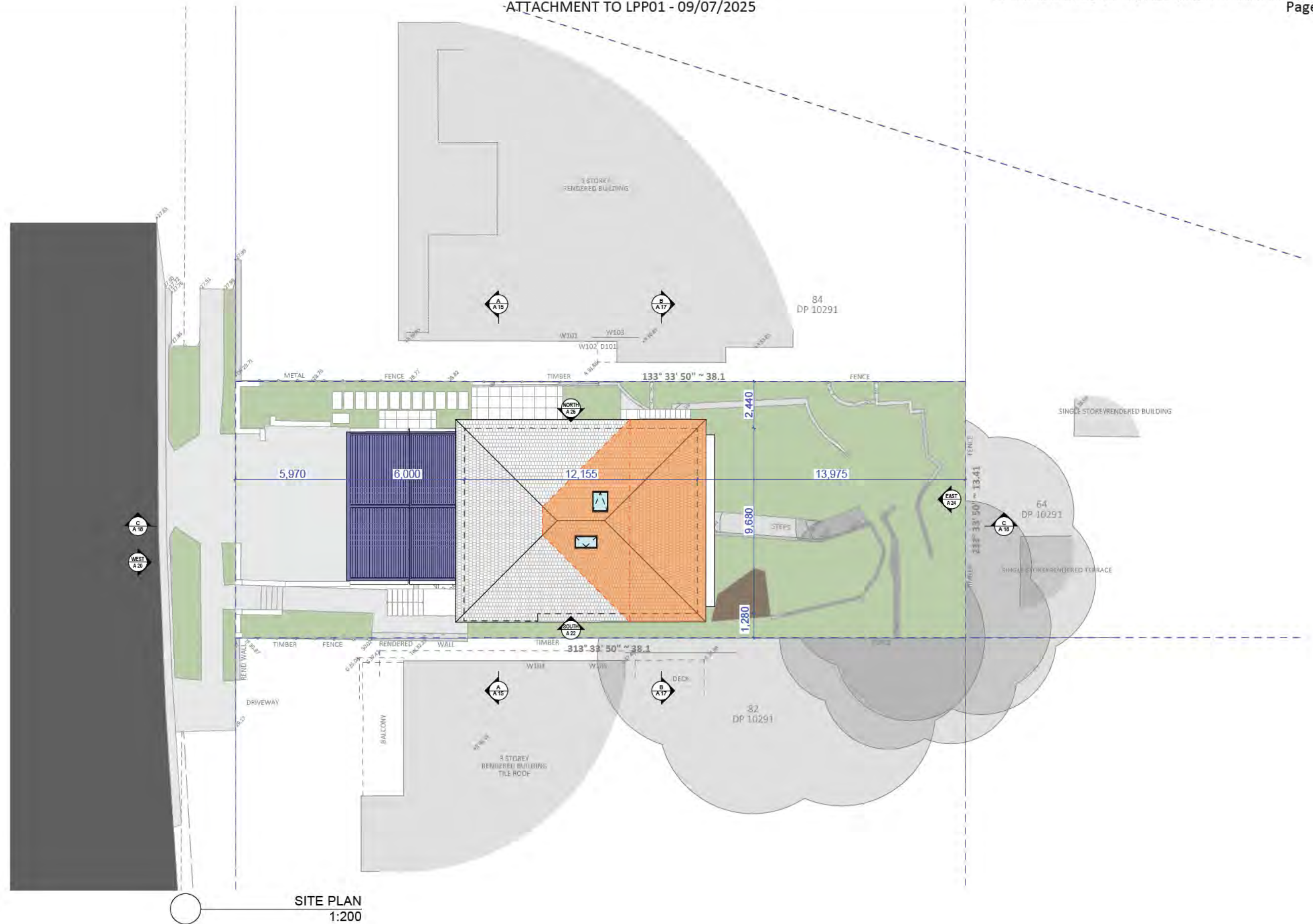
Sydney P 02 9651 2921
info@surveyplus.com.au
Byron Bay P 02 6672 1256
office@surveyplus.com.au
Tweed Heads P 07 5536 6467
office@surveyplus.com.au

DATE OF SURVEY	1.11.2023
ORIGIN OF LEVELS	PM 39034 RL 39.92 (AHD)
ORIGIN OF COORDS	LOCAL
CONTOUR INTERVAL	0.5m

DRAWING TITLE

DETAIL SURVEY PLAN
LOT 83 DP 10291
No. 43 WONGA ROAD, CREMORNE

SCALE	1:100 @ A1
REVISION	A
SHEET	1 OF 1
REF	22929_DET_1A

SITE PLAN
1:200

Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project:
Zylberberg House

Client:
Nicky & Alex Zylberberg

Address:
43 Wonga Rd, Cremorne

Drawing:
SITE PLAN

Project #: 24006 Issue Type: **DA-01**

Original Sheet Size: A3 Issue Date: **6/03/2025**

Scale @ A3: 1:200 Sheet #: **A 01**

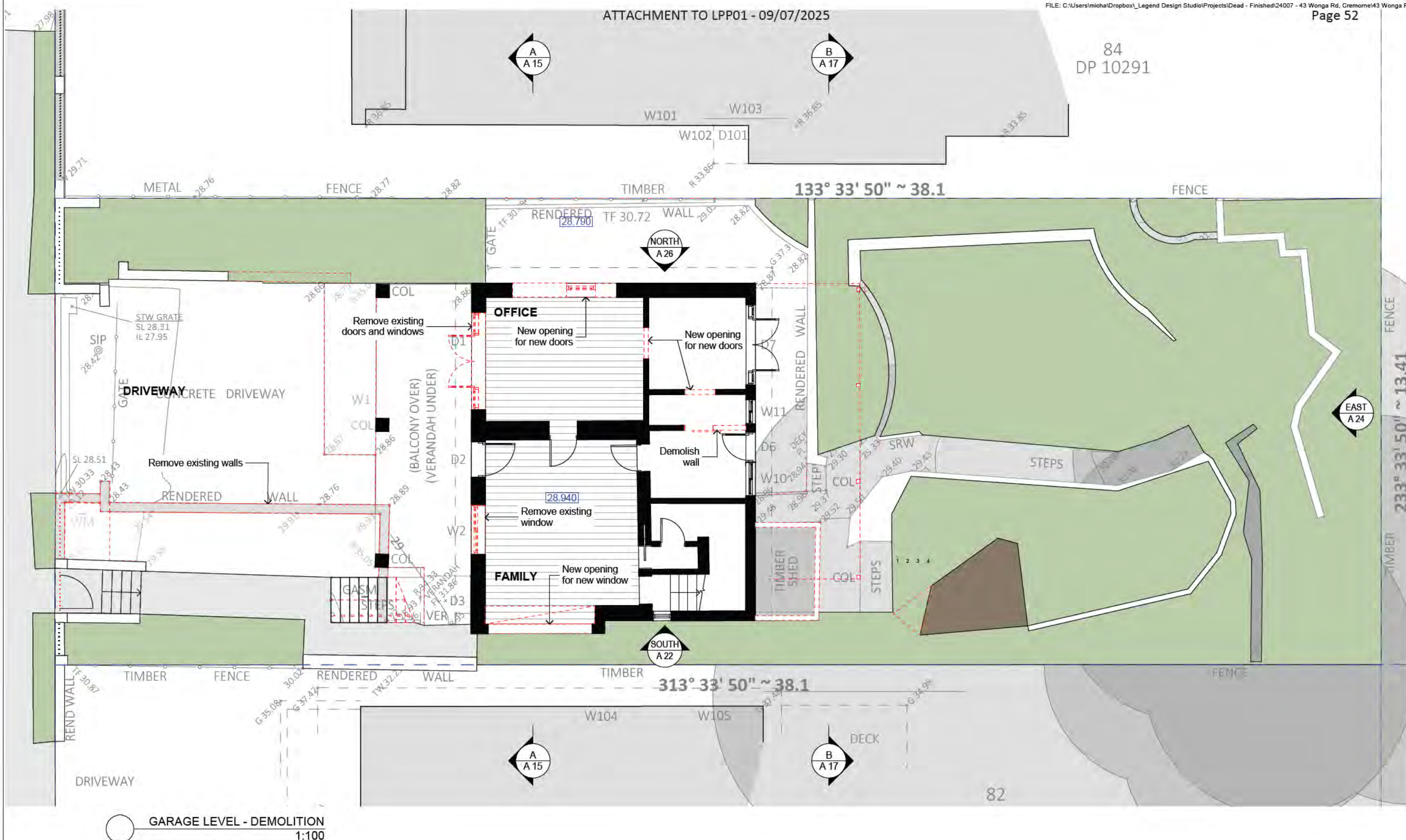
Chkd: Drawn: ML Revision: **A**

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Board of Architects Registration no 4869

ATTACHMENT TO LPP01 - 09/07/2025

84
DP 10291GARAGE LEVEL - DEMOLITION
1:100

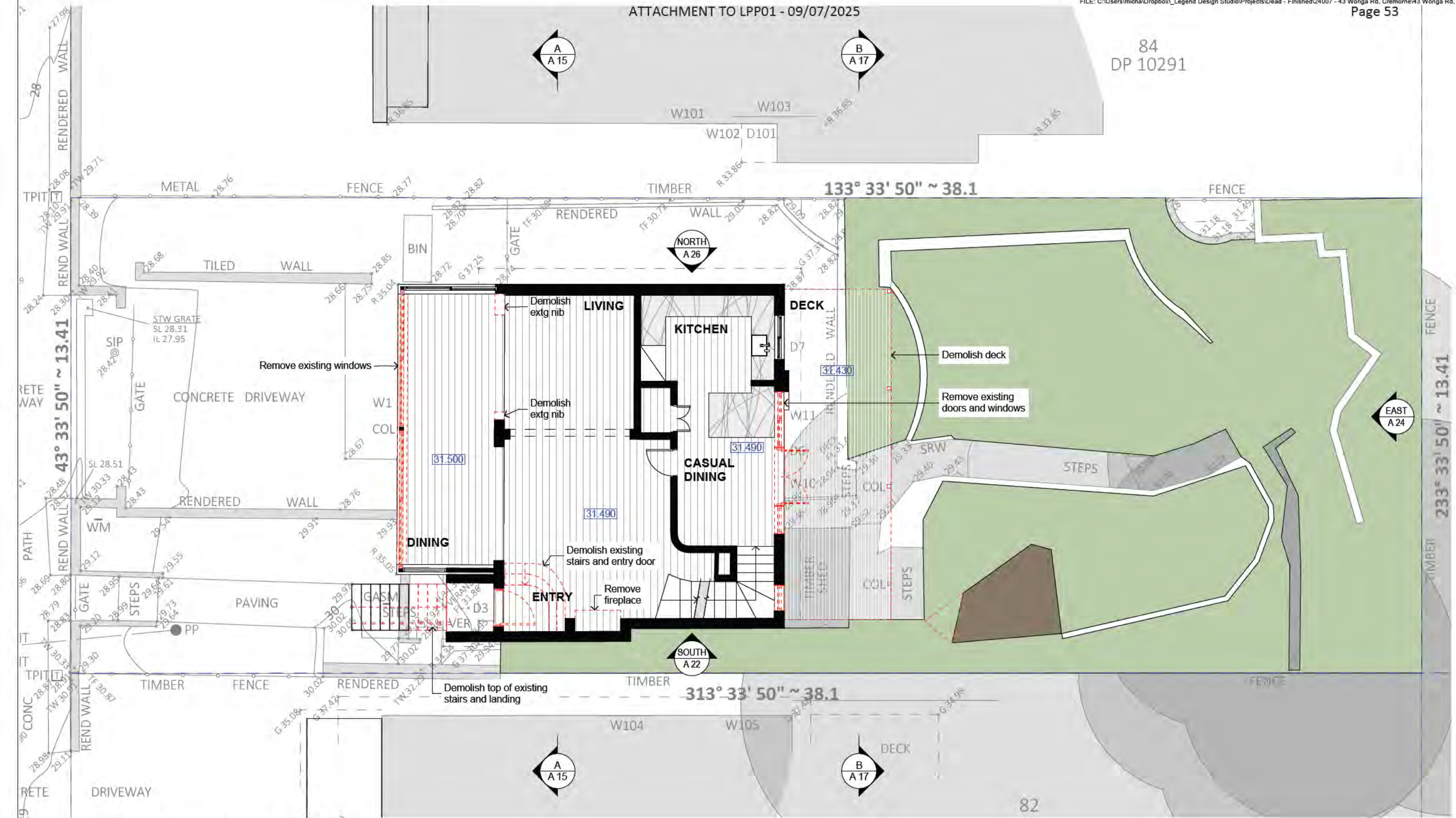
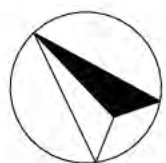
Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: Zylberberg House
Client: Nicky & Alex Zylberberg
Address: 43 Wonga Rd, Cremorne

Drawing: GARAGE LEVEL - DEMOLITION

Project #: 24006 Issue Type: DA-01
Original Sheet Size: A3 Issue Date: 6/03/2025
Scale @ A3: 1:100 Sheet #: A 08
Chkd: Drawn: ML Revision: A

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84
DP 10291GROUND FLOOR - DEMOLITION
1:100

Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project: **Zylberberg House**

Client: **Nicky & Alex Zylberberg**

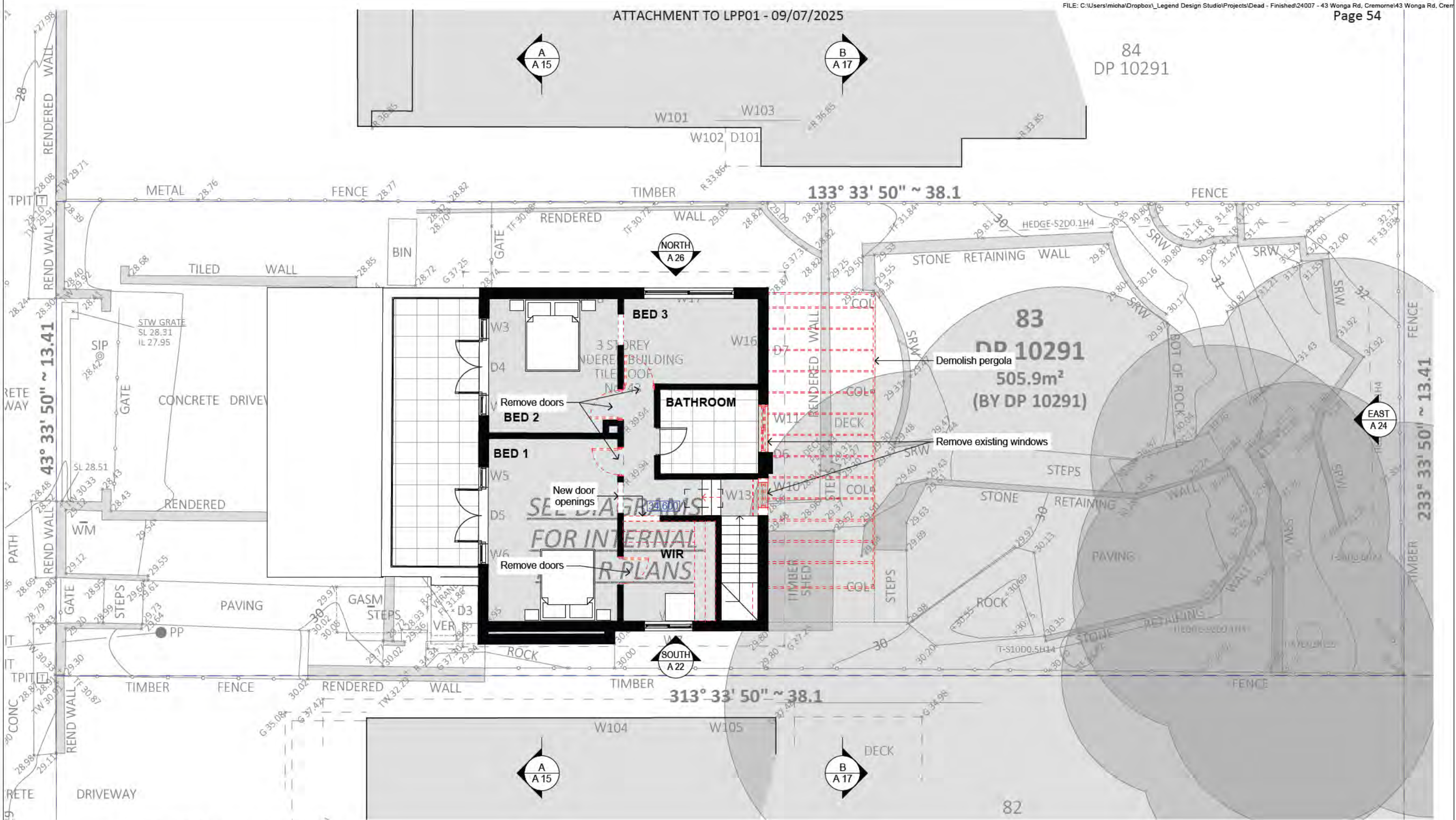
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Drawing: **GROUND FLOOR PLAN - DEMOLITION**

Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
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Chkd:	Drawn:	ML	A

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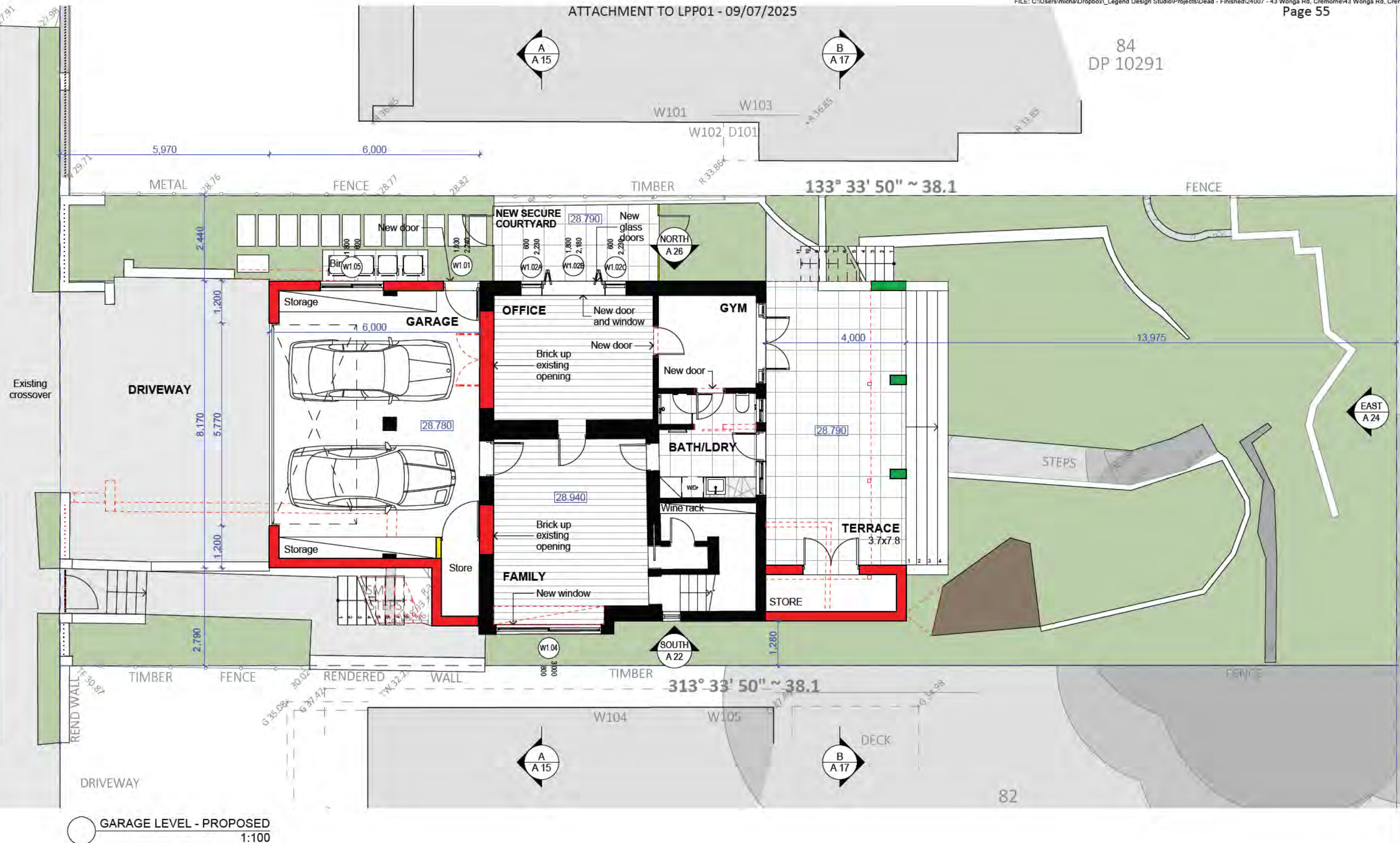
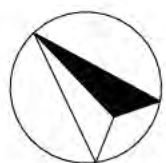
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FIRST FLOOR - DEMOLITION
1:100

	Revision	Date	Revision Note	Project:	Zylberberg House			Drawing:	FIRST FLOOR PLAN - DEMOLITION			ARCHITECT IAN POOLE A R C H I T E C T ian@poolearchitect.com.au M 0413 751 721 Arev Investments Pty Ltd ABN 48 422 946 578 32 Stanton Rd Mosman NSW 2088 PO Box 967 Spit Junction 2088 Board of Architects Registration no 4869
				Client:	Nicky & Alex Zylberberg			Project #:	24006	Issue Type:	DA-01	
	General Notes: DA ISSUE			Address:	43 Wonga Rd, Cremorne			Original Sheet Size:	A3	Issue Date:	6/03/2025	
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Document Set ID: 10348740							Chkd:	Drawn:	ML	A 10		

DA ISSUE

84
DP 10291GARAGE LEVEL - PROPOSED
1:100

Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: Zylberberg House
Client: Nicky & Alex Zylberberg
Address: 43 Wonga Rd, Cremorne

Drawing: GARAGE LEVEL - PROPOSED

Project #: 24006 Issue Type: DA-01
Original Sheet Size: A3 Issue Date: 6/03/2025
Scale @ A3: 1:100 Sheet #: A 11
Chkd: Drawn: ML

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ATTACHMENT TO LPP01 - 09/07/2025

84
DP 10291

Revision	Date	Revision Note

General Notes:

DA ISSUE

Project: **Zylberberg House**

Client: **Nicky & Alex Zylberberg**

Address: **43 Wonga Rd, Cremorne**

Drawing: **GROUND FLOOR PLAN - PROPOSED**

Project #: 24006 Issue Type: **DA-01**

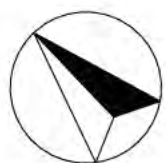
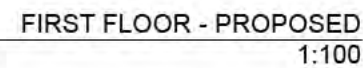
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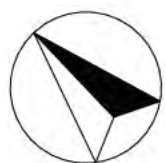
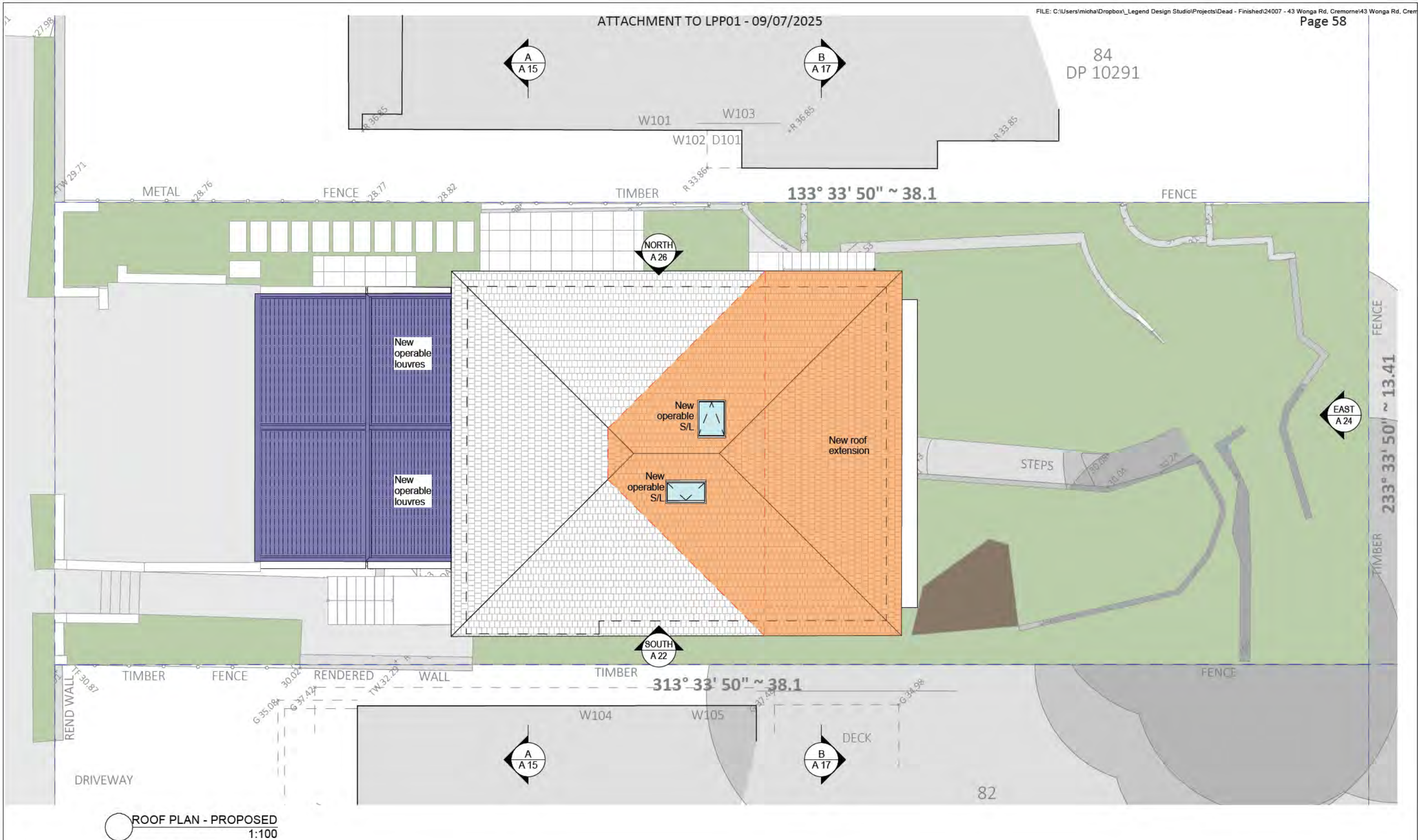
Chkd: Drawn: ML Revision: **A**

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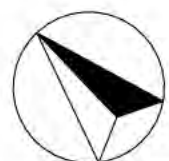
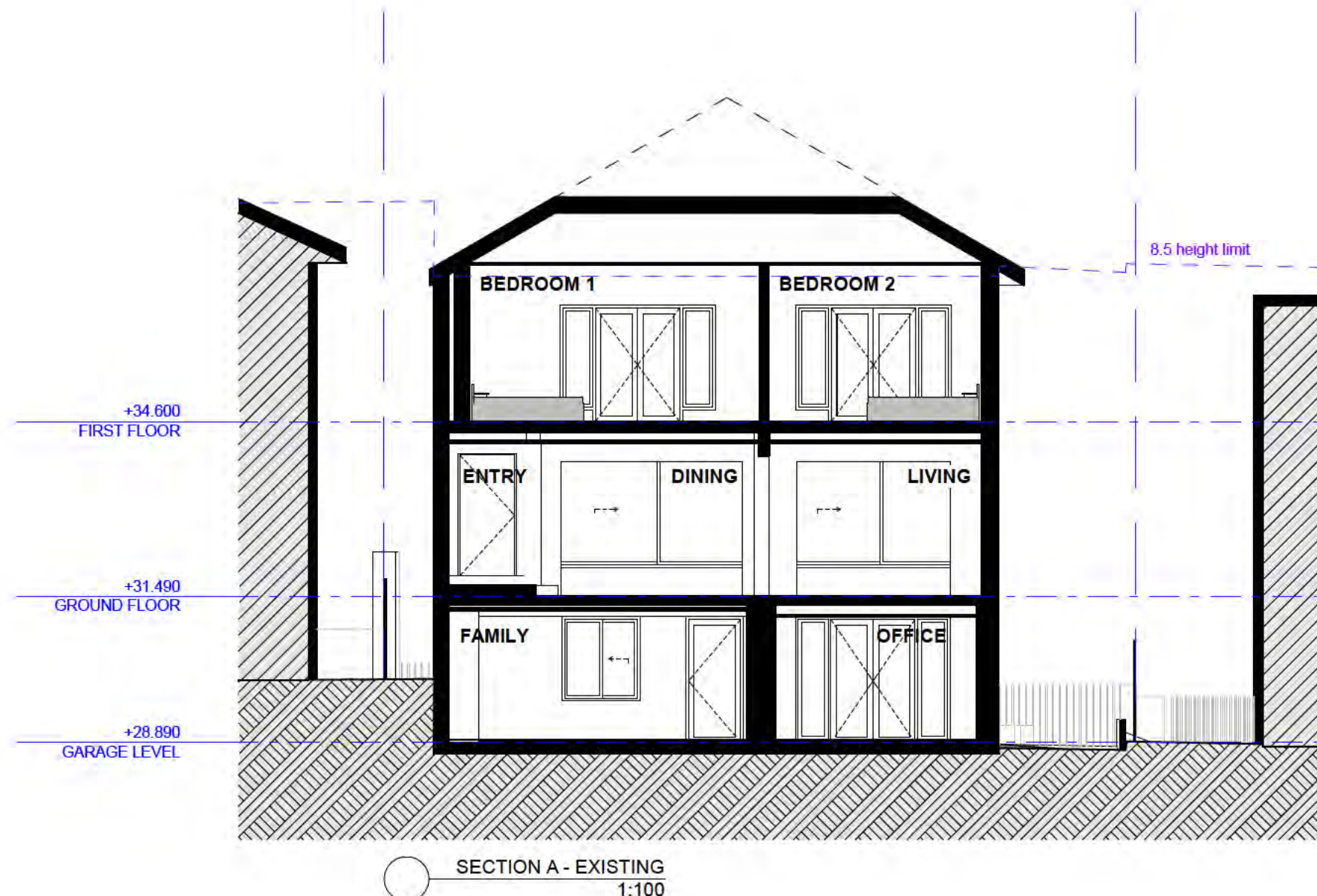
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Revision	Date	Revision Note	Project: Zylberg House	Drawing: FIRST FLOOR PLAN - PROPOSED	ARCHITECT IAN POOLE A R C H I T E C T
			Client: Nicky & Alex Zylberg	Project #: 24006 Issue Type: DA-01	ian@poolearchitect.com.au M 0413 751 721
				Original Sheet Size: A3 Issue Date: 6/03/2025	Arev Investments Pty Ltd ABN 48 422 946 578
			Address: 43 Wonga Rd, Cremorne	Scale @ A3: 1:100 Sheet #: Revision:	32 Stanton Rd Mosman NSW 2088
				Chkd: Drawn: ML A 13	PO Box 967 Spit Junction 2088
					Board of Architects Registration no 4869



Revision	Date	Revision Note	Project: Zylberg House	Drawing: ROOF PLAN - PROPOSED	ARCHITECT IAN POOLE A R C H I T E C T
			Client: Nicky & Alex Zylberg	Project #: 24006 Issue Type: DA-01	ian@poolearchitect.com.au M 0413 751 721
				Original Sheet Size: A3 Issue Date: 6/03/2025	Arev Investments Pty Ltd ABN 48 422 946 578
			Address: 43 Wonga Rd, Cremorne	Scale @ A3: 1:100 Sheet #: Revision:	32 Stanton Rd Mosman NSW 2088
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					Board of Architects Registration no 4869
General Notes: DA ISSUE					

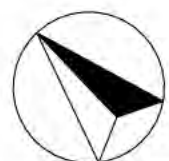
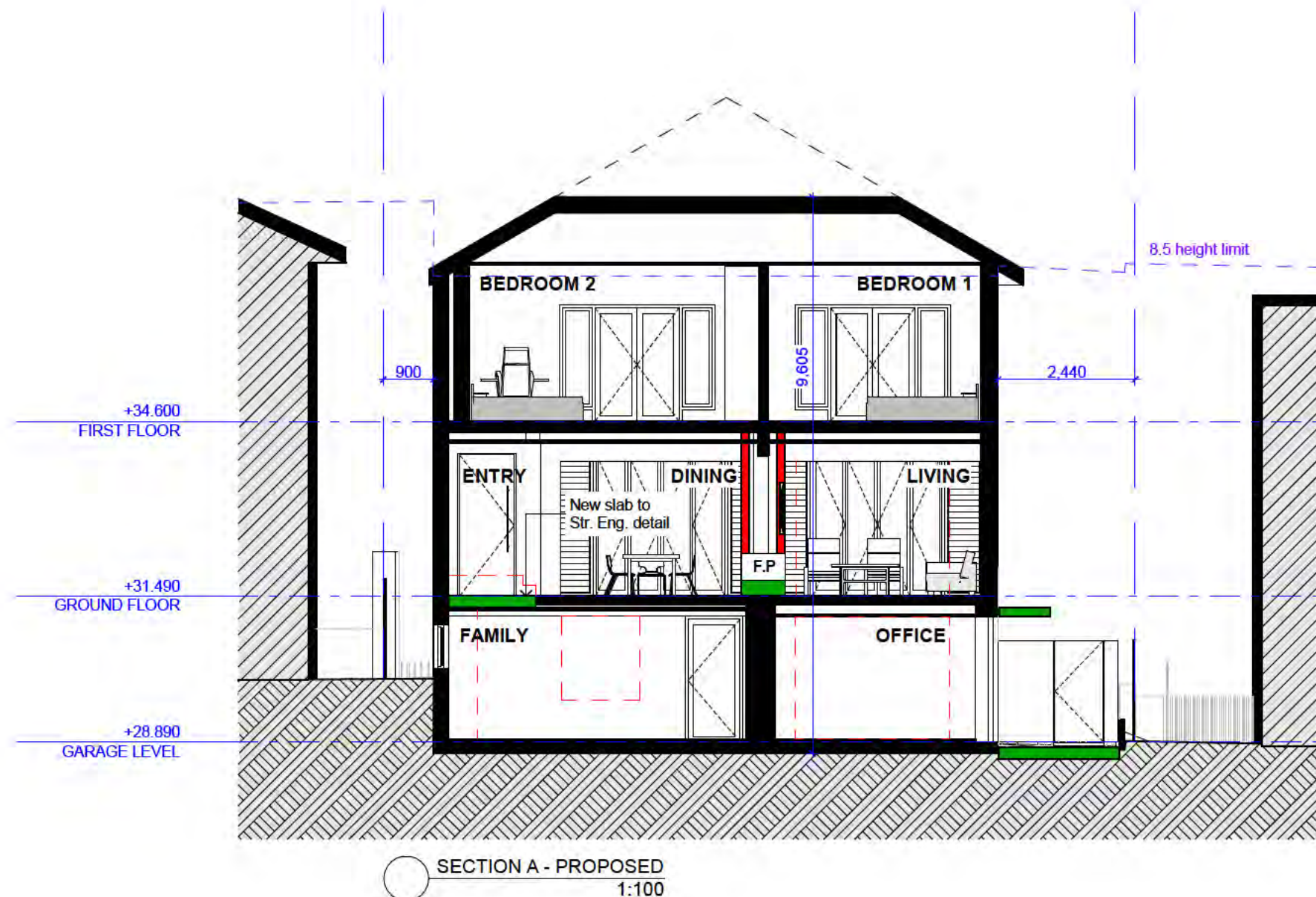


Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:			
SECTION A - EXISTING			
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:100	Sheet #:	Revision:
Chkd:	Drawn:	ML	A

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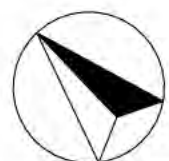
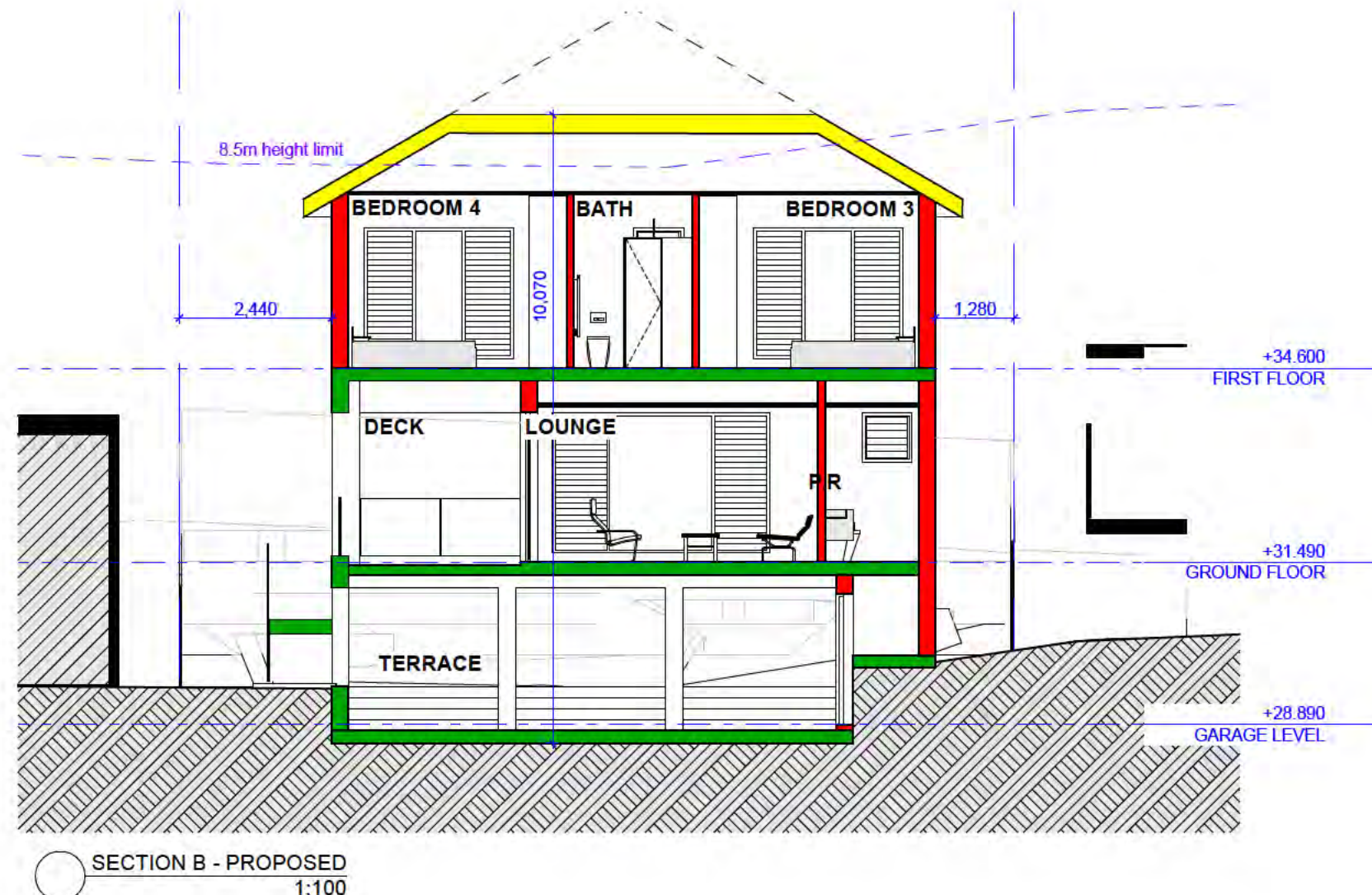


Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:	SECTION A - PROPOSED
Project #:	24006
Original Sheet Size:	A3
Scale @ A3:	1:100
Chkd:	ML
Issue Type:	DA-01
Issue Date:	6/03/2025
Sheet #:	A 16
Revision:	A

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Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: **Zylberberg House**

Client: **Nicky & Alex Zylberberg**

Address: **43 Wonga Rd, Cremorne**

Drawing: **SECTION B - PROPOSED**

Project #: **24006** Issue Type: **DA-01**

Original Sheet Size: **A3** Issue Date: **6/03/2025**

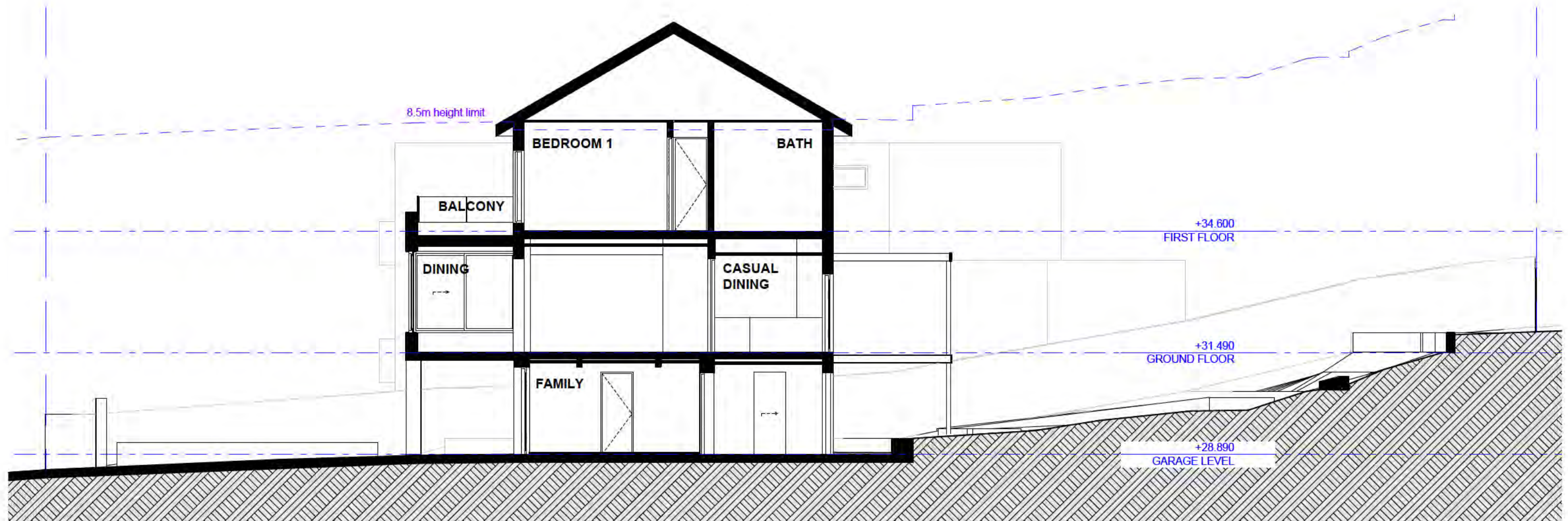
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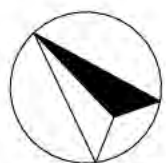
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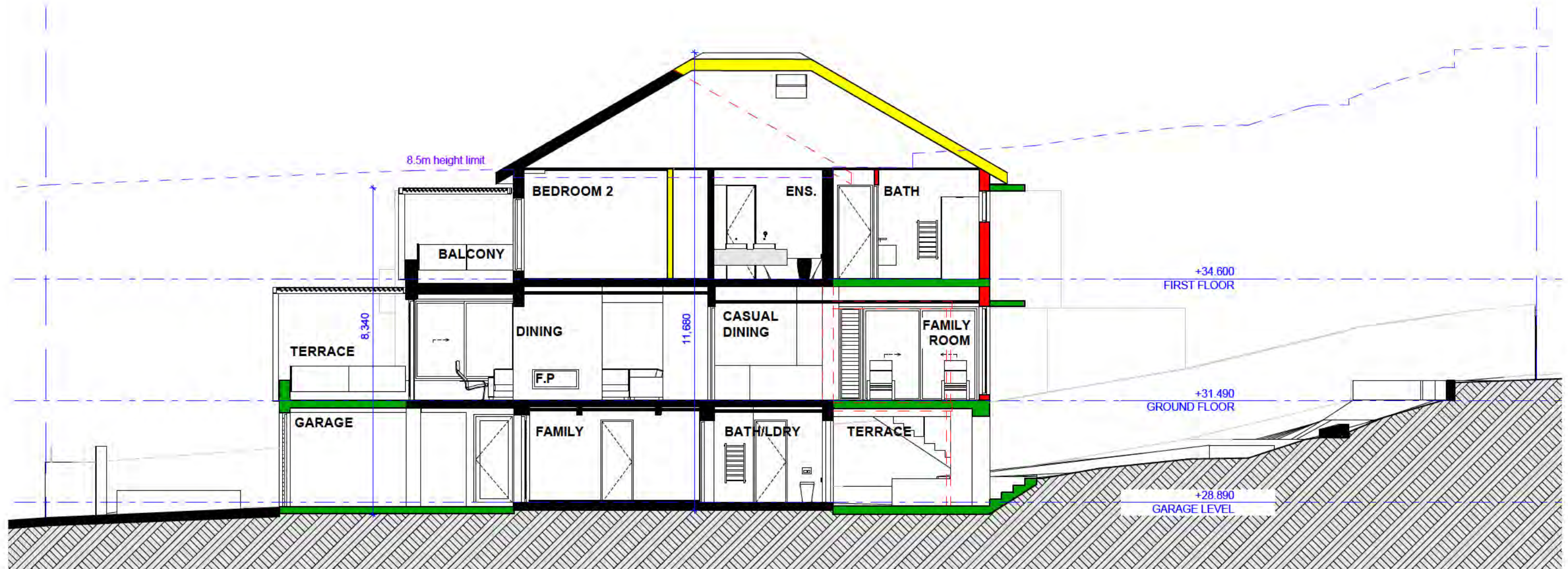


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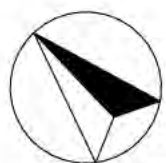


Revision	Date	Revision Note	Project:	Drawing:	Project #:	Issue Type:	Revision:
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			Client:		Original Sheet Size:	Issue Date:	
			Nicky & Alex Zylberberg		A3	6/03/2025	
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			43 Wonga Rd, Cremorne		1:100	A 18	
				Chkd:	Drawn:	ML	
General Notes:							
DA ISSUE							

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SECTION C - PROPOSED
1:100



Revision	Date	Revision Note
General Notes:		
DA ISSUE		

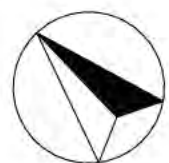
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Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:			
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Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:100	Sheet #:	Revision:
Chkd:	Drawn:	ML	A 19 A

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WEST ELEVATION - PROPOSED
1:100



Revision	Date	Revision Note
General Notes:		

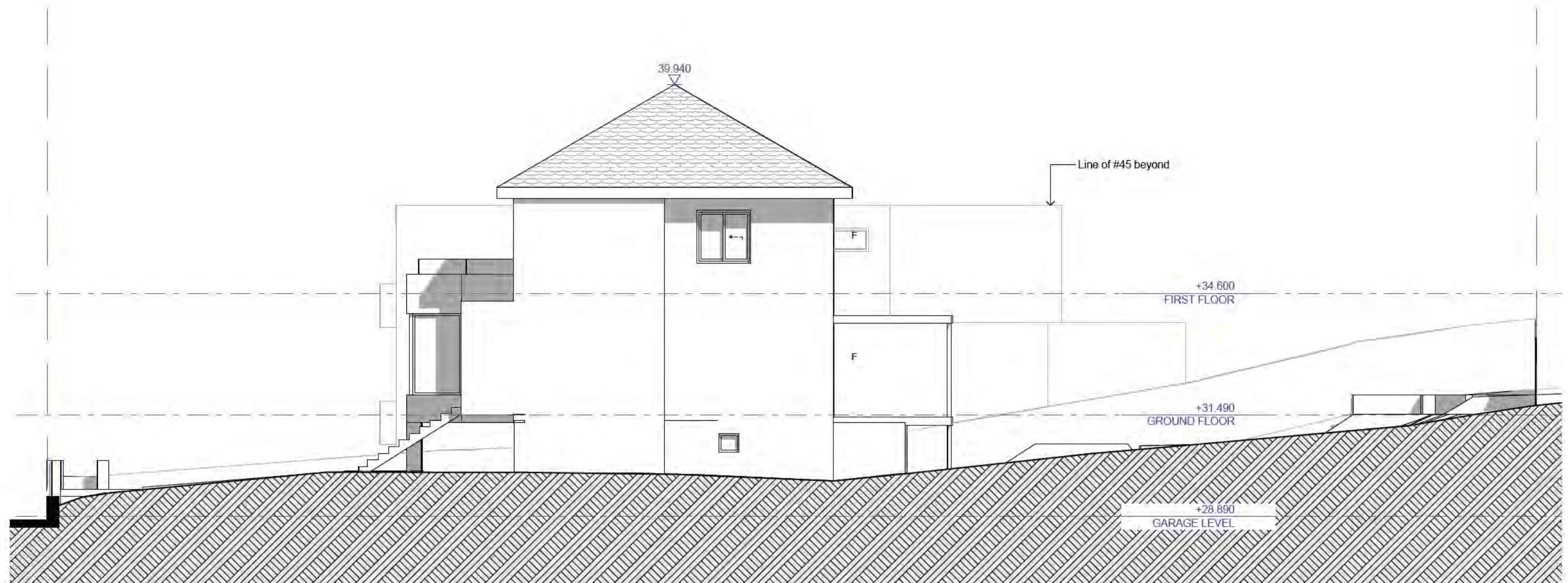
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Project: **Zylberberg House**
Client: **Nicky & Alex Zylberberg**
Address: **43 Wonga Rd, Cremorne**

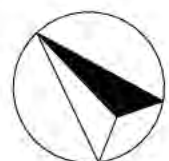
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Project #: 24006 Issue Type: **DA-01**
Original Sheet Size: A3 Issue Date: 6/03/2025
Scale @ A3: 1:100 Sheet #: **A 21**
Chkd: Drawn: ML Revision: **A**

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○ SOUTH ELEVATION - EXISTING
1:100

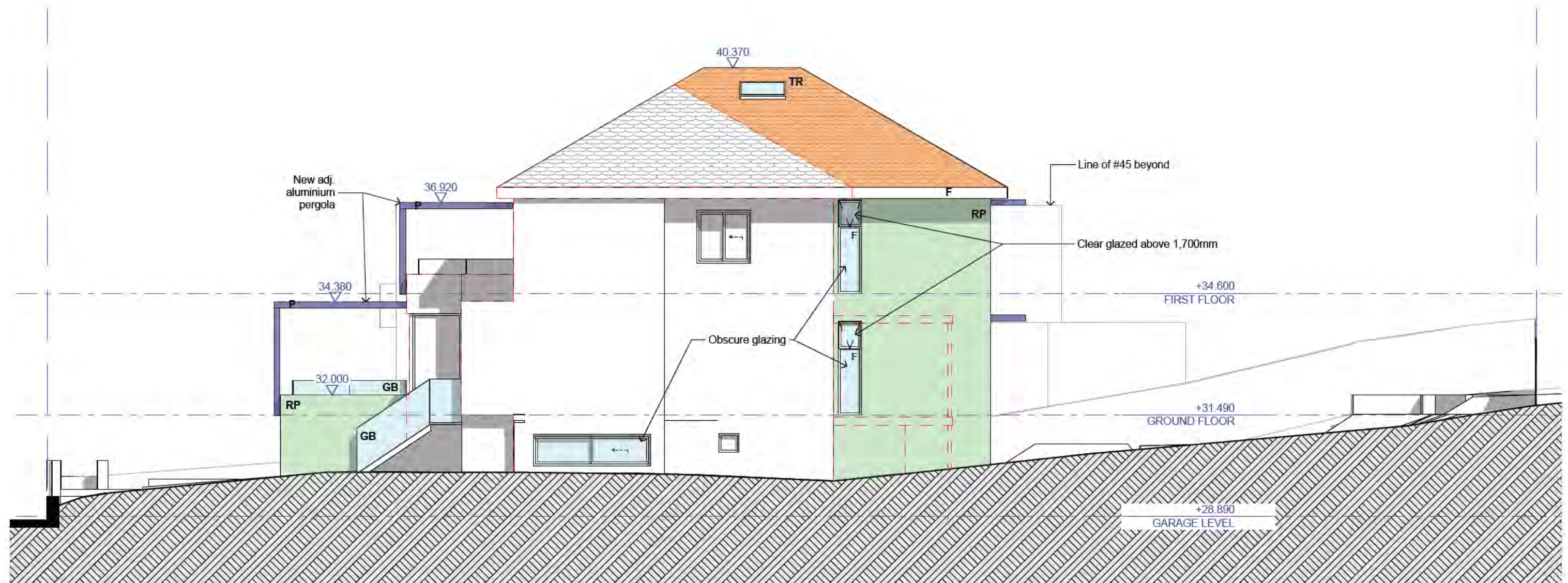


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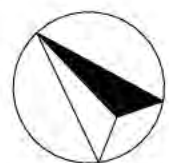
Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:			
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Chkd:	Drawn:	ML	A 22 A

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PO Box 967 Spit Junction 2088	
Board of Architects Registration no 4869	



○ SOUTH ELEVATION - PROPOSED
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Revision	Date	Revision Note
General Notes:		

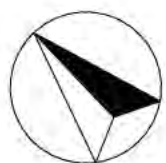
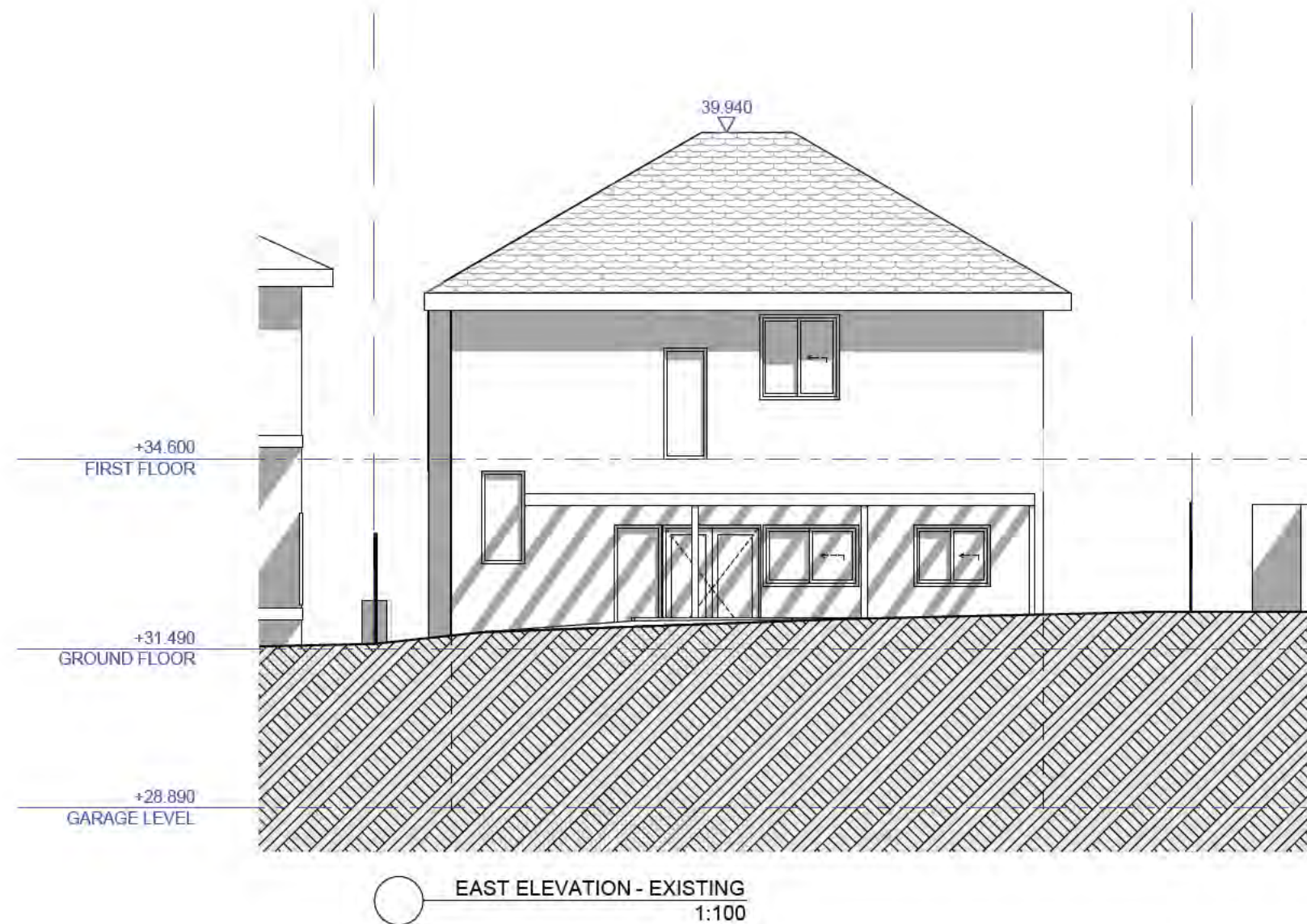
DA ISSUE

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SOUTH ELEVATION - PROPOSED**

Project #: 24006 Issue Type: **DA-01**
 Original Sheet Size: A3 Issue Date: **6/03/2025**
 Scale @ A3: 1:100 Sheet #: **A 23**
 Chkd: Drawn: ML Revision: **A**

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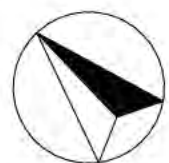


Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project:	Zylberg House
Client:	Nicky & Alex Zylberg
Address:	43 Wonga Rd, Cremorne

Drawing:			
EAST ELEVATION - EXISTING			
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:100	Sheet #:	Revision:
Chkd:	Drawn:	ML	A 24 A

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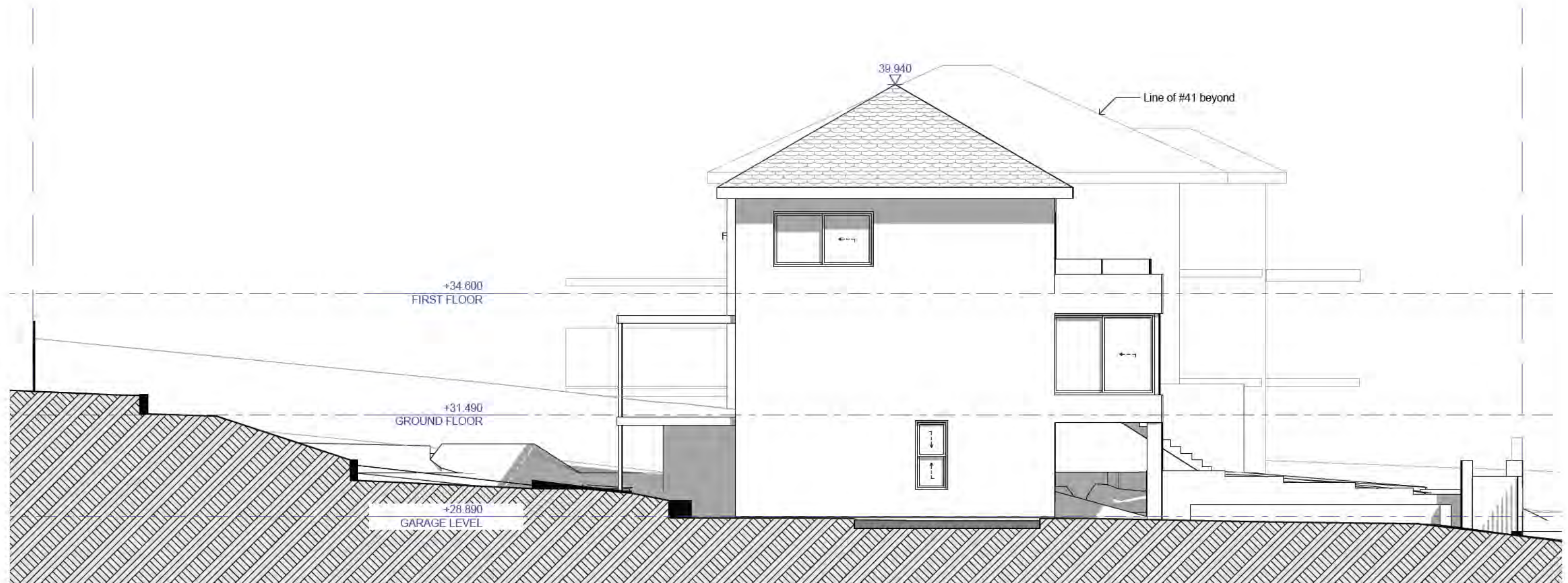


Revision	Date	Revision Note
General Notes:		
DA ISSUE		

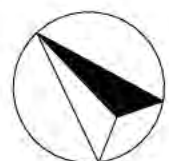
Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:			
EAST ELEVATION - PROPOSED			
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:100	Sheet #:	Revision:
Chkd:	Drawn:	ML	A 25 A

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○ NORTH ELEVATION - EXISTING
1:100

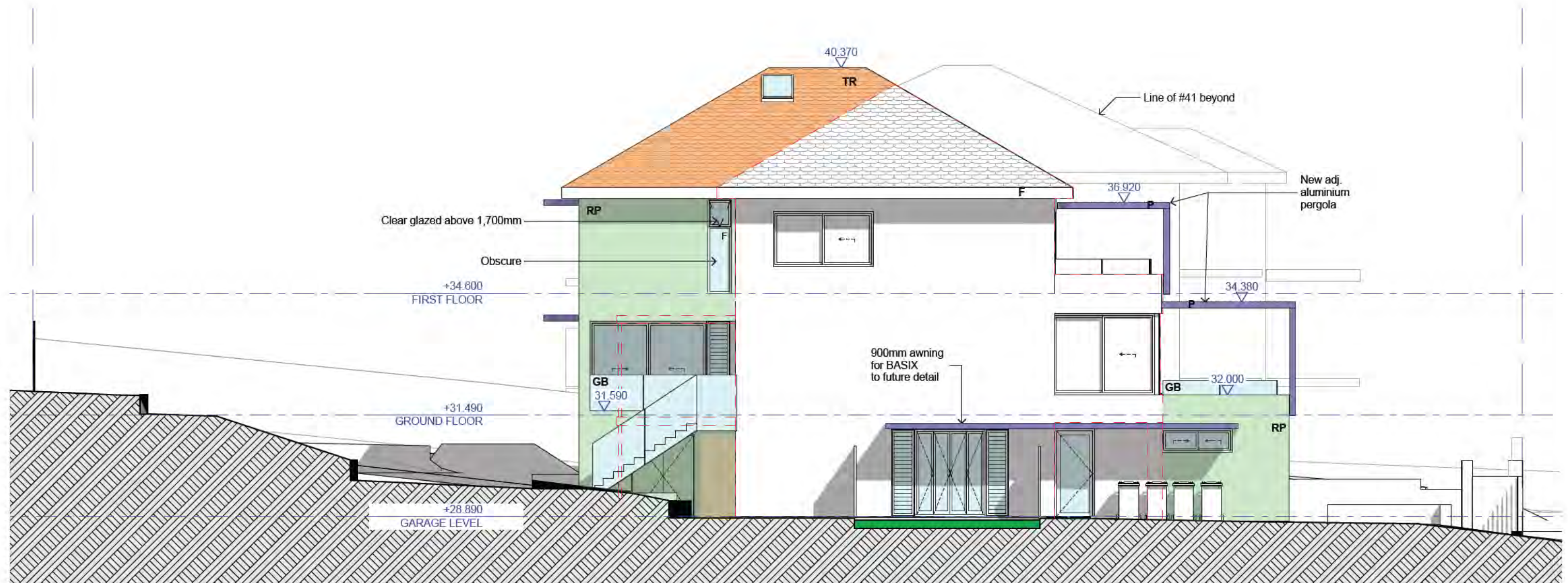


Revision	Date	Revision Note
General Notes:		
DA ISSUE		

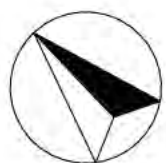
Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:	NORTH ELEVATION - EXISTING		
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:100	Sheet #:	A 26
Chkd:	Drawn:	ML	A

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NORTH ELEVATION - PROPOSED
1:100






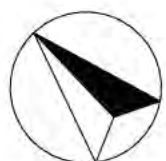
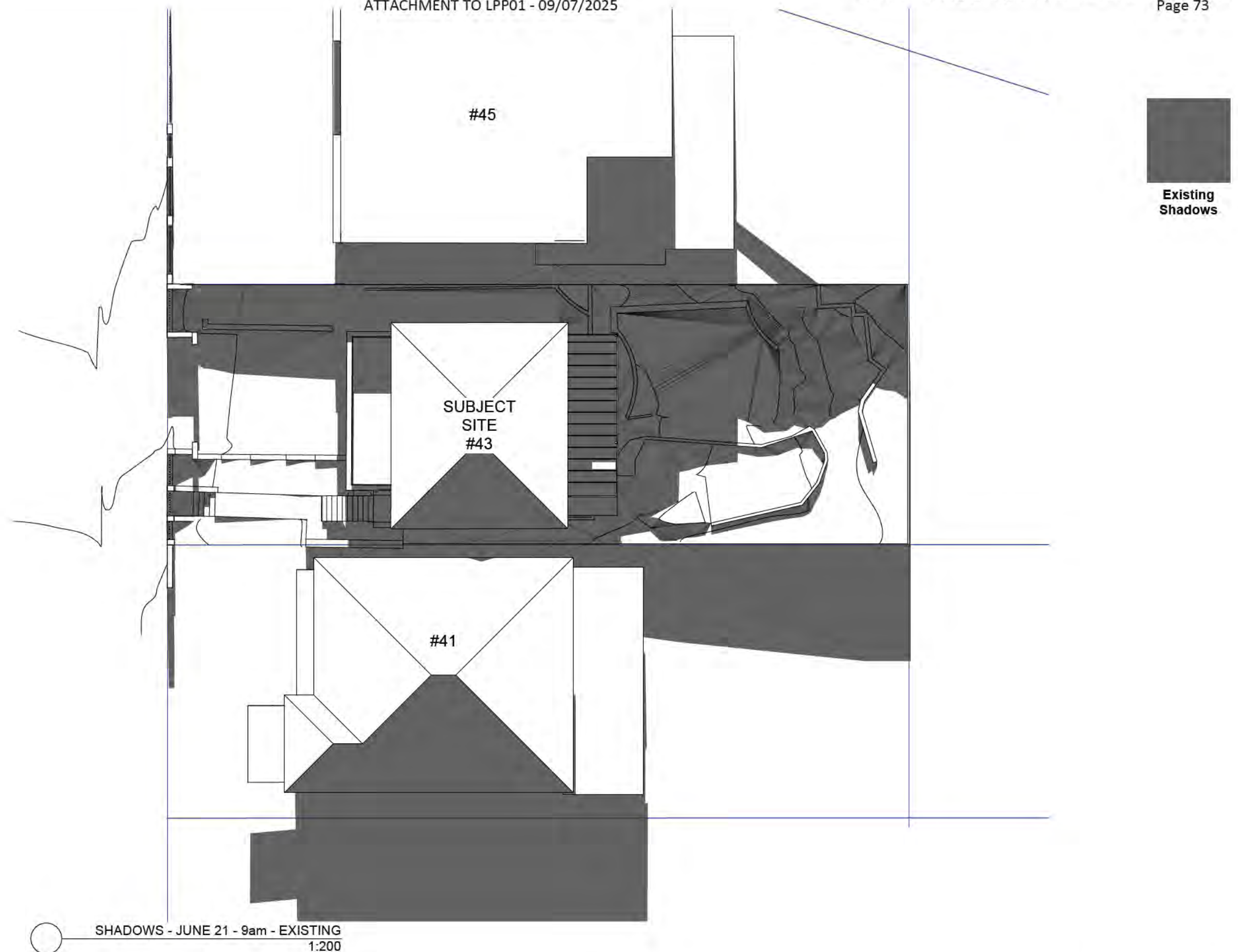
Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:	NORTH ELEVATION - PROPOSED		
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:100	Sheet #:	A 27
Chkd:	Drawn:	ML	Revision: A

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RP Render and paint Painted Dulux light grey TBC		TR Tile Roof New roof tile to match existing	
P Painted steel pergola structure Mid to dark grey		F Fascia panel Mid to dark grey	
TD Tile Decking Tile to be selected		GB Glass balustrade	
		NOTE: All colour selections shall be sampled and swatch tested on subject surface prior to final application. Colours represented on this schedule do NOT necessarily reflect true colours.	



Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project:
Zylberberg House

Client:
Nicky & Alex Zylberberg

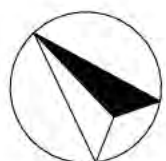
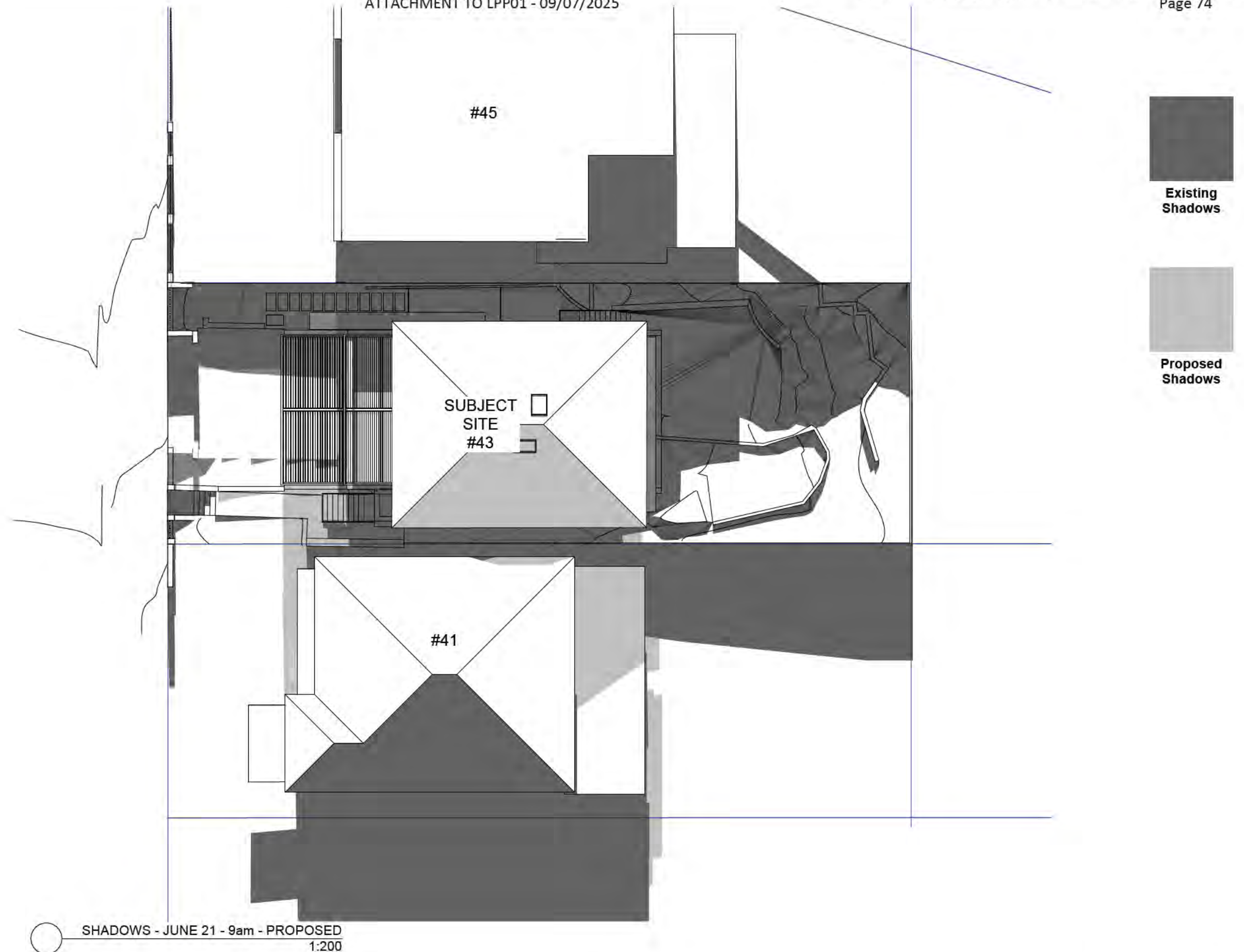
Address:
43 Wonga Rd, Cremorne

Drawing:
SHADOW DIAGRAMS - JUNE 21 - 9am - EXISTING

Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 30
Chkd:	Drawn:	ML	A

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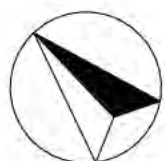
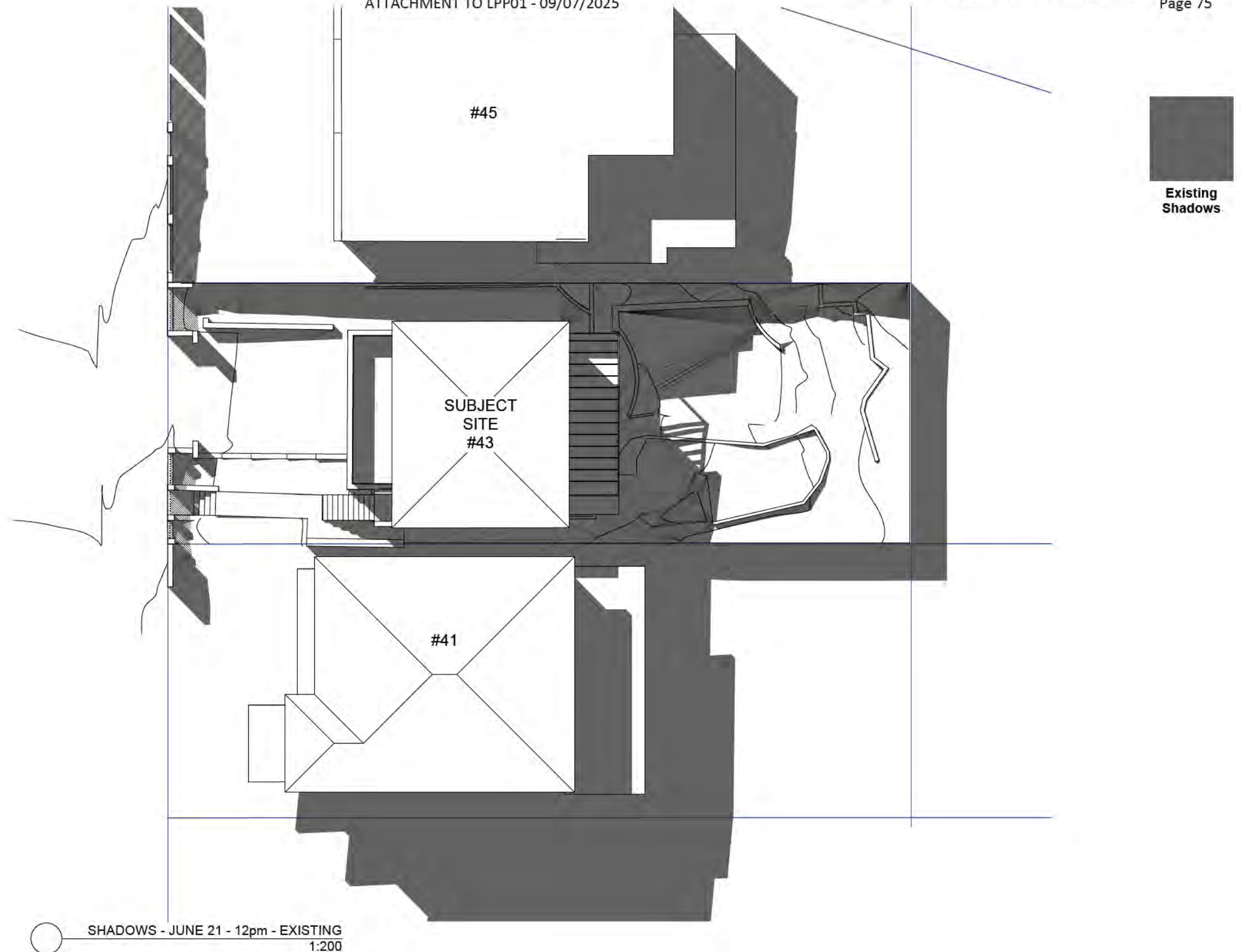


Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:	SHADOW DIAGRAMS - JUNE 21 - 9am - PROPOSED		
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 31
Chkd:	Drawn:	ML	A

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Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project:
Zylberberg House

Client:
Nicky & Alex Zylberberg

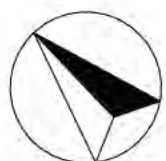
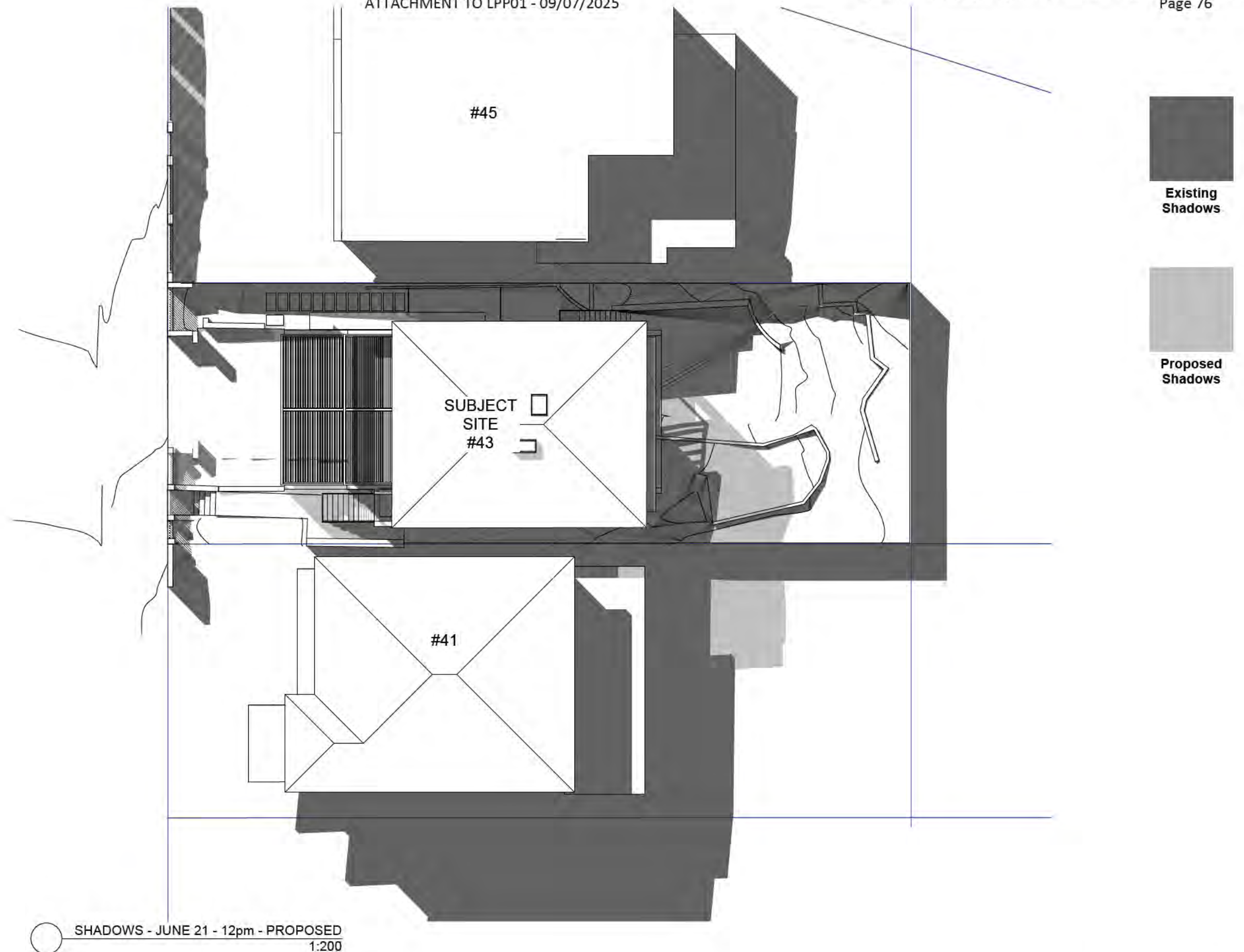
Address:
43 Wonga Rd, Cremorne

Drawing:
SHADOW DIAGRAMS - JUNE 21 - 12pm - EXISTING

Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 32
Chkd:	Drawn:	ML	Revision: A

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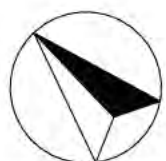
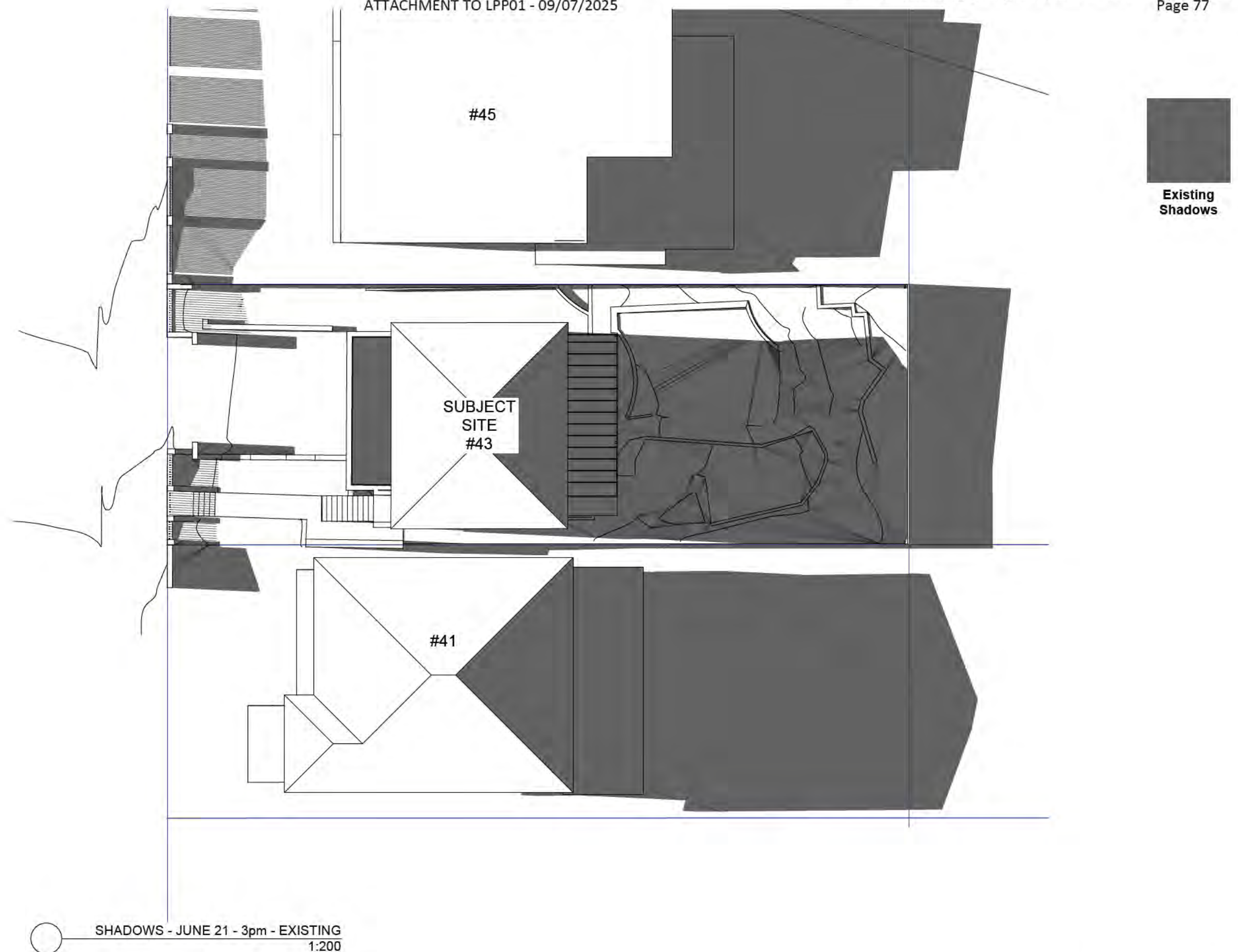


Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:	SHADOW DIAGRAMS - JUNE 21 - 12pm - PROPOSED		
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 33
Chkd:	Drawn:	ML	Revision: A

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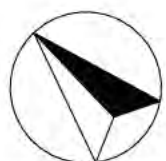
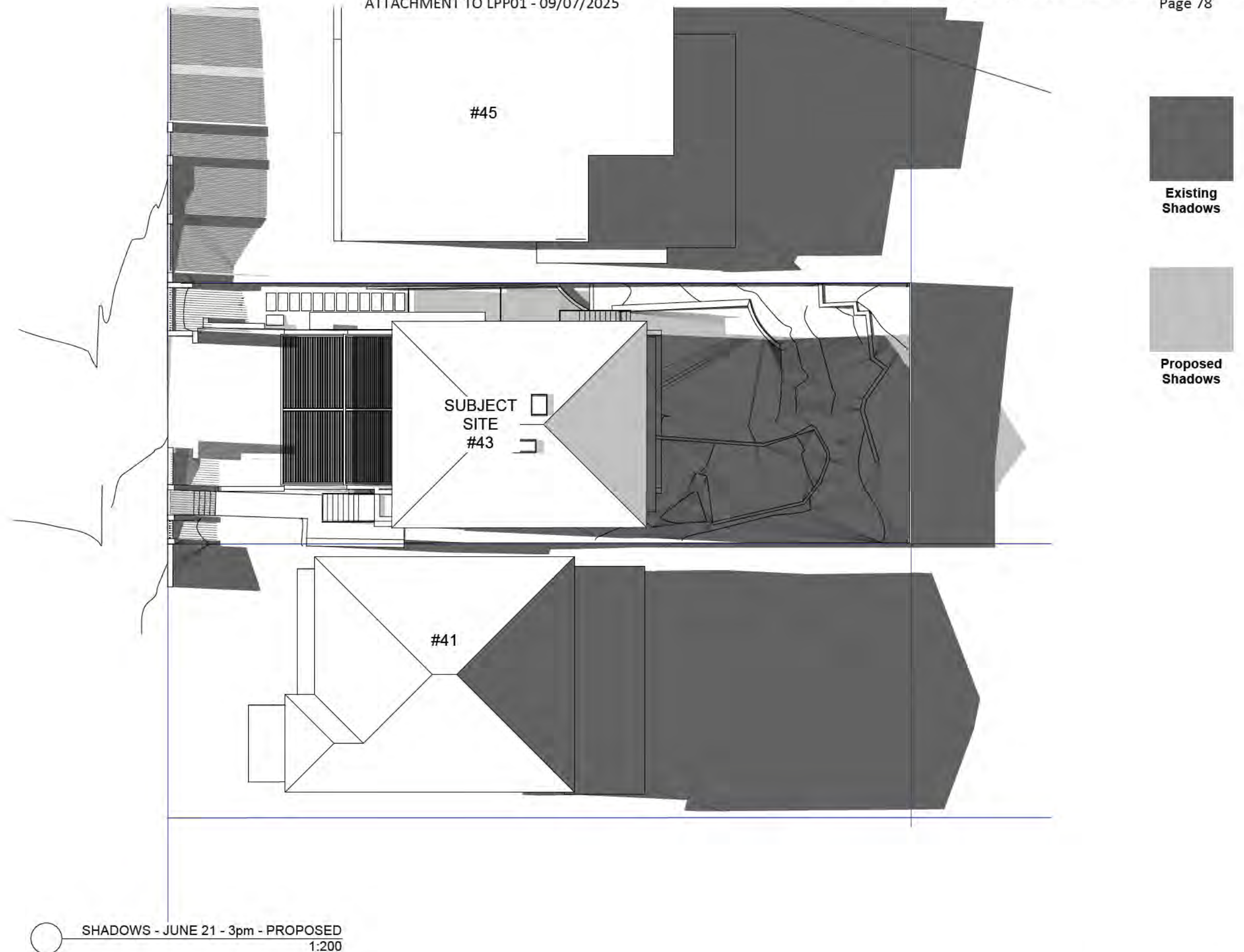


Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:	SHADOW DIAGRAMS - JUNE 21 - 3pm - EXISTING		
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 34
Chkd:	Drawn:	ML	A

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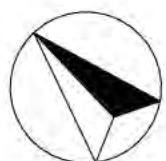
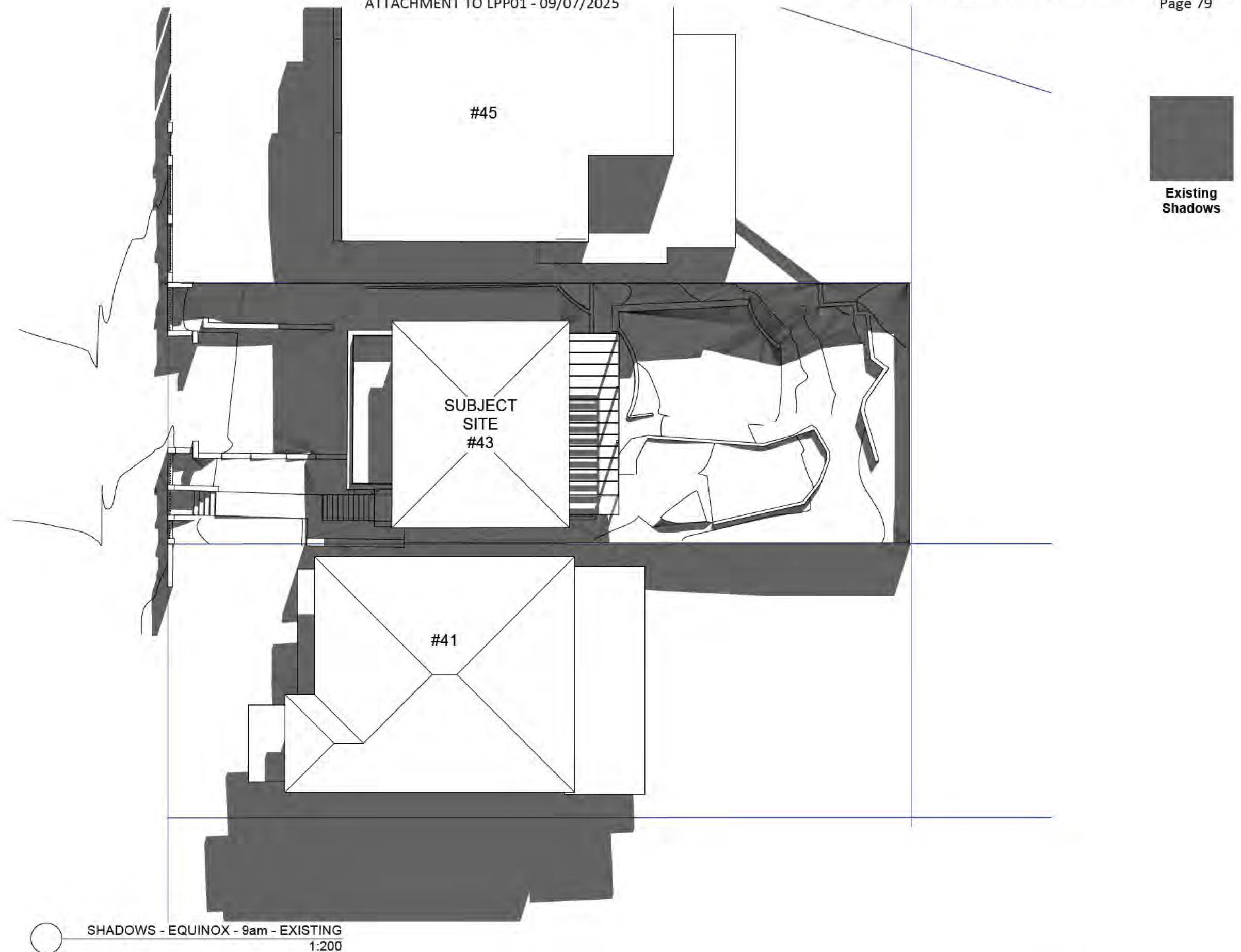


Revision	Date	Revision Note
General Notes: DA ISSUE		

Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:	SHADOW DIAGRAMS - JUNE 21 - 3pm - PROPOSED		
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 35
Chkd:	Drawn:	ML	A

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Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project:
Zylberberg House

Client:
Nicky & Alex Zylberberg

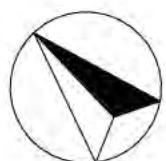
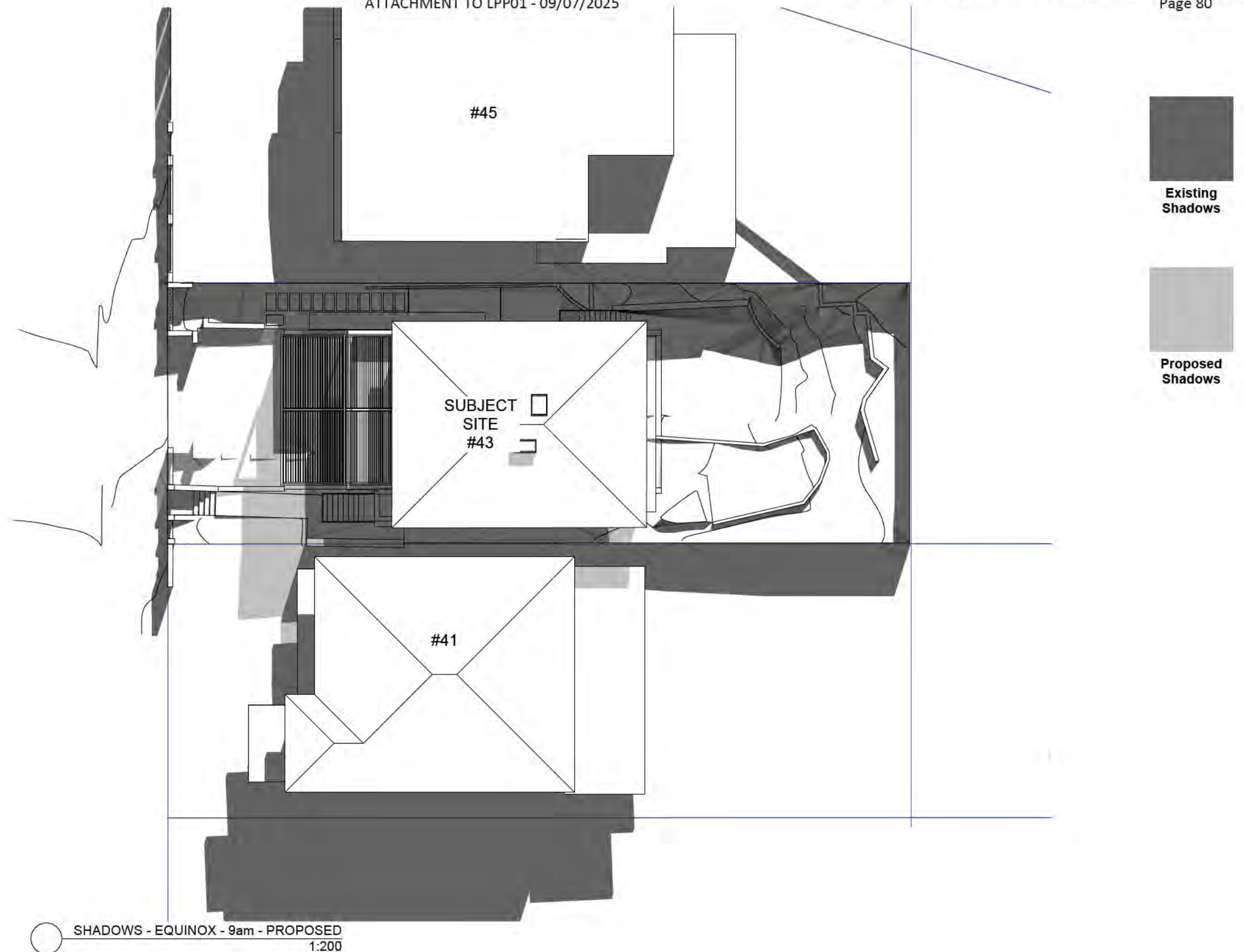
Address:
43 Wonga Rd, Cremorne

Drawing:
SHADOW DIAGRAMS - EQUINOX - 9am - EXISTING

Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 36
Chkd:	Drawn:	ML	A

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Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project:
Zylberberg House

Client:
Nicky & Alex Zylberberg

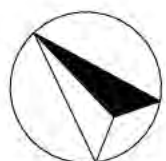
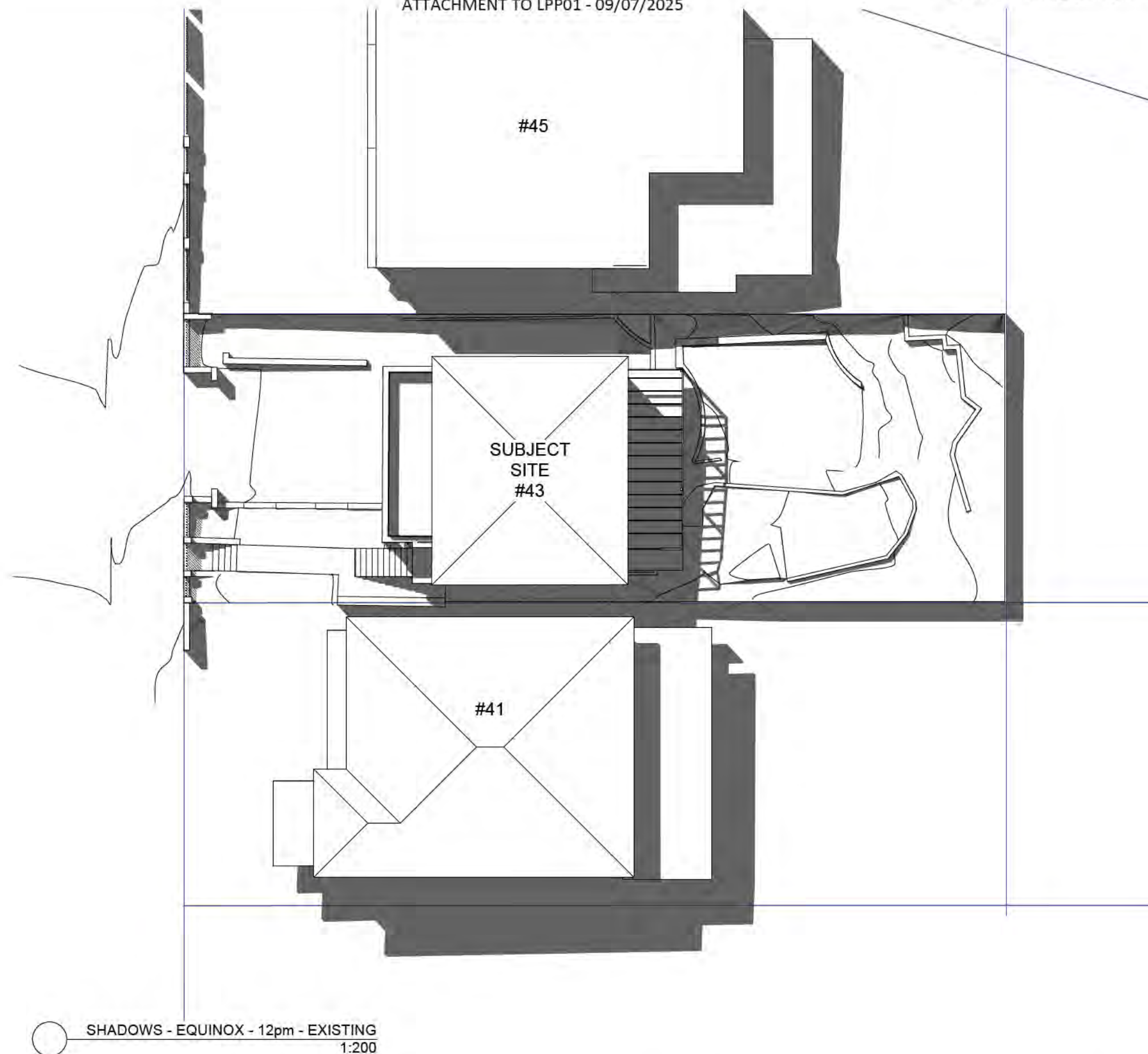
Address:
43 Wonga Rd, Cremorne

Drawing:
SHADOW DIAGRAMS - EQUINOX - 9am - PROPOSED

Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 37
Chkd:	Drawn:	ML	A

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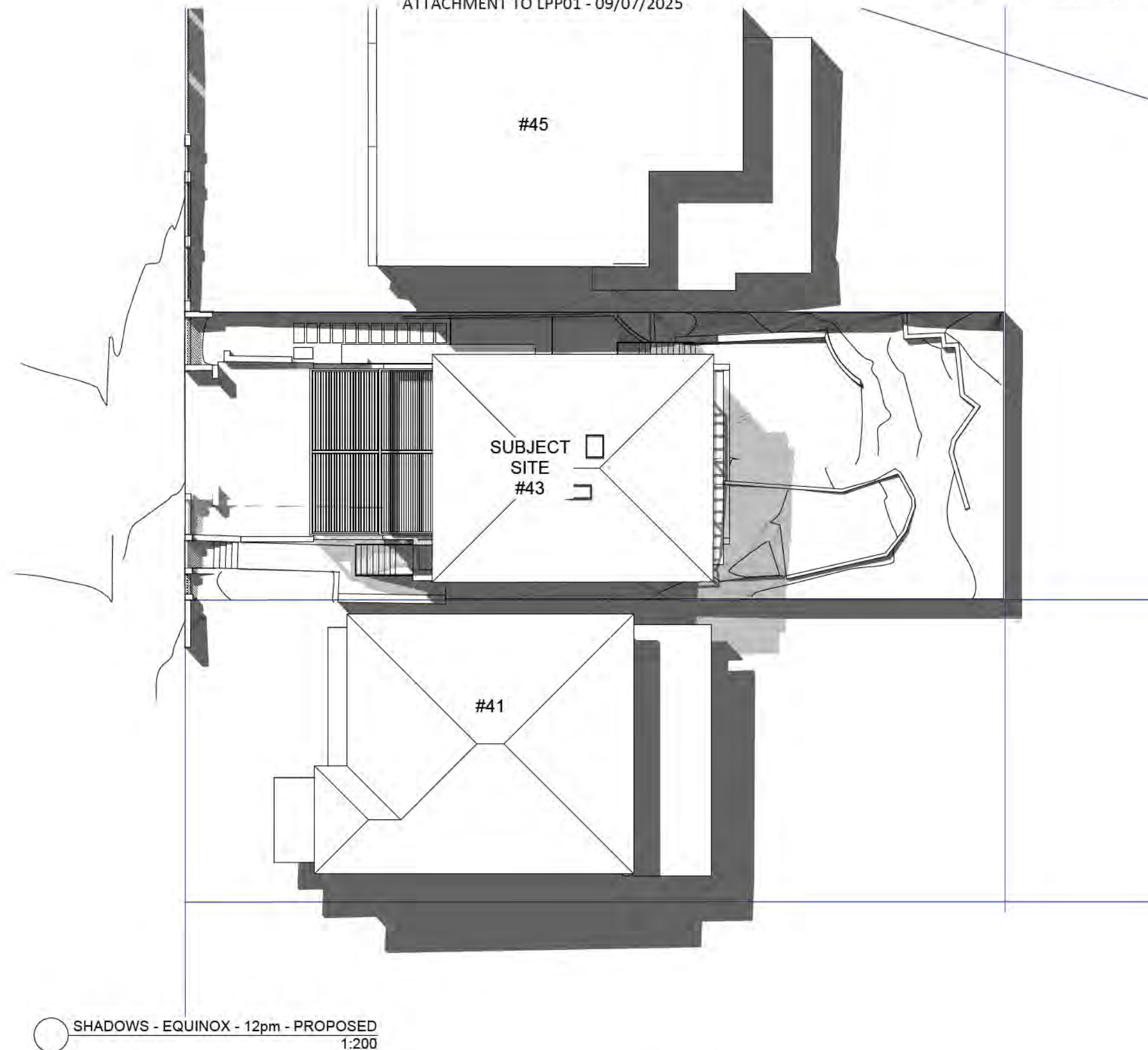


Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:	SHADOW DIAGRAMS - EQUINOX - 12pm - EXISTING		
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 38
Chkd:	Drawn:	ML	Revision: A

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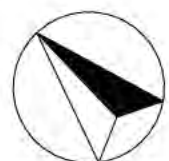
SHADOWS - EQUINOX - 12pm - PROPOSED
1:200



Existing
Shadows



Proposed
Shadows



Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project:
Zylberberg House

Client:
Nicky & Alex Zylberberg

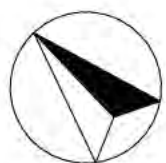
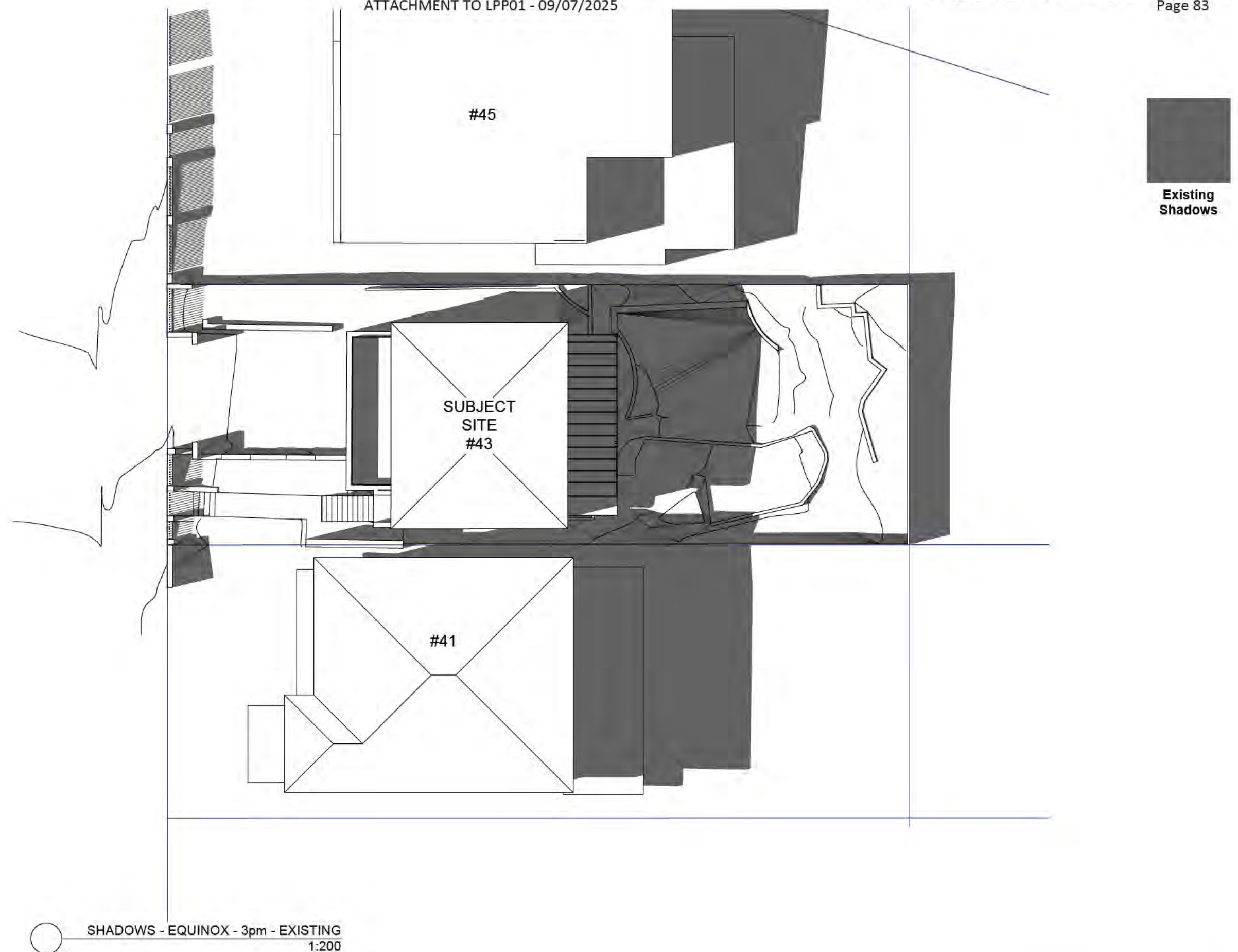
Address:
43 Wonga Rd, Cremorne

Drawing:
SHADOW DIAGRAMS - EQUINOX - 12pm - PROPOSED

Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 39
Chkd:	Drawn:	ML	A

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Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project: **Zylberberg House**

Client: **Nicky & Alex Zylberberg**

Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW DIAGRAMS - EQUINOX - 3pm - EXISTING**

Project #: **24006** Issue Type: **DA-01**

Original Sheet Size: **A3** Issue Date: **6/03/2025**

Scale @ A3: **1:200** Sheet #: **A 40**

Chkd: **ML** Drawn: **ML** Revision: **A**

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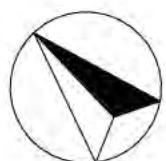
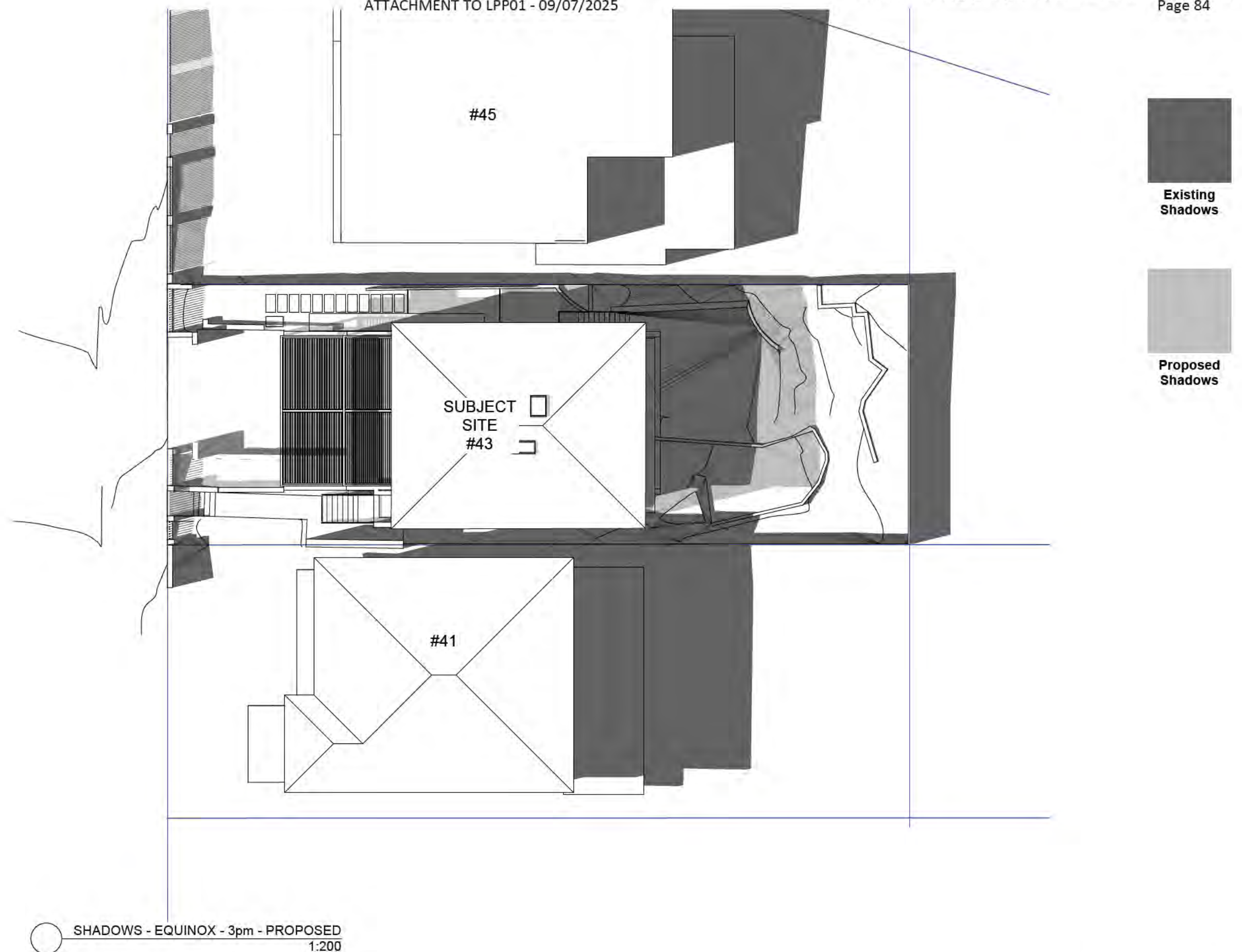
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Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project:	Zylberberg House
Client:	Nicky & Alex Zylberberg
Address:	43 Wonga Rd, Cremorne

Drawing:	SHADOW DIAGRAMS - EQUINOX - 3pm - PROPOSED		
Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	6/03/2025
Scale @ A3:	1:200	Sheet #:	A 41
Chkd:	Drawn:	ML	Revision: A

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3D SHADOW ELEVATIONS - JUNE 21 - 9am - EXISTING



3D SHADOW ELEVATIONS - JUNE 21 - 12pm - EXISTING



3D SHADOW ELEVATIONS - JUNE 21 - 9am - PROPOSED



3D SHADOW ELEVATIONS - JUNE 21 - 12pm - PROPOSED

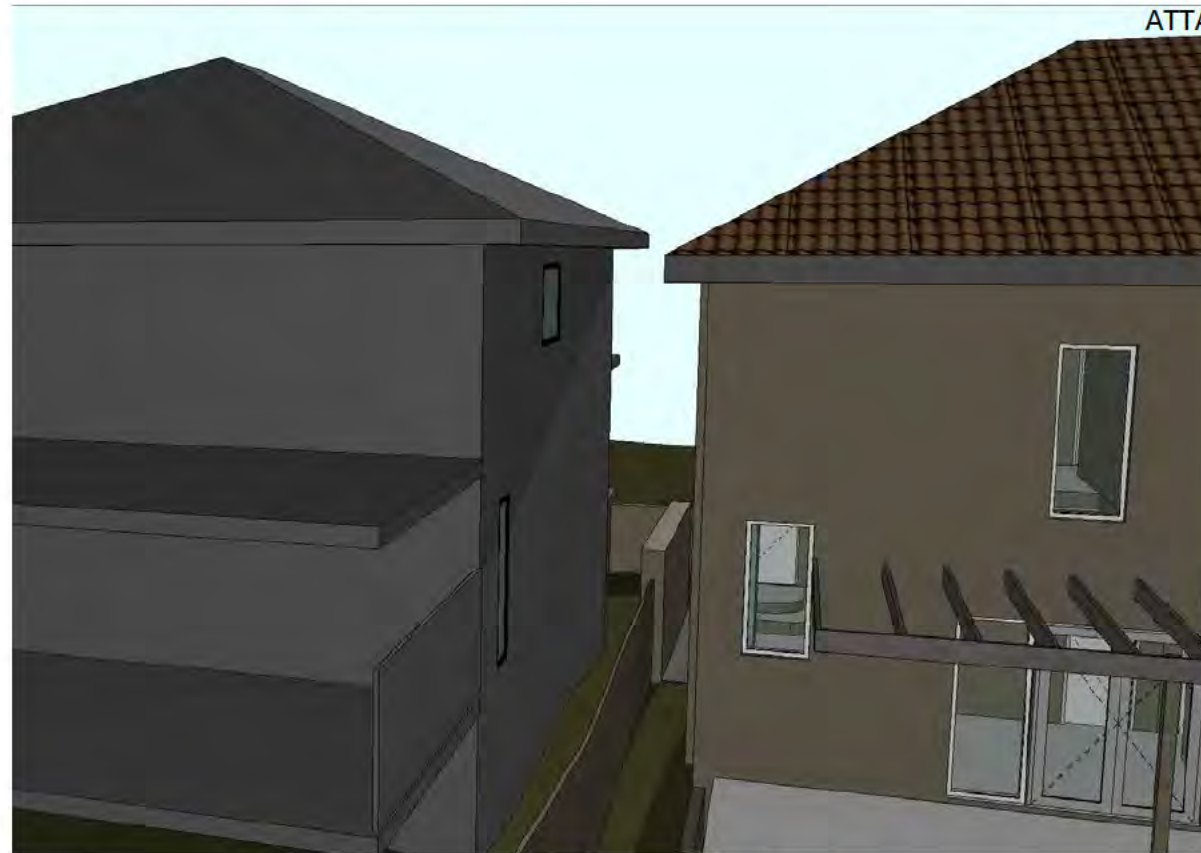


Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 1**
 Project #: **24006** Issue Type: **DA-01**
 Original Sheet Size: **A3** Issue Date: **6/03/2025**
 Scale @ A3: Sheet #: **A 42**
 Chkd: Drawn: **ML** Revision: **A**

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3D SHADOW ELEVATIONS - JUNE 21 - 3pm - EXISTING



3D SHADOW ELEVATIONS - EQUINOX - 9am - EXISTING



3D SHADOW ELEVATIONS - JUNE 21 - 3pm - PROPOSED



3D SHADOW ELEVATIONS - EQUINOX - 9am - PROPOSED



Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 2**
 Project #: **24006** Issue Type: **DA-01**
 Original Sheet Size: **A3** Issue Date: **6/03/2025**
 Scale @ A3: Sheet #: **A 43**
 Chkd: Drawn: **ML**

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3D SHADOW ELEVATIONS - EQUINOX - 12pm - EXISTING



3D SHADOW ELEVATIONS - EQUINOX - 3pm - EXISTING



3D SHADOW ELEVATIONS - EQUINOX - 12pm - PROPOSED



3D SHADOW ELEVATIONS - EQUINOX - 3pm - PROPOSED



Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 3**

Project #: 24006 Issue Type: **DA-01**
 Original Sheet Size: **A3** Issue Date: **6/03/2025**
 Scale @ A3: Sheet #: **A 44**
 Chkd: Drawn: **ML** Revision: **A**

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3D SHADOW ELEVATIONS - JUNE 21 - 9am - EXISTING



3D SHADOW ELEVATIONS - JUNE 21 - 9am - PROPOSED



3D SHADOW ELEVATIONS - JUNE 21 - 9am - 8.5m ADDITION



Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: **Zylberberg House**

Client: **Nicky & Alex Zylberberg**

Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 4**

Project #: 24006 Issue Type: **DA-01**

Original Sheet Size: A3 Issue Date: **28/05/2025**

Scale @ A3: Sheet #: **A 51**

Chkd: Drawn: ML Revision: **A**

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Board of Architects Registration no 4869



3D SHADOW ELEVATIONS - JUNE 21 - 9:30am - EXISTING



3D SHADOW ELEVATIONS - JUNE 21 - 9:30am - PROPOSED



3D SHADOW ELEVATIONS - JUNE 21 - 9:30am - 8.5m ADDITION

8.5m high rear addition



Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: **Zylberberg House**

Client: **Nicky & Alex Zylberberg**

Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 5**

Project #: 24006 Issue Type: **DA-01**

Original Sheet Size: A3 Issue Date: **28/05/2025**

Scale @ A3: Sheet #: **A 52**

Chkd: Drawn: ML Revision: **A**

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3D SHADOW ELEVATIONS - JUNE 21 - 10:00am - EXISTING



3D SHADOW ELEVATIONS - JUNE 21 - 10:00am - PROPOSED



3D SHADOW ELEVATIONS - JUNE 21 - 10:00am - 8.5m ADDITION



Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: **Zylberberg House**

Client: **Nicky & Alex Zylberberg**

Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 6**

Project #: 24006 Issue Type: **DA-01**

Original Sheet Size: A3 Issue Date: **28/05/2025**

Scale @ A3: Sheet #: **A 53**

Chkd: Drawn: ML Revision: **A**

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ARCHITECT

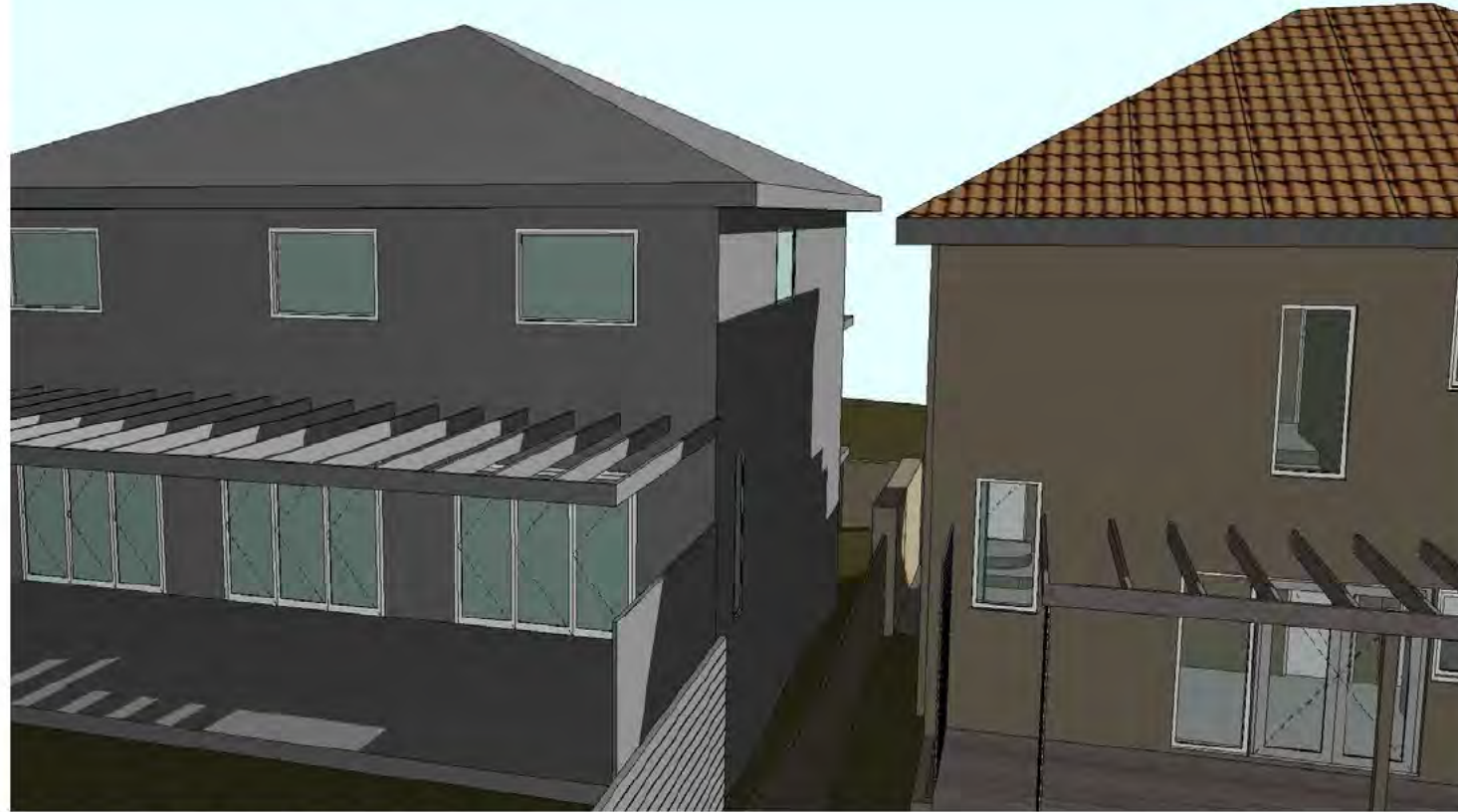
ian@poolearchitect.com.au M 0413 751 721

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PO Box 967 Spit Junction 2088

Board of Architects Registration no 4869



3D SHADOW ELEVATIONS - JUNE 21 - 10:30am - EXISTING



3D SHADOW ELEVATIONS - JUNE 21 - 10:30am - PROPOSED



3D SHADOW ELEVATIONS - JUNE 21 - 10:30am - 8.5m ADDITION



Revision	Date	Revision Note
General Notes:		

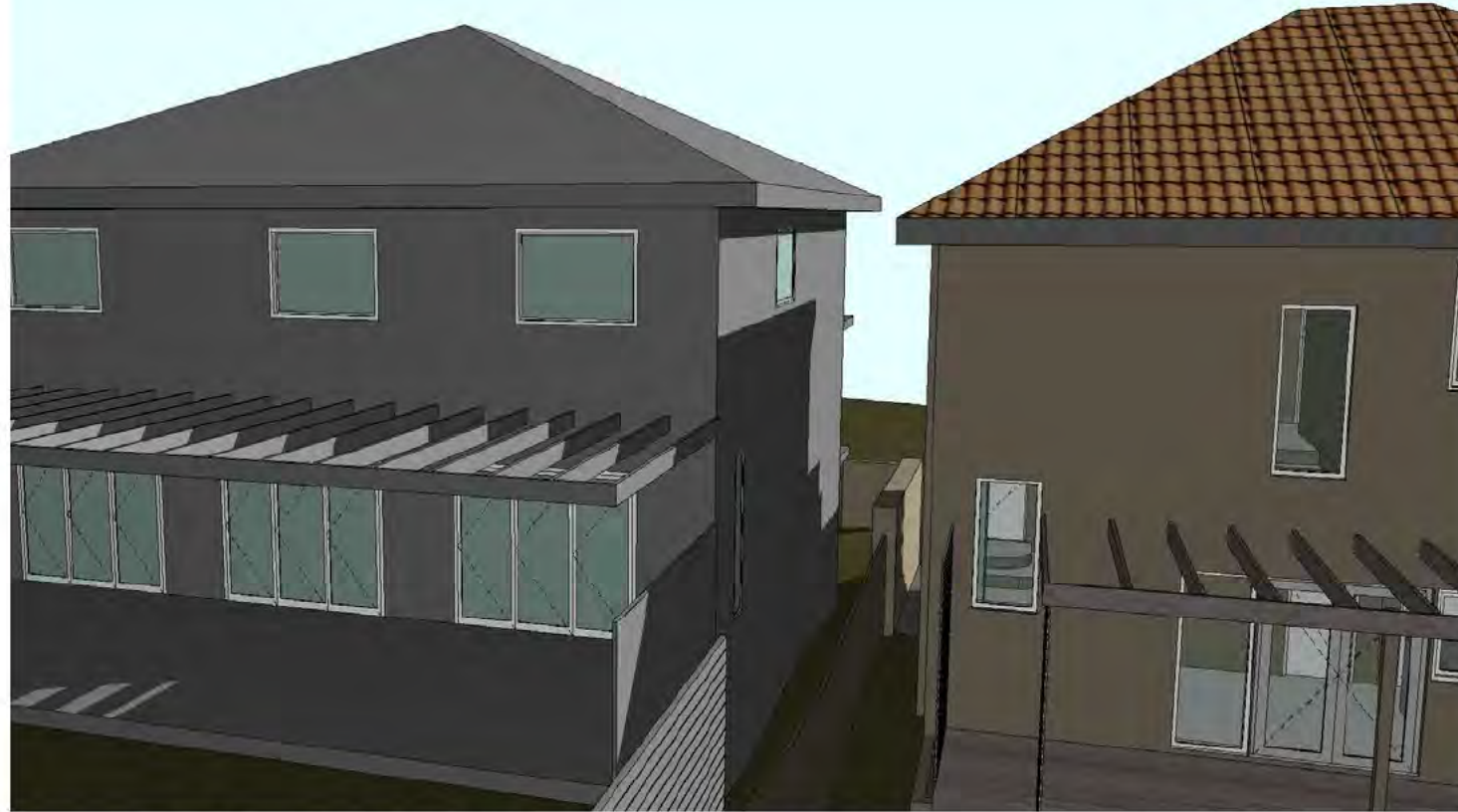
DA ISSUE

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 7**

Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	28/05/2025
Scale @ A3:		Sheet #:	A 54
Chkd:	Drawn:	ML	A

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3D SHADOW ELEVATIONS - JUNE 21 - 11:00am - EXISTING



3D SHADOW ELEVATIONS - JUNE 21 - 11:00am - PROPOSED



3D SHADOW ELEVATIONS - JUNE 21 - 11:00am - 8.5m ADDITION

8.5m high rear addition



Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 8**
 Project #: 24006 Issue Type: **DA-01**
 Original Sheet Size: A3 Issue Date: **28/05/2025**
 Scale @ A3: Sheet #: **A 55**
 Chkd: Drawn: ML Revision: **A**

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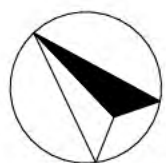
3D SHADOW ELEVATIONS - EQUINOX - 9am - EXISTING



3D SHADOW ELEVATIONS - EQUINOX - 9am - PROPOSED



3D SHADOW ELEVATIONS - EQUINOX - 9am - 8.5m ADDITION



Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 9**
 Project #: 24006 Issue Type: **DA-01**
 Original Sheet Size: A3 Issue Date: **28/05/2025**
 Scale @ A3: Sheet #: **A 56**
 Chkd: Drawn: ML Revision: **A**

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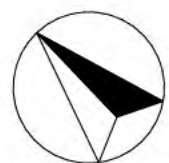
3D SHADOW ELEVATIONS - EQUINOX - 9:30am - EXISTING



3D SHADOW ELEVATIONS - EQUINOX - 9:30am - PROPOSED



3D SHADOW ELEVATIONS - EQUINOX - 9:30am - 8.5m ADDITION



Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 10**

Project #: 24006 Issue Type: **DA-01**
 Original Sheet Size: A3 Issue Date: **28/05/2025**
 Scale @ A3: Sheet #: **A 57**
 Chkd: Drawn: ML Revision: **A**

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3D SHADOW ELEVATIONS - EQUINOX - 10:00am - EXISTING



3D SHADOW ELEVATIONS - EQUINOX - 10:00am - PROPOSED



3D SHADOW ELEVATIONS - EQUINOX - 10:00am - 8.5m ADDITION

8.5m high rear addition



Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 11**

Project #:	24006	Issue Type:	DA-01
Original Sheet Size:	A3	Issue Date:	28/05/2025
Scale @ A3:		Sheet #:	A 58
Chkd:	Drawn:	ML	A

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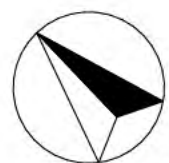
3D SHADOW ELEVATIONS - EQUINOX - 10:30am - EXISTING



3D SHADOW ELEVATIONS - EQUINOX - 10:30am - PROPOSED



3D SHADOW ELEVATIONS - EQUINOX - 10:30am - 8.5m ADDITION



Revision	Date	Revision Note
General Notes:		

DA ISSUE

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 12**

Project #: 24006 Issue Type: **DA-01**
 Original Sheet Size: A3 Issue Date: **28/05/2025**
 Scale @ A3: Sheet #: **A 59**
 Chkd: Drawn: ML Revision: **A**

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3D SHADOW ELEVATIONS - EQUINOX - 11:00am - EXISTING



3D SHADOW ELEVATIONS - EQUINOX - 11:00am - PROPOSED



3D SHADOW ELEVATIONS - EQUINOX - 11:00am - 8.5m ADDITION



Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: **Zylberberg House**
 Client: **Nicky & Alex Zylberberg**
 Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 13**
 Project #: 24006 Issue Type: **DA-01**
 Original Sheet Size: A3 Issue Date: **28/05/2025**
 Scale @ A3: Sheet #: **A 60**
 Chkd: Drawn: ML Revision: **A**

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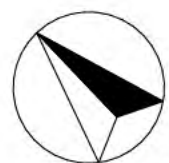
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3D SHADOW ELEVATIONS - EQUINOX - 11:30am - PROPOSED



3D SHADOW ELEVATIONS - EQUINOX - 11:30am - 8.5m ADDITION



Revision	Date	Revision Note
General Notes:		
DA ISSUE		

Project: **Zylberberg House**

Client: **Nicky & Alex Zylberberg**

Address: **43 Wonga Rd, Cremorne**

Drawing: **SHADOW ELEVATIONS - 14**

Project #: 24006 Issue Type: **DA-01**

Original Sheet Size: A3 Issue Date: **28/05/2025**

Scale @ A3: Sheet #: **A 61**

Chkd: Drawn: ML Revision: **A**

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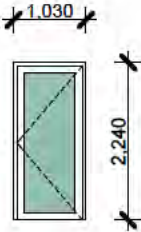
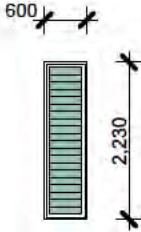
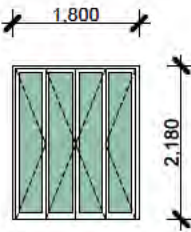
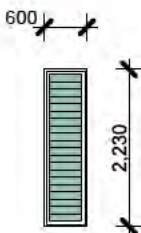
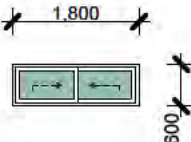
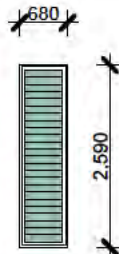
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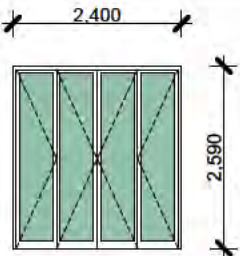
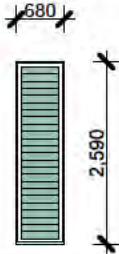
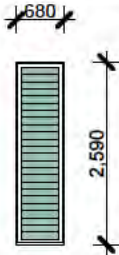
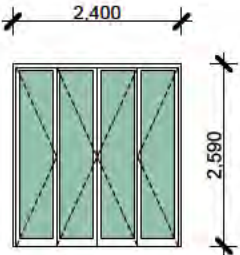
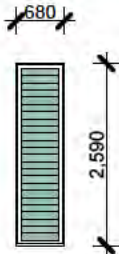
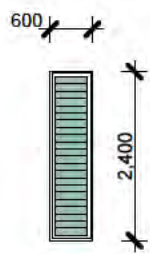
Arev Investments Pty Ltd ABN 48 422 946 578

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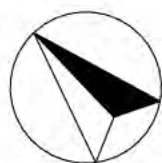
Board of Architects Registration no 4869

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W1.02A			600×2,230		1.34		
W1.02B			1,800×2,180		3.92		
W1.02C			600×2,230		1.34		
W1.05			1,800×600		1.08		
W2.01			680×2,590		1.76		

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W2.04			680×2,590		1.76		
W2.05			2,400×2,590		6.22		
W2.06			680×2,590		1.76		
W2.07			600×2,400		1.44		

ATTACHMENT TO LPP01 - 09/07/2025

Page 99



Revision Date Revision Note

General Notes:

DA ISSUE

Project:

Zylberberg House

Client:

Nicky & Alex Zylberberg

Address:

43 Wonga Rd, Cremorne

Drawing:

WINDOW SCHEDULE 1

Project #:

24006

Issue Type:

DA-01

Original Sheet Size:

A3

Issue Date:

6/03/2025

Scale @ A3:

Sheet #:

Revision:**A**

Chkd:

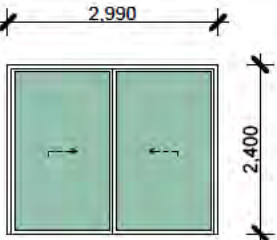
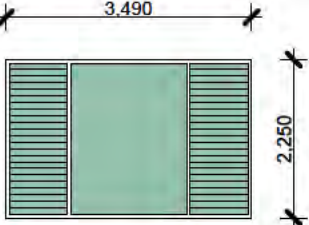
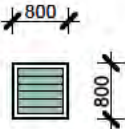
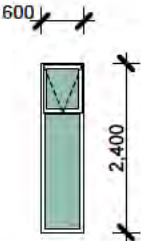
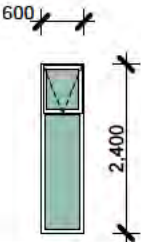
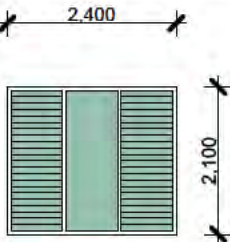
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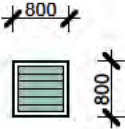
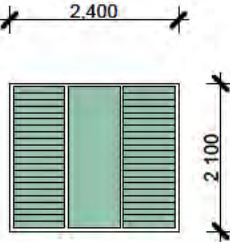
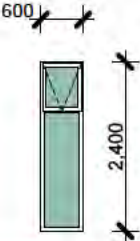
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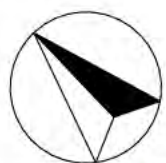
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WINDOW SCHEDULE							ATTACHMENT TO LPP01 - 09/07/2025
WINDOW No	VIEW FROM OUTSIDE	TYPE	SIZE - W x H (mm)	HEAD (nom.)	UNIT AREA (m ²)	GLAZING TYPE	FRAME TYPE
W2.08			2,990x2,400		7.18		
W2.10			3,490x2,250		7.85		
W2.11			800x800		0.64		
W2.12			600x2,400		1.44		
W3.01			600x2,400		1.44		
W3.02			2,400x2,100		5.04		

WINDOW SCHEDULE							Page 100
WINDOW No	VIEW FROM OUTSIDE	TYPE	SIZE - W x H (mm)	HEAD (nom.)	UNIT AREA (m ²)	GLAZING TYPE	FRAME TYPE
W3.03			800x800		0.64		
W3.04			2,400x2,100		5.04		
W3.05			600x2,400		1.44		



Revision Date Revision Note

General Notes:

DA ISSUE

Project:
Zylberberg House

Client:
Nicky & Alex Zylberberg

Address:
43 Wonga Rd, Cremorne

Drawing:
WINDOW SCHEDULE 2

Project #: 24006 Issue Type: **DA-01**

Original Sheet Size: A3 Issue Date: **6/03/2025**

Scale @ A3: Sheet #: **Revision: A**

Chkd: Drawn: ML **A 46**

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Board of Architects Registration no 4869

NOTES

1. The builder shall be responsible for subgrade excavation and preparation to allow for topsoil and mulch depth to deep soil planting area.
2. Imported topsoil as specified shall be spread to the site as follows:
 - on grade planting planting beds 300mm depth of topsoil/compost planting mix as specified.
 - turf grass areas shall have a reduced depth of coarse sand of 100mm and reduced depth of 150mm sandy topsoil.
3. All planting areas shall be mulched to a depth of 75mm with 15mm horticultural grade pinebark.
4. Trees and large shrubs shall be staked as detailed on the planting schedule.
5. Refer to Architectural plans and Engineers Site Plans for precise information regarding paving, finished levels, roadworks, fences, lighting, structures and drainage details.
6. A fully automatic dripline irrigation system shall be installed to all turf grass areas, planter boxes and planting beds. Irrigation shall conform to AS3500 and Sydney Water regulations.
7. Proposed plant species are of indigenous origin or require low water usage.

GENERAL NOTE:

PLANTS ARE LIVING ORGANISMS THAT REQUIRE MAINTAINANCE IN ORDER TO REMAIN IN A HEALTHY CONDITION AND CONTINUE TO GROW. REGULAR MAINTAINANCE IS REQUIRED SUCH AS PRUNING OR OTHER SUCH ATTENDANCE TO ENSURE THAT THEY DO NOT OUTGROW THEIR ALLOTTED SPACE.

THE EXACT LOCATION OF SITE BOUNDARIES ARE TO BE CONFIRMED ON SITE PRIOR TO COMMENCEMENT OF WORK.

WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED MEASUREMENTS. ALL DIMENSIONS AND LEVELS SHALL BE VERIFIED BY CONTRACTOR ON SITE. CONTRACTOR SHALL OBTAIN ARCHITECT'S WRITTEN APPROVAL OF INITIAL SETOUT PRIOR TO COMMENCEMENT OF WORK. IF IN DOUBT, CONTACT ARCHITECT.

ANY BATTER GREATER THAN 1 IN 3 SHALL BE STABILISED BY APPROVED GEOFABRIC OR OTHER EROSION CONTROL MEASURE TO SATISFY ARCHITECT.

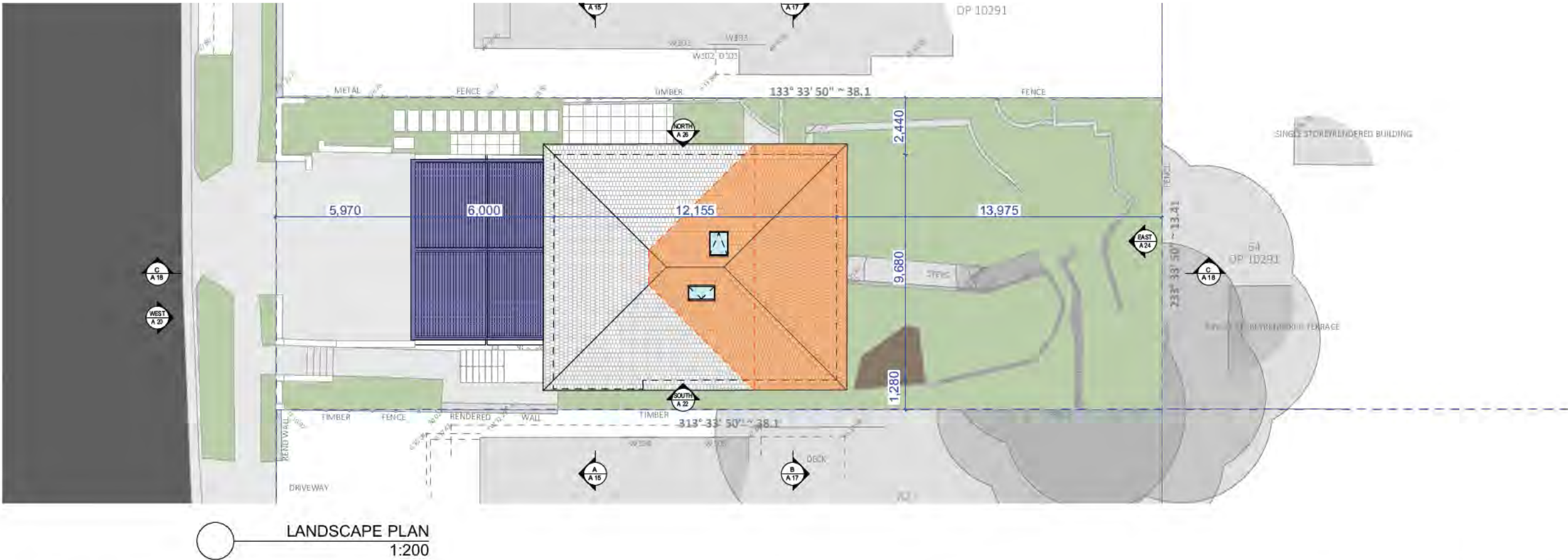
FINAL PLANT SIZES MAY BE ADJUSTED AS NECESSARY TO SUIT AVAILABILITY OF PLANT SPECIES AT TIME OF IMPLEMENTATION AND FINAL PROJECT BUDGET.

SHOULD THE PROPOSED TREE LOCATION HAVE TO POTENTIAL TO INTERFERE WITH EXISTING OR PROPOSED UTILITIES, CONTRACTOR SHALL ADVISE ARCHITECT AND AWAIT INSTRUCTIONS PRIOR TO PROCEEDING

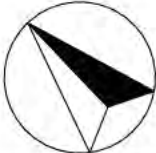
LEGEND



Existing landscaped areas consisting of lawn and planted areas to remain unchanged



LANDSCAPE PLAN
1:200



Revision	Date	Revision Note

General Notes: **DA ISSUE**

Project: **Zylberberg House**
Client: **Nicky & Alex Zylberberg**
Address: **43 Wonga Rd, Cremorne**

Drawing: **LANDSCAPE PLAN**
Project #: **24006** Issue Type: **DA-01**
Original Sheet Size: **A3** Issue Date: **18/09/2024**
Scale @ A3: **1:200** Sheet #: **A 50**
Chkd: **ML** Drawn: **ML** Revision: **A**

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APPENDIX

CLAUSE 4.6 – WRITTEN REQUEST TO VARY A DEVELOPMENT STANDARD CLAUSE 4.3 HEIGHT OF BUILDINGS

PREPARED FEBRUARY 2025

**WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF
NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013**

43 WONGA ROAD, CREMORNE

**FOR THE CONSTRUCTION OF THE ALTERATIONS AND ADDITIONS TO AN EXISTING
RESIDENTIAL DWELLING**

**VARIATION OF A DEVELOPMENT STANDARD REGARDING THE HEIGHT OF BUILDINGS
CONTROL AS DETAILED IN CLAUSE 4.3 OF THE
NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013**

For: Alterations and additions to existing dwelling house
At: 43 Wonga Road, Cremorne
Owner: Nicky & Alex Zylberberg
Applicant: Nicky & Alex Zylberberg
c/- Vaughan Milligan Development Consulting Pty Ltd

1.0 Introduction

This written request is made pursuant to the provisions of Clause 4.6 of North Sydney Local Environmental Plan 2013. In this regard it is requested Council support a variation with respect to compliance with the height of buildings control as described in Clause 4.3 of the North Sydney Local Environmental Plan 2013 (NSLEP 2013).

This submission has been prepared to address the provisions within Section 35B of the Environmental Planning and Assessment Regulation 2021, and as discussed within this Written Request, will demonstrate the grounds on which the proposal considers the matters set out in Clause 4.6(3)(a) and (b) of the NSLEP 2013.

This development standard variation request has been prepared under Clause 4.6 of the North Sydney Local Environmental Plan 2013 to justify the departure from development standard height of buildings, in Clause 4.3 of the LEP.

Clause 4.6 aims to provide an appropriate degree of flexibility in applying certain development standards. It is a facilitative clause which enables the consent authority to grant consent to a development although it contravenes a development standard. This is subject to the consent authority being satisfied that there are proper planning grounds to justify the contravention.

Once applied, it is considered that the Development Standard for height of building proposed under the development allows for the orderly and economic use of the land in an appropriate manner.

2.0 Background

Clause 4.3 of NSLEP sets out the maximum height of a building as follows:

(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 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The Height of Buildings Map specifies a maximum building height of 8.5m.

As a consequence of the site slope towards the street and the form of the existing dwelling, the proposed additions and alterations to the existing dwelling will present a non-compliant height above the existing ground level (existing garage level) of up to 11.43m being a 34.47% variation to the control, as noted in Figures 1 below.

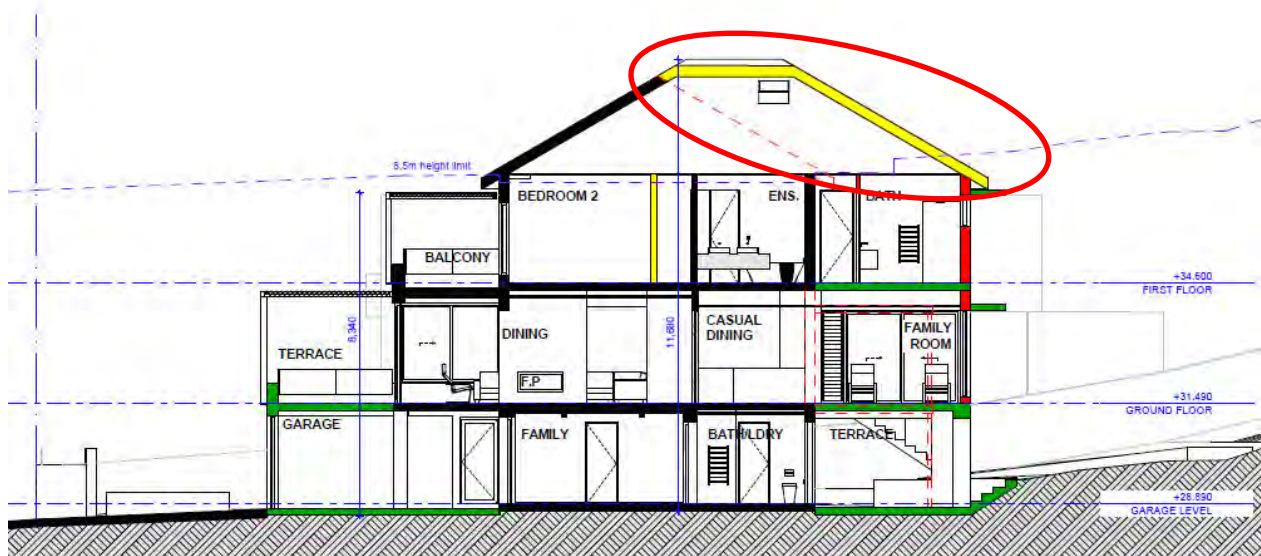


Figure 1: the additional area of roof line over the required 8.5m building height

The existing dwelling house displays a variation to the building height control being three storeys. The amended roof level as part of the proposed works is RL40.37m AHD (0.43m higher than the existing roof (RL39.94m AHD). It is only the roofline that remains above the required height of 8.5m. All other works as part of the application are compliant with the 8.5m building height requirement.

On this basis the height variation is a function of the modification of the existing site; slope of the land and locational context of the site in terms of the nature, height and built form of surrounding development and promotion of good design.

To further reduce the sense of visual height and scale, the new roofline is behind the existing ridge height, meaning the area of non-compliance is not visually identifiable from the Wonga Road street view or any public spaces.

The proposal is considered acceptable and as discussed further within this request, there are sufficient environmental planning grounds to justify contravening the development standard.

The Dictionary to NSLEP operates via clause 1.4 of NSLEP. The Dictionary defines “building height” as:

building height (or height of building) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellitedishes, masts, flagpoles, chimneys, flues and the like.

The dwelling continues to present as a stepped three storey appearance for the significant majority of its presentation to both the neighbouring properties and the street.

The proposal is considered acceptable and there are sufficient environmental planning grounds to justify contravening the development standard.

The controls of Clause 4.3 are considered to be a development standard as defined in the Environmental Planning and Assessment Act, 1979.

2.1 Authority to vary a Development Standard

In September 2023, the NSW Government published amendments to Clause 4.6 of the Standard Instrument which change the operation of the clause across all local environmental plans, including the North Sydney LEP. The changes came into force on 1 November 2023.

The principal change is the omission of subclauses 4.6(3)-(5) and (7) in the Standard Instrument Principal Local Environmental Plan.

The following changes have been made as a result of this:

- Clause 4.6(3) was amended such that the requirement to ‘consider’ a written request has been changed with an express requirement that the consent authority ‘be satisfied that the applicant has demonstrated’ that compliance with the development standard is unreasonable or unnecessary.
- Clause 4.6(4)(a)(ii) was amended such that the requirement that the consent authority must be satisfied that the proposed development in the public interest has been removed.
- Clause 4.6(4)(b) & 5 amended such that the requirement for concurrence from the Planning Secretary has been removed.

The objectives of clause 4.6 of the LEP, as amended, seek to recognise that in the particular circumstances of this case strict application of development standards may be unreasonable or unnecessary. The clause provides objectives and a means by which a variation to the development standard can be achieved as outlined below:

Clause 4.6 Exception to development standard

(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 to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Note—

The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for development that proposes to contravene a development standard to be accompanied by a document

setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) *The consent authority must keep a record of its assessment carried out under subclause (3).*

(5) *(Repealed)*

(6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—

When this Plan was made it did not include all of these zones.

(7) *(Repealed)*

(8) *This clause does not allow development consent to be granted for development that would contravene any of the following—*

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(caa) clause 5.5,

(ca) clause 4.3 in relation to land identified as “Area 1” on the Special Provisions Area Map, other than subject land within the meaning of clause 6.19C,

(cab) clause 4.4, 5.6 or 6.19C in relation to land identified as “Area 1” on the Special Provisions Area Map,

(cb) clause 6.3(2)(a) and (b),

(cba) clause 6.19A.

(cc) (Repealed)

(8A) *(Repealed)*

Is Clause 4.3 of the LEP a development standard?

- (a) The definition of “development standard” in clause 1.4 of the EP&A Act means standards fixed in respect of an aspect of a development and includes:

“(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work.”

- (b) Clause 4.3 relates to the maximum height of a building and accordingly, Clause 4.3 is a development standard.

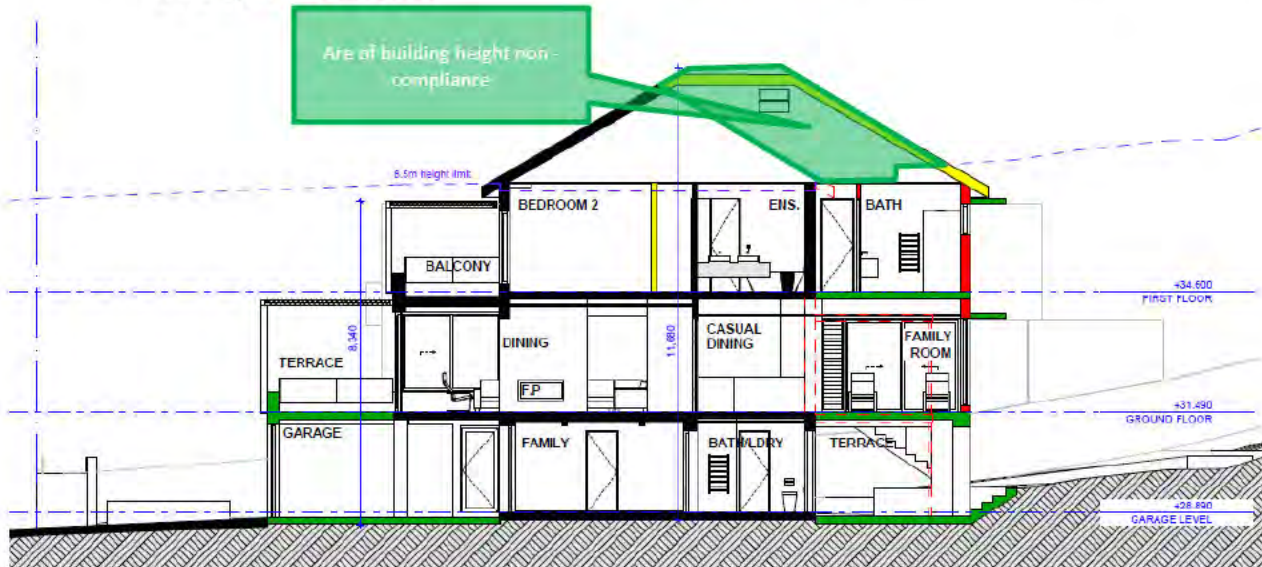


Fig 2: Extract from the architectural plans noting the extent of the proposed building height non-compliance (11.43m)

3.0 Purpose of Clause 4.6

The North Sydney Local Environmental Plan 2013 contains its own variations clause (Clause 4.6) to allow a departure from a development standard. Clause 4.6 of the LEP is similar in tenor to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) suggests a similar approach to SEPP 1 may be taken in part.

There is recent judicial guidance on how variations under Clause 4.6 of the Standard Instrument should be assessed. These cases are taken into consideration in this request for variation.

In particular, the principles identified by Preston CJ in *Initial Action Pty Ltd vs Woollahra Municipal Council* [2018] NSWLEC 118 have been relied on in this request for a variation to the development standard.

4.0 Objectives of Clause 4.6

The objectives of Clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The decision of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (“Initial Action”) provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal in ***RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [1], [4] & [51]** where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant’s written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.

At [90] of *Initial Action* the Court held that:

“In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard “achieve better outcomes for and from development”. If objective (b) was the source of the Commissioner’s test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test.”

The legal consequence of the decision in *Initial Action* is that clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of the LEP provides:

- (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.*

Clause 4.3 (height of buildings control) is not excluded from the operation of clause 4.6 by clause 4.6(8) or any other clause of the LEP.

Clause 4.6(3) of the LEP provides:

- (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.

The proposed development does not comply with the maximum building height development standard pursuant to Clause 4.3 of NSLEP which specifies a maximum building height of 8.5m in this area of Cremorne.

The proposed alterations and additions to the dwelling house will contain additional areas of roof that does not comply with the 8.5m building height requirements, which is a minor portion of new roofline to the eastern of the upper level roof being up to 11.43m in height and exceed the building height control by 34.47% or 2.93m.

Strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard. The relevant arguments are set out later in this written request.

Clause 4.6(4) of NSLEP is administrative:

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

Clauses 4.6(5) & (7) & (8A) are repealed.

Clause 4.6(6) applies to certain zones, as:

Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if— (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

The site is zoned C4 Environmental Living Zone and the application does not seek subdivision of the land. This clause is not applicable to the proposal.

Clause 4.6(8) applies to certain clauses of the LEP, as:

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4, (caa) clause 5.5,

(ca) clause 4.3 in relation to land identified as “Area 1” on the Special Provisions Area Map, other than

*subject land within the meaning of clause 6.19C,
(cab) clause 4.4, 5.6 or 6.19C in relation to land identified as "Area 1" on the Special Provisions Area
Map, (cb) clause 6.3(2)(a) and (b),
(cba) clause 6.19A. (cc) (Repealed)*

The development standard is contained in clause 4.3 of the NSLEP 2013 and the site is not located within "Area 1". It is therefore not excluded from the application of Clause 4.6.

The specific objectives of Clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The development will achieve a better outcome in this instance as the site will provide for the alterations and additions to an existing dwelling house, which is consistent with the stated Objectives of the C4 Environmental Living Zone, which are noted as:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- To ensure that residential development does not have an adverse effect on those values.*
- To ensure that a high level of residential amenity is achieved and maintained.*

As sought by the zone objectives, the proposal will provide for an alterations and additions to an existing dwelling which are designed to accommodate the existing layout and setbacks of the current dwelling, the sensitive location and the sloping topography of the locality.

The non-compliance with the building height control arises as a direct result of the existing height of the dwelling house and the sloping topography of the site. The site levels fall towards the south-western front corner, with the building height variation of the new roof line of the upper floor a direct result of the existing roofline and sloping nature of the site.

The building height variation is limited to only a small portion of the roofing over the rear first floor (see Figure 2). All other works as part of the proposal are compliant with the 8.5m requirements. The proposal maintains a bulk and scale which is in keeping with the extent of surrounding development, with a consistent palette of materials and finishes which will provide for high quality development that will enhance and complement the locality.

The proposed additions and alterations to the existing dwelling will not see any unreasonable impacts on the existing views enjoyed by neighbouring properties, nor create unreasonable or adverse impacts to the existing levels of solar access or privacy enjoyed by adjoining dwellings.

Notwithstanding the non-compliance with the maximum building height control, the new works will provide an attractive addition to the existing residential development that will continue to maintain the building's contribution to the character and function of the local coastal residential neighbourhood.

5.0 The Nature and Extent of the Variation

- 5.1** This request seeks a variation to the maximum building height control contained in Clause 4.3 of NSLEP.
- 5.2** Clause 4.3 of NSLEP specifies a maximum building height of 8.5m in this area of Cremorne.
- 5.3** The proposed new building will have a maximum building height of 11.43m in height (0.43m higher than the existing roof of RL39.94m AHD) and exceeds the building height control by 2.93m or 34.47%.

6.0 Relevant Caselaw

- 6.1** In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular, the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827* continue to apply as follows:

- 17. *The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*
- 18. *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*
- 19. *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*
- 20. *A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*
- 21. *A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.*

22. *These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

6.2 The relevant steps identified in *Initial Action* (and the case law referred to in *Initial Action*) can be summarised as follows:

1. Is Clause 4.3 of NSLEP a development standard?
2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:
 - (a) compliance is unreasonable or unnecessary; and
 - (b) there are sufficient environmental planning grounds to justify contravening the development standard
3. Is the consent authority satisfied that the proposed development will be consistent with the objectives of Clause 4.3 and the objectives for development for in the C4 Environmental Living Zone?

7.0. Request for Variation**7.1 Is compliance with Clause 4.3 unreasonable or unnecessary?**

- (a) This request relies upon the 1st way identified by Preston CJ in Wehbe.
- (b) The first way in Wehbe is to establish that the objectives of the standard are achieved.
- (c) Each objective of the maximum 8.5m building height standard, as outlined under Clause 4.3, and reasoning why compliance is unreasonable or unnecessary, is set out below:

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

The site has a fall from the north-east corner to the south-west corner of the site. The existing building was not stepped down the site, rather it was constructed with a garage level floor and then two habitable levels above.

The proposal achieves this objective as far as is practical in the circumstances with the ultimate development comprising only 3 storeys, with the additional area of the First Floor and its associated roof line set behind the building line so it is not visually identifiable from the street or visually identifiable from the adjoining neighbours site.

The new roofline will also not be able to be viewed from vantage points in the public realm and from the water.

Overall, the proposal is considered to achieve this objective.

(ii) to is to promote the retention and, if appropriate, sharing of existing views

The development has been designed to ensure that equitable access to the available views is maintained for the neighbouring properties.

The site and surrounding properties receive limited water views to Willoughby Bay. All view lines are towards the north and north-west, being over the front setback area of the site. Accordingly, surrounding dwellings retain the same view lines over the front area of the subject site.

The proposal therefore has been designed to ensure that equitable access to the available views is maintained for the site and all neighbouring properties

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

The site has an east-west orientation. Additional shadows from the proposal have been tracked and shadow diagrams submitted with the DA package. The works are modest in size and will not give rise to any additional excessive overshadowing, therefore maintaining

sufficient solar access to the main living areas and principal private open spaces of adjoining dwellings.

(iv) is to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The additions and alterations to the dwelling have been designed with its primary orientation to the north and north-west towards the water which assists in minimising potential impacts to neighbouring dwellings.

The side elevations have been treated with a combination of features to ensure a high level of privacy including the incorporation of opaque glazing and varied sill heights to the northern and southern elevations.

(v) is to ensure compatibility between development, particularly at zone boundaries

The development site is not located at a zone boundary.

This section of Cremorne contains an eclectic mix of low and medium density development.

The building's height, bulk and building mass lies between the large, low-density residences, see Figure 3 below.

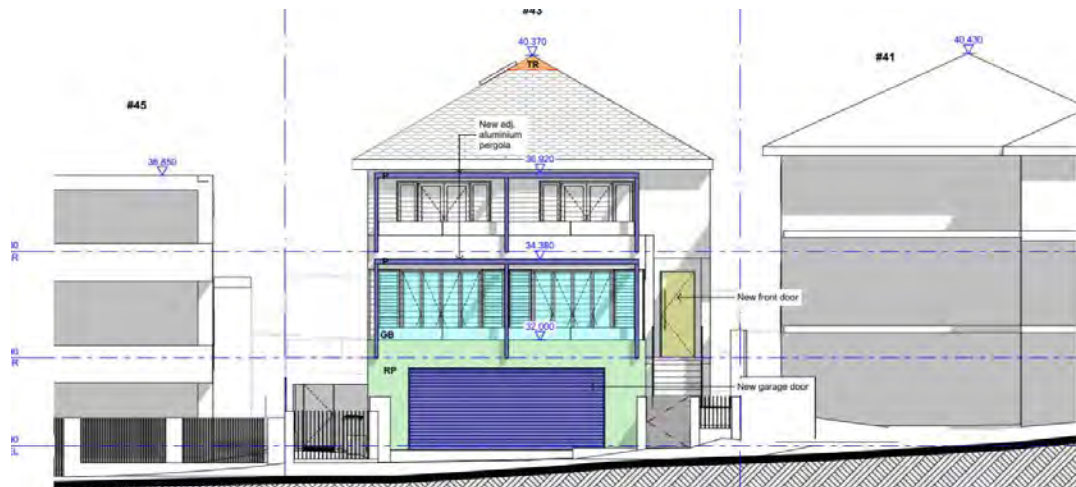


Figure 4: Comparison of the subject site with the neighbouring sites.

The proposal does not seek to substantially alter the built form or volume of the existing development.

The proposed development consists of a sympathetic and carefully considered contemporary Wonga Road streetscape and is compatible with the height and urban typology of adjoining and adjacent development.

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

The subject site is located in an area that varies greatly in topography and character.

The site is situated amongst an eclectic mix of building types, including detached older dwellings, modern infill developments and multi storey development. In relation to the scale of the proposal, including overall height the new additions to the dwelling house complements the existing character of the Cremorne area.

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

In Initial Action the Court found at [23]-[24] that:

23. *As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.*
24. *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

There are sufficient environmental planning grounds to justify contravening the development standard.

The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:

- The proposed building height departure occurs largely as a consequence of the existing floor levels and roofline of the dwelling house, and the sloping topography of the site. The building retains a compatible three storey height and form. Reducing the building height to strictly comply with the 8.5m height control would result in a notable reduction to the amenity of each level or result in further excavation to the site which is a less

desirable outcome for this particular lot.

- The design of the new development maintains sufficient solar access to the primary living spaces and takes advantage of the outstanding views by locating the principal living towards the northern aspect.
- The proposed development will reinforce the existing streetscape, be consistent with the general bulk and scale of the existing surrounding development and respect the prevailing development pattern. This promotes the orderly and economic use of the land (cl 1.3(c)).
- Similarly, the proposed development will provide for improved amenity within a built form which is compatible with the streetscape of Wonga Road which also promotes the orderly and economic use of the land (cl 1.3(c)).
- The proposed new development is considered to promote good design and enhance the residential amenity of the buildings' occupants and the immediate area, which is consistent with the Objective 1.3 (g).
- The proposed development improves the amenity of the occupants of the subject site and respects surrounding properties by locating the development where it will not unreasonably obstruct views across the site and will maintain the views from the site (1.3(g)).
- The height non-compliance can be attributed to the form of the existing dwelling and the sloping topography of the site which is considered to be an environmental planning ground which supports the variation to the control.

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the provision of a building that provides sufficient floor area for future occupants and manages the bulk and scale and maintains views over and past the building from the public and private domain. These are not simply benefits of the development as a whole, but are benefits emanating from the minor breach of the maximum 8.5m building height control.

The existing dwelling and natural topography of the land is considered to be a constraint which impacts on the aspect of the development that contravenes a development standard, being the minor breach to the maximum building height control.

It is noted that in *Initial Action*, the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl

4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

7.3 Is the proposed development consistent with the objectives of Clause 4.3 and the objectives of the C4 Environmental Living Zone?

- (a) Section 4.2 of this written request suggests the 1st test in Wehbe is made good by the development.
- (b) Each of the objectives of the C4 Environmental Living Zone and the reasons why the proposed development is consistent with each objective is set out below.

I have had regard for the principles established by Preston CJ in *Nessdee Pty Limited v Orange City Council [2017] NSWLEC 158* where it was found at paragraph 18 that the first objective of the zone established the range of principal values to be considered in the zone.

Preston CJ also found that *"The second objective is declaratory: the limited range of development that is permitted without or with consent in the Land Use Table is taken to be development that does not have an adverse effect on the values, including the aesthetic values, of the area. That is to say, the limited range of development specified is not inherently incompatible with the objectives of the zone"*.

In response to *Nessdee*, I have provided the following review of the zone objectives:

It is considered that notwithstanding the variation of to the maximum building control, the proposed new residential flat building will be consistent with the individual Objectives of the C4 Environmental Living Zone for the following reasons:

- **To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.**

The proposed additions and alterations to the dwelling will improve the amenity within the existing dwelling on the site, whilst maintaining the low-impact residential use. The area has high aesthetic values and the form and design of the works respects the surrounding development. The minor alterations to the dwelling, use of a simple palette of materials and maintenance of existing landscaping will enable the dwelling to minimise its visual impact.

The modest architecture of the dwelling will complement the surrounding buildings and provide an improved presentation to the surrounding area.

- **To ensure that residential development does not have an adverse effect on those values.**

The height variation does not impact the scenic setting or amenity of the surrounding area .

- **To ensure that a high level of residential amenity is achieved and maintained.**

The proposal provides for alterations and additions to an existing dwelling that will provide a high level of residential amenity whilst retaining equitable sharing of views and solar access for the neighbouring properties. The setbacks are compatible with the existing surrounding development, with all existing trees maintained on the site.

7.4 Has the Council considered the matters in clause 4.6(5) of NSLEP?

- (a) The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the proposed additions and alterations to the existing dwelling and for the particular site and this design is not readily transferrable to any other site in the immediate locality, wider region of the State and the scale or nature of the proposed development does not trigger requirements for a higher level of assessment.
- (b) As the proposed development complies with the objectives of the development standard and the objectives of the zone there is no significant public benefit in maintaining the development standard.

8.0 Conclusion

This development proposed a departure from the maximum building height development standard, with the proposed alterations and additions to the existing dwelling to provide a maximum building height of 11.43m which is a variation to the standard of 2.93m or 34.47%.

The site constraints provide sufficient environmental planning grounds to justify contravening the development standard.

This written request to vary to the maximum 8.5m building height controls standard specified in Clause 4.3 of the North Sydney LEP 2013 adequately demonstrates that that the objectives of the standard will be met.

The bulk and scale of the proposed development is appropriate for the site and locality.

Strict compliance with the maximum 8.5m building height control would be unreasonable and unnecessary in the circumstances of this case.



VAUGHAN MILLIGAN

Town Planner