

**NSLPP MEETING HELD ON 04/09/2024****Attachments:**

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

ADDRESS/WARD: 30 Cremorne Road, Cremorne Point (C)**APPLICATION No:** DA 371/23 (PAN-402340)**PROPOSAL:** Change of use from residential flat building into attached dual occupancy including alterations and additions and associated landscape works.**PLANS REF:**

Plan No.	Revision	Description	Prepared by	Dated	Received
DA200	B	Ground Floor Plan - Demolition	Stephanie Brancatisano Architect	08/07/2024	15/07/2024
DA201	B	First Floor Plan - Demolition		08/07/2024	15/07/2024
DA202	B	Roof Plan - Demolition		08/07/2024	15/07/2024
DA300	C	Ground Floor Plan – Proposed		08/07/2024	15/07/2024
DA301	C	First Floor Plan – Proposed		08/07/2024	15/07/2024
DA302	C	Attic Floor Plan – Proposed		08/07/2024	15/07/2024
DA303	C	Roof Plan – Proposed		08/07/2024	15/07/2024
DA500	A	Section 1 – Proposed		18/12/2023	09/01/2024
DA501	A	Section 2 – Proposed		18/12/2023	09/01/2024
DA502	C	Section 3 – Proposed		08/07/2024	15/07/2024
DA404	C	Section 4 – Proposed		08/07/2024	15/07/2024
DA700	C	North Elevation – Proposed		08/07/2024	15/07/2024
DA701	C	South Elevation – Proposed		08/07/2024	15/07/2024
DA702	A	East Elevation – Proposed		18/12/2023	09/01/2024
DA703	C	West Elevation – Proposed		08/07/2024	15/07/2024
DA704	A	Heritage Streetscape – Proposed		18/12/2023	09/01/2024
DA705	A	Materials Palette – Proposed		18/12/2023	09/01/2024
DA900	A	Front Landscape Plan – Proposed		18/12/2023	09/01/2024
DA901	B	Rear Landscape Plan – Proposed		08/07/2024	15/07/2024

OWNER: Roy Paul Brancatisano, Gretel Young, Gastrointestinal Surgery P/L**APPLICANT:** Stephanie Brancatisano Architect**AUTHOR:** Andrew Beveridge, Senior Assessment Officer**DATE OF REPORT:** 20 August 2024**DATE LODGED:** 9 January 2024**DATE AMENDED:** 15 July 2024**SUBMISSIONS:** Three (3)**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks NSLPP approval for the change of use of an existing 4-unit residential flat building into a dual occupancy (attached) and associated alterations and additions, at 30 Cremorne Road, Cremorne Point.

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% and creates additional height and floorspace yield to the building

The proposed development breaches the maximum permitted building height of 8.5m by approximately 627mm-1.202m, equating to a maximum variation of 822mm-922mm or 9.67-10.84%. 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.

The application was notified in accordance with the community engagement protocol and Council received three submissions. The amenity impacts upon adjoining sites have been assessed and are considered to be relatively minor and acceptable within the site circumstances. The works will also maintain a relatively 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.

Subject to the satisfaction of conditions, it is considered that the proposal is acceptable as it will not result in any significant adverse impacts upon the locality or adjoining properties, and the streetscape character will be maintained. The proposed development would be in the public interest as the submitted written request is considered to be well founded and worthy of support.

Having regard for the potential impacts upon the amenity of adjoining properties and the surrounding neighbourhood, subject to conditions, the development application is considered to be satisfactory and is recommended for **approval**.

LOCATION MAP



□ Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

This development application seeks NSLPP approval for the change of use of an existing 4-unit residential flat building into a dual occupancy (attached) and associated alterations and additions, at 30 Cremorne Road, Cremorne Point. The proposed works include:

- Partial demolition of the existing building (to the rear, parts of the side aspects and removal of the roof structures) and new extension in place to the rear and new roof space.
- Internal reconfiguration and alterations to accommodate the change from 4 units to 2 dwellings in a semi-detached format sharing a central party wall.
- Removal of hardstand areas across the rear yard, alongside additional landscaping and a new detached garage. Partial demolition of existing garage.
- Preservation of the building facades to Cremorne Road.

The completed building will comprise the following:

Dwelling 1 (Northern side)

- Ground Floor: Dwelling entry, hallway, sunroom (existing), living room, Bedroom 1 with ensuite bathroom, lift to upper floors, WC, and open-plan kitchen/dining room with rear access to a separated rear courtyard garden and patio; new detached single garage facing Cremorne Lane.
- First Floor: Sunroom (existing), living room and bathroom 2; Bedroom 2 with ensuite bathroom, Bedroom 3 with access to a west facing balcony, bathroom 1, lift to other floors.
- Attic: Bedroom 4 with access to a west facing balcony.

Dwelling 2 (Southern side)

- Ground Floor: Dwelling entry, hallway, sunroom (existing), living room, Bedroom 1 with ensuite bathroom, lift to upper floors, WC, and open-plan kitchen/dining room with rear access to a separated rear courtyard garden and patio; new detached single garage facing Cremorne Lane.
- First Floor: Sunroom (existing), living room and bathroom 2; Bedroom 2 with ensuite bathroom, Bedroom 3 with access to a west facing balcony, bathroom 1, lift to other floors.
- Attic: Bedroom 4 with access to a west facing balcony.

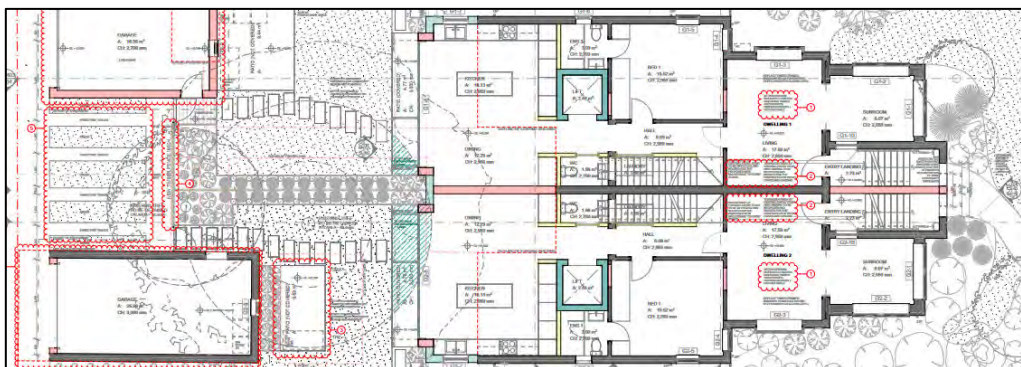


Figure 1. Proposed ground floor plan.

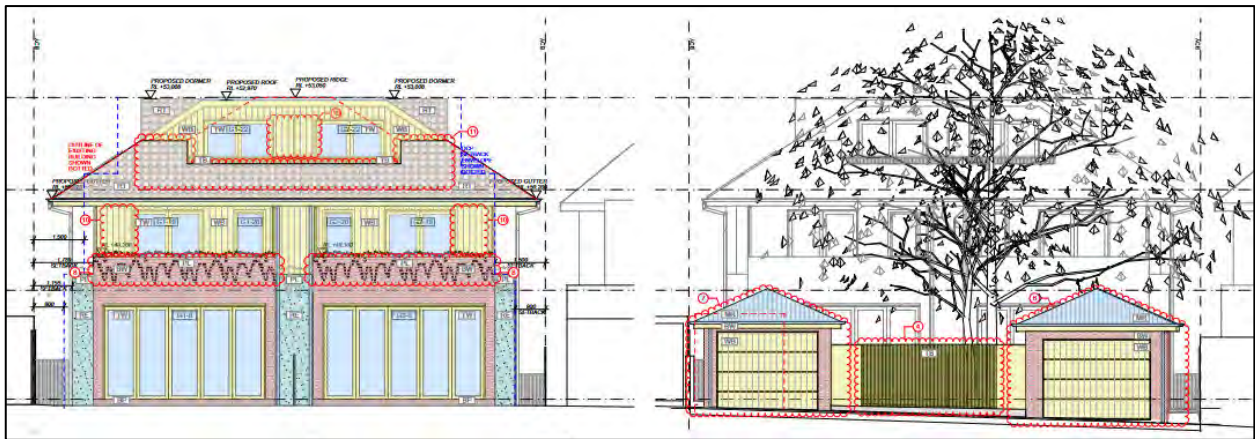


Figure 2. Proposed western elevations (Cremorne Laneway, right).

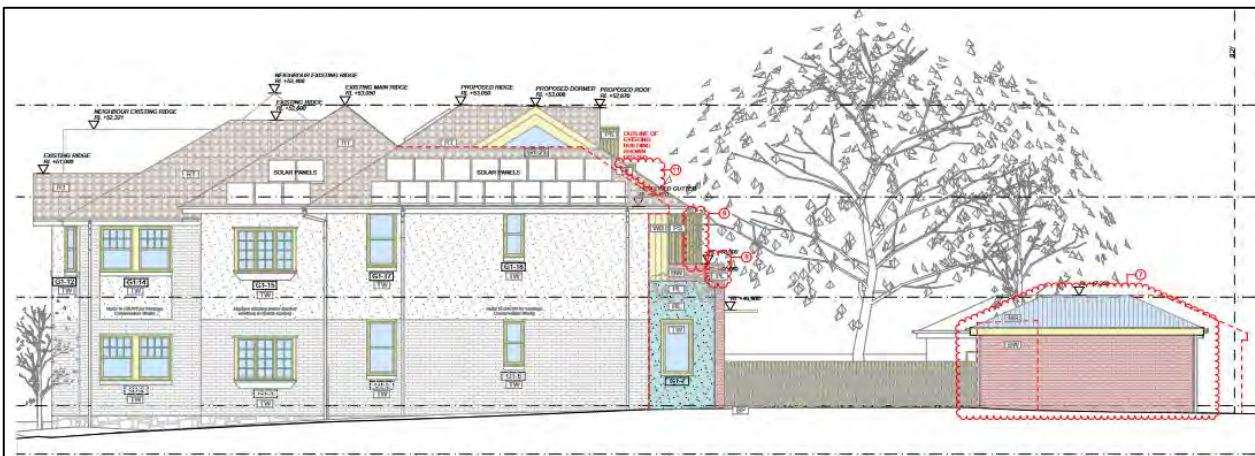


Figure 3. Proposed northern side elevation.



Figure 4. Proposed southern side elevation.



Figure 5. Proposed eastern (Cremorne Road) elevation.

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013

- Zoning – R2 Low Density Residential
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (26 Cremorne Rd, I0093; 33 Milson Rd, I0117)
- Conservation Area – Yes (Cremorne Point Conservation Area, CA06)
- Foreshore Building Line – No

Environmental Planning and 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

SEPP (Housing) 2021

- Chapter 2 – Affordable Housing

Local Development

POLICY CONTROLS

North Sydney Development Control Plan 2013 (NSDCP 2013)

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

North Sydney Local Infrastructure Contributions Plan 2020

DESCRIPTION OF LOCALITY

The site (Lot 48, DP 72298) is on the western side of Cremorne Road between Cremorne Lane to the south and Sirius Street to the north and has a total site area of 650.3m². The site falls to the south east towards Sydney Harbour and Mosman Bay and has a frontage to Cremorne Road, with a secondary elevation to Cremorne Lane at the rear.

Currently existing on the site is a two-storey residential flat building known as “St Martins” that comprises four 2-bedroom apartments. The building currently on site dates from 1920 and is in the Federation Free style with red fac brick walls and corners, with painted timber windows and joinery, sections of walls in roughcast render, rough-hewn sandstone block foundations and front fence, and a terracotta tiled roof. There is a detached face brick single garage with a corrugated metal roof (built 1923) in the south-western corner of the site facing Cremorne Lane, and a small brick garden shed/laundry outbuilding in the north-western corner of the site. The rear garden is dominated by two large trees, being a Jacaranda and a Frangipani.

Surrounding development generally comprises single-storey and two-storey freestanding Federation dwellings, with some later in-fill flat development dating from the Inter-war period to more contemporary developments. The Cremorne Lane laneway streetscape at the rear presents a diverse range of styles and types of additions, with the immediate context of the subject site dominated by carports/garages to the laneway and a range of contemporary and historic style rear additions.



Figure 6. Aerial photograph of subject site (outlined yellow).

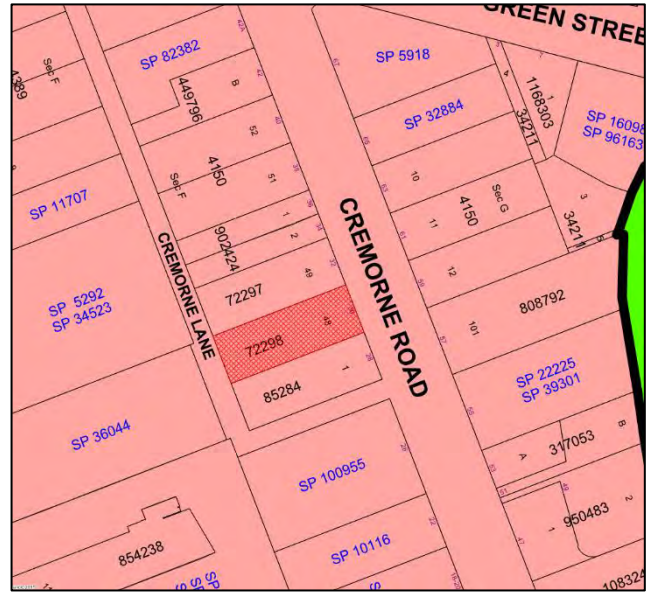


Figure 7. NSLEP Zoning Map with the subject hatched red in the R2 Zone.

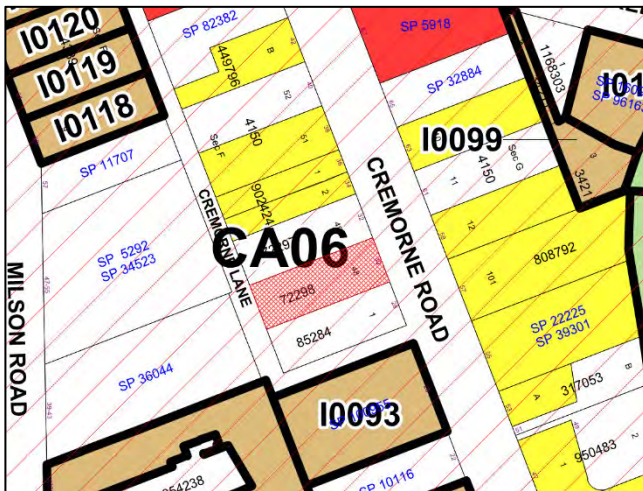


Figure 8. NSLEP and NSDCP Heritage map with the subject hatched red.



Figure 9. View of the site from Cremorne Road.



Figure 10. View of the site from Cremorne Lane.



Figure 11. View looking west over the rear garden towards Cremorne Lane.

RELEVANT DEVELOPMENT HISTORY

Building Application No. 20/116 (lodged 8 April 1920) for the demolition of the existing cottage on the site and the construction of a block of four flats and a detached laundry outbuilding at a cost of £4,000 was approved by Council on 13 April 1920. The building was designed by prolific local architect, James Rutledge Louat (1868-1951)¹, who also designed Nos. 18-20 (1920), 22 (1916), and 49 (1909) Cremorne Road. Garnet Finlay, of Chatswood, was the builder.

Building Application No. 23/317 (lodged 9 July 1923) for the construction of a single detached garage facing Cremorne Lane at a cost of £10, was approved by Council on 11 July 1923. J. G. Verrills was the builder.

On 11 April 1978, Council wrote to the owner of the subject site advising that the existing external staircase at the rear of the building was in a poor state of repair and requesting that it be replaced. The staircase was subsequently replaced with a metal spiral staircase in the same location.

RELEVANT APPLICATION HISTORY

Date	Action
9 January 2024	The application was lodged with Council.
15 January 2024	The subject application was notified to adjoining properties and the Cremorne Point Precinct Committee between 26 January 2024 and 9 February 2024. Three (3) submissions were received.
22 March 2024	A visit to the subject site was undertaken by Council Officers.
16 April 2024	A visit to an adjoining site was undertaken by Council Officers.
14 May 2021	Council sent the applicant a letter raising concerns regarding the impact of the proposed works upon the conservation area and the landscaping/trees, and potential amenity impacts upon adjoining sites arising from bulk and scale, and privacy. An extension of time for a response was subsequently granted to 18 June 2024.
10 June 2024	The applicant submitted draft amended plans for the review of Council Officers prior to submitting on the NSW Planning Portal.
15 July 2024	Following advice from Council Officers, the applicant submitted amended plans and additional documentation on the NSW Planning Portal for further review.
17 July 2024	The amended plans were renotified to the three previous submitters, request any additional comments by 31 July 2024. Two submitters subsequently provided additional comments.

REFERRALS

Building

Council's Senior Building Surveyor has reviewed the proposal, provided the following comments, and raised no objection subject to the imposition of the standard condition (see **Condition F1**):

¹ <http://nla.gov.au/nla.news-article18218411>

The Development Application seeks approval for the change of use and associated alterations and additions to an existing residential flat building containing 4 apartments, to convert the building into a dual occupancy residential dwelling containing two row houses. The building is classified by the National Construction Code – Building Code of Australia 2022, Volume 2 (NCC – BCA 2019) as a class 1a building.

The application is supported by a Fire Safety Report (Proposed change of classification) dated 20 November 2023 prepared by Building Code Group. The Report identifies that the proposed development can comply with the BCA however it should be noted that Performance based Solutions are proposed to be developed to address non-compliant fire separation between side window openings within 900mm of the side boundaries. Should a Performance based Solution not be accepted by the Registered Building Surveyor during Construction Certificate assessment stage some side openings will require fire protection treatment such as either use of fixed shut fire rated windows and/or use of fire shutters/screens. The Report also confirms a fire separating wall will be constructed/extended between the two dwellings.

A review of the proposed Drawings revealed a fire separating wall is proposed to be extended to separate the two dwellings including alterations within the existing front entry lobby/stairs to create two separate fire separated entries.

Generally, the proposed development is able to comply with NCC - BCA 2022, Volume 2 and a detailed assessment of compliance with the NCC - BCA 2022 will be undertaken by an appropriately Registered Building Surveyor at the Construction Certificate Stage of the proposed development.

Engineering

The proposal was referred to Council's Development Engineer, who raised no objection subject to the imposition appropriate conditions (see conditions **C1, C3, C4, C8, C9, C10, C11, C12, E2, E3, E4, E5, E9, E10, E13, E15, E17, E18, E21, F6, F7, G1, G21, G3, and G7**).

Heritage

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

The proposal seeks to alter the form of the rear roof to accommodate an attic level with a dormer in each of the northern and southern (side) roof planes and a roof addition in the western (rear) elevation with balconies. Contrary to the description in the DA submission, the western roof addition is not substantially set within its roof plane but is large, with glazed doors and balconies set above the rear building line. The resulting scale and form are not secondary to the roof and the works are beyond that of an attic conversion. Further, these alterations adversely impact on the classical descending order of scale for the Federation style building. The additional storey, coupled with the proposed two storey rear addition creates an over-scaled three storeys building that is out of character with the setting of the two storey heritage items in the vicinity of the site as well as the general one-two storey dwelling context characteristic to the significance of the Cremorne Point conservation area.

Whilst the adaptation of the existing residential flat building for the purposes of a dual occupancy is supported in principle, it is recommended that these works be revised. No objection to a rear ground floor addition across the width of the building is raised.

Planning comment: The above comments and recommendations regarding the size of the rear additions are noted. However, it is recommended that this be approved as currently proposed, as the immediate context of the site as viewed from Cremorne Lane, which is considered to be a secondary laneway, comprises a diverse range of built forms and the addition is unlikely to be significantly out of character with surrounding developments. This includes a wide range of sizes and styles of rear additions and dormers, alongside more modern type developments. As such, the heritage impact is considered to be relatively minimal both to the neutral item and the wider conservation area and is further discussed elsewhere in this report.

Several conditions have been recommended to ensure that the works are sympathetic to the surrounding conservation area (see conditions **A4, C7, C23, and E8**).

Landscaping

Council's Landscape Development Officer has reviewed the proposal and raised no overall objection subject to appropriate conditions to ensure the protection of significant trees and maintaining an appropriate landscaped context (see conditions **C13, C14, C15, C16, C24, C25, D1, D2, D3, D4, E1, E12, G4, G6, I1**).

SUBMISSIONS

On 15 January 2024, the subject application was notified to adjoining properties and the Cremorne Point Precinct Committee between 26 January 2024 and 9 February 2024. Three (3) submissions were received. The amended plans were subsequently renotified to the previous submitters from 17 July 2024 to 31 July 2024. Additional comments were received from two previous submitters.

Basis of Submissions

- Concern regarding the privacy impact of the west-facing rear balconies and dormer of Dwelling 1 and Dwelling 2.
- Request that privacy screens at attic level extend to full length of balcony and that the screens match those for each dwelling.
- Concern regarding the roof drainage/gutters of the new garage for dwelling 1.
- Concern regarding the impact of works upon the front garden and trees.
- Concern regarding placement and number of bathrooms in the development.
- Concern regarding the height breach in the context of the surrounding area.
- The proposed bulk and scale of the additions are excessive and do not meet the height control objectives.
- The proposal will significantly alter the existing structure that does not preserve the character and does not meet the objectives for dual occupancies in Clause 6.6 of NSLEP 2013.
- Concern regarding the solar impacts of the development.
- Concern regarding the privacy impacts of the development, particularly for the proposed attic space and rear balconies.
- Concern regarding lack of details on awnings and air conditioning units.
- Request that the privacy screens on the rear balconies be full length and solid.
- Request that the first floor balcony planter on the southern side be deleted to reduce bulk.
- Request that air conditioning units be screened from adjoining properties.

CONSIDERATION

Environmental Planning and Assessment Act 1979

The relevant matters for consideration under section 4.15(1) 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 nearby bushland areas. The proposal has provided a landscape plan that includes trees and landscaping. Appropriate conditions have also been recommended for the protection of significant trees and the maintenance of sufficient 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 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

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

SEPP (Sustainable Buildings) 2022

The applicant has submitted a two valid BASIX Certificates (Dwelling 1: A1731707_02; Dwelling 2: A1731704_02; dated 9 July 2024) for each of the proposed dwellings in the dual occupancy to satisfy the requirements of the above SEPP.

SEPP (Housing) 2021 – Chapter 2 – Affordable Housing

This policy requires a consent authority to consider whether there would be a loss of affordable rental housing as a consequence of the proposed development, which involves the change of use of the existing residential flat building that contains four residential apartments into a dual occupancy. An assessment is provided below:

Part 3 Retention of existing affordable rental housing

Section 45 – Interpretation

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

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

The existing flat building contains four (4) two-bedroom apartments. The building has not previously been strata subdivided and is a standalone lot, identified as Lot 48 in DP 72298. The applicant has provided the following summary of the most recent rental rates for Units 1, 3 and 4, with **Unit 2 currently being owner-occupied**.

The most recent median weekly rental rate to the date of lodgement for a 2-bedroom unit in the North Sydney LGA (December 2023 Quarter), as published by the NSW Department of Communities and Justice, was \$811.²

The quarterly rent and sales reports published by the NSW Department of Communities and Justice for the relevant period provides the following data for 2-bedroom units in the North Sydney LGA:²

Quarter	Median Rent
December 2018	\$675
March 2019	\$685
June 2019	\$680
September 2019	\$670
December 2019	\$675
March 2020	\$680
June 2020	\$620
September 2020	\$625
December 2020	\$600
March 2021	\$600
June 2021	\$650
September 2021	\$650
December 2021	\$650
March 2022	\$650
June 2022	\$675
September 2022	\$700
December 2022	\$725
March 2023	\$775
June 2023	\$780
September 2023	\$788
December 2023	\$811

² See the table as published by the department here: <https://dcj.nsw.gov.au/about-us/families-and-communities-statistics/housing-rent-and-sales/rent-and-sales-report.html>

The applicant has provided the rental rate figures for the three rented apartments as follows:

Unit 1

Lease term	Weekly Rental Rate
December 2018 to December 2023	\$802.00

Unit 3

Lease term	Weekly Rental Rate
December 2018 to December 2023	\$810.00

Unit 4

Lease term	Weekly Rental Rate
December 2018 to December 2022	\$792.00
March 2023 to December 2023	\$900.00

Based on the figures provided above it appears that two of the three rented units within the building were rented out at a rate below the median for two-bedroom apartments in the North Sydney Local Government Area. It is noted that the weekly rental rate between December 2018 and December 2023 did not change for Units 1 and 3, while the rate increased in March 2023 for Unit 4.

Section 46 – Buildings to which Part applies

The subject building, proposed to be converted from a four-unit residential flat building to a dual occupancy (attached), is a *low-rental residential building* and is located on land within the Greater Sydney Region.

Section 47 – Reduction of availability of affordable housing

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

- (2) *In determining whether to grant development consent, the consent authority must take into account the guidelines and the following -*
- (a) *whether the development will reduce the amount of affordable housing in the area,*

The proposed change of use from a four-unit residential flat building to a dual occupancy (attached) would reduce the amount of affordable rental housing in the area, by removing the two units in the building that were rented out below the median rental rate.

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

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

The Real Estate Institute Vacancy Rate Survey has found that the rates for the months preceding January 2024 in the Inner Sydney area, which contains North Sydney, were as follows: 2.0% (January 2024), 1.8% (December 2023), 1.2% (November 2023), 1.6% (October 2023).³ Consequently, it can be determined that there is insufficient comparable accommodation to satisfy demand as the current vacancy rate is below 3%.

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

Based on the evidence provided, the proposed conversion of the residential flat building to a dual occupancy would reduce the amount of affordable rental housing in the area and is likely to cause some hardship in the general community. However, based on the information provided by the applicant, it is noted that the low-rental dwellings were rented at rates that were very close to the median rate (being only \$9 and \$1 below the December 2023 median rate for Units 1 and 3, respectively). It should also be noted that all three rented units have not been considered low-rental dwellings for the majority of the relevant period (From December 2018 until December 2023). In this respect, the conversion of the existing building to a dual occupancy is likely to have a limited social and/or economic impact upon the general community.

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

The existing rented units 1 and 3 will be lost by this proposal but as demonstrated earlier in this report, they are rented at rates that are not significantly under the median rate for the North Sydney LGA and have not been considered as low-rental dwellings until recently. Unit 4 is not classified as a low-rental dwelling as its current rent is above market value.

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

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

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

The subject building is considered to be structurally sound. Council's Building Surveyor has advised that the Property forms part of Council's Annual Fire Safety Statement Register, and the proposed development is able to comply with NCC - BCA 2022, Volume 2 (See Building Surveyor's comments earlier in this report).

³ 'Vacancy Rate Survey Results – February 2024', Real Estate Institute of NSW, <http://web.archive.org/web/20240326161428/https://www.reinsw.com.au/common/Uploaded%20files/media%20release/2024/Mar/REINSW%20Vacancy%20Rate%20Result%20February%202024.pdf>

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

A contribution is calculated below in accordance with section 46 of the SEPP and would require a levy of **\$180,950.00** to offset the loss of affordable housing.

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

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

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

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

Where

C = contribution

L = number of bedrooms within a low-rental dwelling

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

To Calculate L

For the proposed development, the building contains four 2-bedroom apartments. Two of the units are rented below the median rental rate for the area. As a result, 4 bedrooms would be affected.

$$L = 4$$

To Calculate R

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

Rent and Sales Report Period	1 st Quartile Median Sale Price for Strata Properties
December 2023	\$928,000
September 2023	\$951,000
June 2023	\$870,000
March 2023	\$870,000
Average =	\$904,750

*Source: NSW Department of Communities and Justice <https://dcj.nsw.gov.au/about-us/families-and-communities-statistics/housing-rent-and-sales/previous-rent-and-sales-reports.html>

$$R = \$904,750$$

Therefore, the calculation is as follows.

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

$$C = 4 \times \$904,750 \times 0.05$$

$$C = \$180,950.00$$

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

Condition C19 is recommended, imposing the levy as a condition in accordance with s7.32 of the Act.

North Sydney Local Environmental Plan 2013

Permissibility

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

Council granted consent for the construction of the existing residential flat building development of four units under Building Application No. 20/116 on 13 April 1920. Having regard to previous approvals where the proposals were permissible forms of development but now prohibited under *NSLEP 2013*, and the fact that the subject site has been lawfully occupied as a residential flat building since at least 1920, it can be concluded that the site benefits from “Existing Use Rights” under the *EPAA 1979* (as amended).

Nevertheless, it is noted that the proposal is for the change of use of the existing building from a residential flat building to a dual occupancy (attached), which is a permissible use within the R2 Low Density Residential zone with consent from Council. Consequently, a full existing use rights assessment is not required, as these rights will be extinguished by this proposal.

Objectives of the zone

The objectives of the Zone R2 are stated below:

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

The proposed change of use will allow for the subject site to be more consistent with the specified low-density zoning of the surrounding area, which is generally characterised by lower density residential development. The proposal will ensure a high level of amenity for the residents as well maintaining the amenity of neighbouring properties and the character of the Cremorne Point Conservation Area. Subject to appropriate conditions, the proposal involves alterations and additions to the building that will not have a significant impact upon the natural or cultural heritage of the area.

Clause 4.3 – Height of buildings

The subject site has a maximum permitted building height of 8.5m pursuant to clause 4.3(2) in *NSLEP 2013*.

Non-compliant Building Element	Control	Height	Variation
Existing building	8.5m	9.66m	13.71% (1.16m)
Proposed works		9.3-9.4m	9.67-10.84% (822mm-922mm)

Clause 4.6 – Contravention of a Development Standard

The subject site has a height limit of 8.5m pursuant to clause 4.3(2). The existing building has a maximum height of 9.66m, which is not being altered and is in variance with the height control by 1.16m (13.71%). However, while it is noted that there will be no change to the maximum ridge height of the existing building, with the attic level extension further to the rear, the proposal requires a variation of the Development Standard in clause 4.3 in *NSLEP 2013*. A written request to contravene the development standard for height has been submitted and has been considered below.

Extent of the Variation

The proposed works would exceed the maximum permitted height with a maximum variation of 822mm-922mm (9.67-10.84%) from the development standard, although this does not further alter the existing maximum height and variance of the building as noted above.

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

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

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

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

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

- (f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*
- (g) *to maintain a built form of mainly one or two storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.”*

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

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

The proposed works would be mostly contained within the existing building footprint above ground level and would not alter the development’s overall relationship to the topography, continuing the stepped built form of the existing building. The proposal includes some relatively minor excavation at the rear section of the ground floor level and rear courtyard to enable a more consistent floor level and improve accessibility. This excavation will not be highly 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.

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

It is unlikely that there would be any view loss for adjoining dwellings given that majority of the works would be contained within the existing footprint, and the portion on the attic level extension above the height limit will not be higher than the existing roof ridge height of the existing dwelling. As such view impacts are likely to be negligible for any adjoining or nearby properties or the public domain, and no submissions have been received that would indicate any impact upon view sharing.

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

The levels of solar access for nearby properties will not substantially change as a result of the proposal. The majority of shadows cast by the new additions will fall within existing shadows cast by the building and adjoining buildings.

The proposed rear attic level extension will create some additional overshadowing to the rear of No. 28 Cremorne Road to the south. This overshadowing comprises some shadows at 12pm over a section of the upper level rear balcony and a small section of the rear open space and swimming pool; and at 3pm over the north east corner of the upper level rear balcony, and the rear roof of the dwelling. The overshadowing to the rear open space at ground level is negligible and will be unaffected compared to exiting throughout the rest of the day. No internal private spaces will likely be impacted by the works.

The additional overshadowing to the upper level rear balcony after 12pm will permit solar access to this space to be maintained in the afternoon and will not entirely overshadow this space. As such, the additional shadows, which alongside the existing shadows cast, reduce in their overall impact after 12pm, are unlikely to have a significant impact upon the overall solar access amenity for this space or for this dwelling overall.

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

The proposed rear attic level addition is unlikely to create significant additional privacy impacts. The new rear balconies at this level will face the rear towards the laneway at Cremorne Lane, and similar to other nearby additions will have some degree of mutual overlooking to the rear open spaces of nearby properties along Cremorne Lane. These balconies for the two dwellings will be accessed via a bedroom space and are unlikely to create significant opportunities for overlooking. The balconies are also designed to have a solid roof skirt that will enclose these spaces so as not to permit any significant overlooking to the rear open spaces of adjoining sites.

The proposed dormers on the sides of the building at attic level are for the purpose of providing light to the attic level, with a high sill height that will not permit significant opportunities for overlooking. 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 R2 Low Density Residential zone and is surrounded by the R2 zone on all sides. The proposed works will largely retain the existing footprint of the building, with some additions partially above the height limit, with a development that is broadly consistent with residential developments in the R2 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 an existing non-compliance in building height, the overall development is generally compatible with the existing building and surrounding buildings, particularly given its status as a neutral item, with the majority of changes occurring to the secondary rear elevation facing the laneway and not impacting upon the primary façade facing Cremorne Road.

(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 2-storey building, including the addition of a third attic level. While the number of storeys in this development changes above the two-storey objective, the attic level has been sympathetically designed in a manner so as to suggest more of a 'roof within a roof' form that is only visible from the secondary Cremorne Lane frontage and will not be visible from the Cremorne Street frontage, with only the original two-storey scale visible from the front façade. Consequently, the built form character of the area is unlikely to be significantly changed by this development, which will remain compatible with surrounding buildings.

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:

- *The maximum pitch and height of the roof proposed sits lower in the streetscapes than other properties positioned on the ridge, including, most notably, that of the dwelling to the south at 28 Cremorne Road. Accordingly, the height of the building is in keeping with the reading and rhythm of the streetscape, which is critically positioned on the high/ ridge side of the road.*
- *Considering the point above, a person standing at the street/footpath level in front of the property is not presented with unreasonable additional bulk and scale associated with the additional height because it is concentrated to the rear and is contained behind the main roof structure across the front and central sections of the building.*
- *No additional overshadowing impacts to neighbouring properties is incurred due to the position of the height departing roof and separation provided to neighbouring properties, particularly the southern neighbour at 28 Cremorne Road. The shadows cast by the tallest elements are contained within the broader shadows cast by the development, resulting from an otherwise height compliant development that is consistent with the shadows cast from the existing building and roof.*
- *The extent of the height breaches will not be visually discernible from the road or public domain given that they are contained largely to the rear above the dormer and balcony opening. From neighbouring properties, the height of the structure will appear similar to the existing heights of the dwelling roof to be replaced.*
- *The overall mass and height of the building is considered to be comparable to that of the existing dwelling to be partially demolished and commensurate to that of other similar neighbouring properties as discussed in point 1 above.*
- *The otherwise compliant 8.5m height achieved for the main bulk of the roof and building elements below is consistent with the objectives of the NSLEP and intent of the height control.*
- *The proposed bulk, scale and height of the development does not result in excessive or unreasonable overshadowing, privacy or obstruction of view impacts given the buildings location, sitting, design and orientation.*
- *The roof form proposed comprises multiple hip and gable elements that are grand, decorative, visually interesting and emblematic of the period roof features. The additional height breaches observed at the rear of the dwelling are therefore considered acceptable having regard to the architectural merits of the buildings' roof.*
- *Notwithstanding the intent of objective (g), the height of buildings development standard as it applies to the Cremorne Point context has been thwarted somewhat by the pre-existing residential flat buildings scattered across the peninsula that far exceed two storeys, up to 6-7 storeys. To this end, there is no observed consistent building height in the surrounding area that would be drastically offended by the proposed height breaches.*

The above environmental planning grounds are considered overall, to be well-founded and are adequately justified within the submitted 4.6 variation request. Furthermore, the amenity impacts of the development are considered to be minimal and compliant with Council's controls in Part B of NSDCP 2013. The proposed alterations to the existing building will not significantly alter the existing scale of the building and have been designed to be relatively sympathetic to the surrounding area by confining the majority of visible changes to the secondary rear frontage facing the laneway. 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 5.10 – Heritage conservation

It is considered that the works will be generally sympathetic to the existing neutral item within the conservation area by maintaining a sympathetic character and scale and maintain the general appearance of the primary façade to Cremorne Road, with the majority of visible works confined to the rear secondary frontage to Cremorne Lane. The proposed works will not have any impact upon any nearby heritage items.

Clause 6.6 – Dual occupancies

The subject site proposes an attached dual occupancy. Clause 6.6 contains requirements relating to the erection of a dual occupancy, which would include alterations to the building, as defined in section 1.4 of the Act.

(1) *Development consent must not be granted for the erection of a dual occupancy unless:*

(a) *the form of the building will appear as a dwelling house, and*

The proposed dual-occupancy development largely retain the appearance of the existing residential flat building facing Cremorne Lane, and it is noted earlier in this report that the existing flat building built in 1920 benefits from existing use rights. As the proposed dual occupancy would not change the existing appearance of the building from the primary street frontage, the development is likely to appear as a large dwelling house when viewed from Cremorne Road and surrounding properties, which is emphasised through the retention of the existing front entrance pathway and mature front garden.

(b) *the dwellings in the dual occupancy will be attached by at least 80% of the common wall or 80% of the common floor or ceiling, and*

The two dwellings are fully attached along the centre of the building, with one dwelling occupying one half of the development and both dwellings share a common wall for more than 80% of the area of the central wall.

(c) *the area of the lot on which the dual occupancy is to be situated is at least 450 square metres.*

The subject site has a site area of 650.3m², which complies with the minimum lot size of 450m² required for the erection of a dual occupancy.

The proposed development is considered to satisfy the requirements of clause 6.6 concerned with dual occupancy development in *NSLEP 2013*.

Clause 6.10 – Earthworks

The proposal requires excavation to facilitate the ground floor level at the rear. Subject to conditions to ensure that site stability is maintained, these excavation works are unlikely to affect the stability and topography of the site and adjoining sites.

Council’s Development Engineer has raised no objection in this regard, subject to appropriate conditions to minimise any impacts upon adjoining sites (see engineer’s conditions on page 8 of this report). 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		
	Complies	Comments
1.2 Social Amenity		
Population mix	N/A	Not applicable as the development involves the change of use from residential flat building to a dual occupancy.
Universal Design and Adaptable Housing	N/A	Not applicable as the development does not contain more than 5 units. Nevertheless, the accessibility of the development being significantly improved by the incorporation of a new lift with level access from the street.
Maintaining residential accommodation	No (Acceptable on merit)	The residential accommodation for the site is being reduced through the loss of two 2-bedroom apartments and their replacement by two five-bedroom units. Nevertheless, this loss is considered to be acceptable on the basis that the loss is relatively minor given the number of new developments in the area, and the proposal will allow for the refurbishment of the existing building.
Affordable housing	Yes	The proposed works will result in the loss of two low-rental dwellings. As shown on pages 11-16 of this report a contribution is recommended to address this loss (see Condition C19).
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, continuing the stepped built form of the existing building. The proposal includes some relatively minor excavation at the rear to enable a consistent floor level and facilitate the works.</p> <p>This excavation will not be highly 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, subject to appropriate conditions.</p>

Properties in proximity to Bushland	Yes	The site does not adjoin bushland. While the site is within a bushland buffer zone (300m), the proposed works will not have any impact upon any nearby bushland or significant trees and landscaping, subject to conditions. The proposal includes the enhancement of site landscaping and Council's Landscape Development Officer has raised no objection in this regard.
Properties on Bush Fire Prone Land	N/A	The site is not classified as Bush Fire Prone Land.
Properties with a foreshore building line	N/A	The site does not include foreshore land.
Views	Yes	It is unlikely that there would be any view loss for adjoining dwellings given that majority of the works would be contained within the existing footprint, and the portion on the attic level extension above the height limit will not be higher than the existing roof ridge height of the existing dwelling. As such view impacts are likely to be negligible for any adjoining or nearby properties or the public domain, and no submissions have been received that would indicate any impact upon view sharing.
Solar access	Yes	<p>The levels of solar access for nearby properties will not substantially change as a result of the proposal. The majority of shadows cast by the new additions will fall within existing shadows cast by the building and adjoining buildings.</p> <p>The proposed rear attic level extension will create some additional overshadowing to the rear of No. 28 Cremorne Road to the south. This overshadowing comprises some shadows at 12pm over a section of the upper level rear balcony and a small section of the rear open space and swimming pool; and at 3pm over the north east corner of the upper level rear balcony, and the rear roof of the dwelling. The overshadowing to the rear open space at ground level is negligible and will be unaffected compared to exiting throughout the rest of the day. No internal private spaces will likely be impacted by the works.</p> <p>The additional overshadowing to the upper level rear balcony after 12pm will permit solar access to this space to be maintained in the afternoon and will not entirely overshadow this space. As such, the additional shadows, which alongside the existing shadows cast, reduce in their overall impact after 12pm, are unlikely to have a significant impact upon the overall solar access amenity for this space or for this dwelling overall.</p>
Acoustic privacy Visual privacy	Yes	Overall, the proposed works are unlikely to create significant additional privacy impacts when compared to existing.

		<p>The proposed rear attic level addition is unlikely to create significant additional privacy impacts. The new rear balconies at this level will face the rear towards the laneway at Cremorne Lane, and similar to other nearby additions will have some degree of mutual overlooking to the rear open spaces of nearby properties along Cremorne Lane. These balconies for the two dwellings will be accessed via a bedroom space and are unlikely to create significant opportunities for overlooking. The balconies are also designed to have a solid roof skirt that will enclose these spaces so as not to permit any significant overlooking down to the rear open spaces of adjoining sites. The proposed dormers on the sides of the building at attic level are for the purpose of providing light to the attic level, with a high sill height that will not permit significant opportunities for overlooking.</p> <p>The proposed rear balconies on the first floor level will also primarily face the rear laneway at Crescent Place, and similar to other nearby additions will have some degree of mutual overlooking to the rear open spaces of nearby properties to north and south. However these balconies has also been designed to minimise any additional privacy impacts upon neighbouring sites, including planters along their entire width and length to screen and enclose the balconies. Timber batten privacy screens are also proposed for the entire length of the trafficable area of the balconies on both sides, which will assist in screening any possible overlooking to and from adjoining sites. It should also be noted that these balconies will be accessed only via a bedroom space, and are unlikely to create significant opportunities for overlooking as a result.</p> <p>It is noted that submissions have suggested the extension of the privacy screens for the entire length of the balconies including the planters; however, this would increase the bulk and scale of the additions and potentially overshadowing without create a significant improvement in privacy impacts, and is therefore not recommended for any further change in this regard.</p> <p>The alterations at the ground level are unlikely to create any privacy impacts for adjoining sites.</p>
1.4 Quality Built Form		
Streetscape	Yes	Appropriate conditions have been recommended for the protection of Council’s streetscape infrastructure and trees/planting.
Laneways	Yes (Acceptable on merit)	The subject site includes a secondary frontage to the laneway on Cremorne Lane. The existing 1923 garage will be partially reduced in size to accommodate a greater setback from the laneway but will be retained with its original appearance and form intact.

		<p>The existing site's laneway frontage comprises 100% of its width dedicated to on-site parking accommodation in the form of the single garage and uncovered paved hardstand parking. The proposal will significantly improve this situation by having two garages comprising 52% of the site width, and when combined with the two hardstand parking spaces in the centre at 76% of the site width. The additional landscaping along the central section with the two hardstand parking spaces will significantly improve the laneway presentation of the site and the landscaped context of the site.</p> <p>The proposed parking and garages will have a consistent 1.2m setback from the laneway frontage, which will reduce the bulk and scale from the laneway and increase sightlines.</p>
Siting	Yes	The works are consistent with the existing siting of the building.
Setbacks	<p>Yes</p> <p>No (Acceptable on merit)</p> <p>Yes</p>	<p>Front The existing front setback of the building will be unchanged by this proposal.</p> <p>Side – North The majority of the existing building side setback will be retained. The proposed additions at the rear will have a setback of 1.15m at ground floor level and 1.78m at first floor level, which is compliant with the control and will enable sufficient building separation from adjoining development.</p> <p>The proposed northern side garage will have a side setback of 450mm from the boundary with 32 Cremorne Road. While this is not compliant with the minimum 900mm control, this is acceptable as the garage of this adjoining property is located directly adjacent on the property boundary with a 0m setback and the new garage will have a setback of 1.2m from the laneway boundary to minimise bulk and scale.</p> <p>Side – South The majority of the existing building side setback will be retained. The proposed additions at the rear will have a setback of 900m at ground floor level and 1.5m at first floor level, which is compliant with the control and will enable sufficient building separation from adjoining development.</p> <p>The existing side setback of the original 1923 garage from the southern side boundary with 28 Cremorne Road will be retained, with no additional impacts arising. The reduction in the length of this garage to accommodate a greater 1.2m setback from the rear laneway boundary will improve the existing setback by removing some of the bulk of the garage.</p>

	Yes	<p>Rear</p> <table border="1"> <thead> <tr> <th colspan="2">Western rear boundary</th> </tr> </thead> <tbody> <tr> <td>Existing</td> <td>17.6m (building) 0m (Garage)</td> </tr> <tr> <td>Proposed</td> <td>15.4m (building) 1.2m (Garage)</td> </tr> </tbody> </table> <p>The proposed and existing rear setbacks are consistent with the rear setbacks of Nos. 28 and 32 Cremorne Road.</p>	Western rear boundary		Existing	17.6m (building) 0m (Garage)	Proposed	15.4m (building) 1.2m (Garage)
Western rear boundary								
Existing	17.6m (building) 0m (Garage)							
Proposed	15.4m (building) 1.2m (Garage)							
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 building. The proposed additions will not result in a built form that is significantly out of scale with nearby developments. The third attic level will be recessive in scale and will not be overly visible from the public domain.						
Built form character	Yes	The existing appearance of the dwelling as viewed from the street will not be substantially altered, so its neutral status within the conservation area will be maintained. The visual appearance and materials of the rear extensions are also consistent with development along Carabella Street, where more contemporary additions have been confined to the rear of properties, but are nevertheless sympathetic to the heritage character of the original 1920 building through the minimising of glazing and use of sympathetic tones and materials.						
Dwelling entry	N/A	The proposed modifications will have no impact on the existing dwelling entrance from Cremorne Road. The entrance will remain highly visible.						
Roofs	Yes	The proposed rear additions and garage will have a hipped roof, which is consistent with the characteristic roof forms of the surrounding area and the existing structures on site.						
Dormers	Yes	The proposed attic level rear dormers on the northern and southern side roof planes are larger than the traditional style of dormer, but they will not be highly visible if at all from the public domain and do not face the street or the laneway. The dormers are fairly well integrated within the hopped roof form of the main building and are sympathetic to the built form character, suggesting only rooms within a roof, rather than a full third storey to the building.						
Colours and materials	Yes	The proposed colours and materials are generally consistent with the existing and surrounding dwellings within the conservation area. Several amendments are recommended to ensure consistency with the conservation area and the salvage/retention of heritage fabric (see Condition C23).						
Front Fences	Yes	The existing sandstone front fencing with a timber railing within the piers facing Cremorne Road will be retained and restored.						

1.5 Quality urban environment																		
High quality residential accommodation	Yes	A high level of amenity and quality of life is likely to be achieved for the two proposed dwellings within the dual occupancy.																
Safety and security	Yes	Safety and security would not be compromised as a result of the subject development application.																
Vehicle Access and Car parking	Yes	The existing four-space parking provision is unchanged by this proposal, which is compliant with the maximum parking rate allowable for dual occupancies (2 spaces per dwelling). The additional proposed garage is consistent with development in the surrounding area, with carports and garages predominating Cremorne Lane laneway frontages of sites, and has a built form character that matches the style of the original 1923 garage alongside a 1.2m setback from the laneway to minimise bulk and scale.																
Site Coverage, Unbuilt-Upon Area, and Landscaped Area	No (Acceptable on merit)	<p>The proposal includes compliant levels of landscaped area and unbuilt-upon area. While the proposal includes a non-compliant level of site coverage (1.39% over the 45% maximum), this level is very minor, and a significant amount of the site is dedicated for landscaping to minimise bulk and scale and ensure sufficient space if allocated for substantial trees.</p> <p>The proposed and existing levels of site coverage, landscaped area and unbuilt-upon area indicated in the table below:</p> <table border="1" data-bbox="842 1173 1437 1547"> <thead> <tr> <th>Site Area: 650.3m²</th> <th>Existing</th> <th>Proposed</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Site Coverage 45% (max)</td> <td>36.79% 239.3m²</td> <td>46.39% 301.7m²</td> <td>No</td> </tr> <tr> <td>Landscaped area 40% (min)</td> <td>43.37% 282.1m²</td> <td>40.35% 262.4m²</td> <td>Yes</td> </tr> <tr> <td>Unbuilt-upon area 15% (max)</td> <td>19.82% 128.9m²</td> <td>13.25% 86.2m²</td> <td>Yes</td> </tr> </tbody> </table>	Site Area: 650.3m ²	Existing	Proposed	Complies	Site Coverage 45% (max)	36.79% 239.3m ²	46.39% 301.7m ²	No	Landscaped area 40% (min)	43.37% 282.1m ²	40.35% 262.4m ²	Yes	Unbuilt-upon area 15% (max)	19.82% 128.9m ²	13.25% 86.2m ²	Yes
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Unbuilt-upon area 15% (max)	19.82% 128.9m ²	13.25% 86.2m ²	Yes															
Landscaping and front gardens	Yes	While the proposal will result in the loss of some landscaped area overall, the site remains compliant with the minimum 40% control and substantial areas of the site are dedicated for large areas of gardens and space for retaining and adding trees. The landscaped context of the site from Cremorne Lane will be greatly enhanced through the reduction of paving and additional grassed areas between the parking spaces. The front garden facing Cremorne Road will be largely retained as existing and enhanced through the restoration of the existing front fence.																
Private and communal open space	Yes	A substantial area of private open space at the rear is retained for each dwelling (66.4m ² for Dwelling 1; 53.8m ² for Dwelling 2).																
Garbage Storage	Yes	A bin storage area is proposed within the garages in close proximity to the Cremorne Lane laneway frontage.																

1.6 Efficient use of resources		
Stormwater management	Yes	The proposal is unlikely to have a significant impact upon stormwater flows. Appropriate conditions have been recommended Council's Development Engineer (see Condition C11).
Energy Efficiency	Yes	A valid BASIX Certificate for each dwelling have been lodged with this proposal.

Part C – Section 7 – South Cremorne Planning Area (Cremorne Point Conservation Area)

Consideration has been given to the Character Statement for the South Cremorne Planning Area in Part C of NSDCP 2013, including Section 7.1 (Cremorne Point Conservation Area) where this site is located. The proposal is acceptable as the works are visually recessive and sympathetic to the style and character of the existing neutral item, with the majority of the works only visible from the secondary rear laneway frontage of the site. The proposal is therefore likely to comply with the desired characteristic development of the neighbourhood and is unlikely to create significant adverse impacts upon the amenity of nearby dwellings, subject to conditions.

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 **\$12,400.00**, for the purpose of local infrastructure provision.

Contribution amounts payable

Applicable contribution type		
s7.12 contribution details	Development cost:	\$1,240,000.00
<i>(payment amount subject to indexing at time of payment)</i>	Contribution:	\$12,400.00

A condition is recommended requiring payment prior to issue of any Construction Certificate (refer to **Condition C20**).

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	Yes
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 <i>Environmental Planning and Assessment (Amendment) Act 1979</i>	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 submissions were received. The following matters were raised in the submissions (summarised, *in italics*):

- ***Concern regarding the privacy impact of the west-facing rear balconies and dormer of Dwelling 1 and Dwelling 2.***
- ***Request that privacy screens at attic level extend to full length of balcony and that the screens match those for each dwelling.***
- ***Concern regarding the privacy impacts of the development, particularly for the proposed attic space and rear balconies.***
- ***Request that the privacy screens on the rear balconies be full length and solid.***

See the discussion earlier in the report regarding privacy. It is considered that the proposal is unlikely to create significant additional privacy impacts, particularly given the existing surrounding context, with a degree of mutual overlooking of surrounding properties. The proposed additions have also been designed to minimise potential overlooking from the upper level and attic balconies, and no further modifications to the design are considered to be necessary.

- ***Concern regarding the roof drainage/gutters of the new garage for dwelling 1.***

The proposed garage in the northwestern corner of the site will drain to the existing on-site drainage system and Council's Development Engineer has raised no objection in this regard, subject to appropriate conditions.

- ***Concern regarding the impact of works upon the front garden and trees.***

The proposal includes the retention of the majority of the mature planting in the front garden in order to maintain the landscaped context of the site. Appropriate conditions are recommended for the protection of significant trees on site, including those within the front setback (see **Condition C15**).

- ***Concern regarding placement and number of bathrooms in the development.***

The proposal includes 4 bathrooms per dwelling (two being ensuites) plus one single WC each. Given the high level of accommodation amenity proposed for the two dwellings of this dual occupancy, the number of bathrooms in the proposal is not unreasonable. Nevertheless, there is no planning comment that can be made on the number and placement of the bathrooms in this development.

- ***Concern regarding the height breach in the context of the surrounding area.***
- ***The proposed bulk and scale of the additions are excessive and do not meet the height control objectives.***
- ***The proposal will significantly alter the existing structure that does not preserve the character and does not meet the objectives for dual occupancies in Clause 6.6 of NSLEP 2013.***
- ***Request that the first floor balcony planter on the southern side be deleted to reduce bulk.***

See the discussion earlier in this report, where it was considered that the proposal is sympathetic to the surrounding area in terms of built form character and scale, and consequently is unlikely to create any significant adverse impacts upon surrounding sites or for the broader streetscape and conservation area. The majority of the additional bulk and scale will be contained to the rear of the site facing the secondary laneway and is generally sympathetic to the form and character of the original building on site.

- ***Concern regarding the solar impacts of the development.***

See the discussion earlier in the report regarding solar access. The new rear additions will not result in significant new overshadowing for adjoining sites, with the orientation of the site meaning that the majority of new shadows will fall over existing shadows, walls, and roof planes. The majority of new shadows that will fall to the south are relatively minor in their impact upon the rear private open space of 28 Cremorne Road, and it is likely that this property will retain the majority of their solar access amenity for this space.

- ***Concern regarding lack of details on awnings and air conditioning units.***
- ***Request that air conditioning units be screened from adjoining properties.***

No air conditioning units are currently shown for inclusion as part of these works. It should be noted that air conditioning units are classified as exempt development under Part 2 Subdivision 3 Sections 2.5-2.6 of the *SEPP (Exempt and Complying Development Codes) 2008*. A condition is recommended to ensure that air conditioners comply with appropriate noise controls (see **Condition C18**).

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 development application was notified in accordance with Council's Community Engagement Protocol and three submissions were received. Nevertheless, it is considered that, subject to conditions, the proposal would provide improved amenity for the residents without causing any unreasonable impacts to the streetscape, conservation area, and/or 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 will not be highly visible from the public domain and will retain the neutral status of the existing 1920 building within the conservation area. 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 proposed change of use of the existing building from a 4-unit residential flat building to an attached dual occupancy would result in a loss of two low-rental dwellings. A contribution levied under section 7.32 of the Act in accordance with Part 3 of *SEPP (Housing) 2021* is recommended to offset the loss of affordable housing within the local government area.

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

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. 371/23 for the change of use from a residential flat building into an attached dual occupancy including alterations and additions and associated landscape works, on land at 30 Cremorne Road, Cremorne Point, subject to the following site specific and standard conditions:-

ANDREW BEVERIDGE
SENIOR ASSESSMENT OFFICER

ISOBELLA LUCIC
TEAM LEADER ASSESSMENTS

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
30 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 371/23

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 table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Revision	Description	Prepared by	Dated	Received
DA200	B	Ground Floor Plan - Demolition	Stephanie Brancatisano Architect	08/07/2024	15/07/2024
DA201	B	First Floor Plan - Demolition		08/07/2024	15/07/2024
DA202	B	Roof Plan - Demolition		08/07/2024	15/07/2024
DA300	C	Ground Floor Plan – Proposed		08/07/2024	15/07/2024
DA301	C	First Floor Plan – Proposed		08/07/2024	15/07/2024
DA302	C	Attic Floor Plan – Proposed		08/07/2024	15/07/2024
DA303	C	Roof Plan – Proposed		08/07/2024	15/07/2024
DA500	A	Section 1 – Proposed		18/12/2023	09/01/2024
DA501	A	Section 2 – Proposed		18/12/2023	09/01/2024
DA502	C	Section 3 – Proposed		08/07/2024	15/07/2024
DA404	C	Section 4 – Proposed		08/07/2024	15/07/2024
DA700	C	North Elevation – Proposed		08/07/2024	15/07/2024
DA701	C	South Elevation – Proposed		08/07/2024	15/07/2024
DA702	A	East Elevation – Proposed		18/12/2023	09/01/2024
DA703	C	West Elevation – Proposed		08/07/2024	15/07/2024
DA704	A	Heritage Streetscape – Proposed		18/12/2023	09/01/2024
DA705	A	Materials Palette – Proposed		18/12/2023	09/01/2024
DA900	A	Front Landscape Plan – Proposed		18/12/2023	09/01/2024
DA901	B	Rear Landscape Plan – Proposed		08/07/2024	15/07/2024

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

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Plans on Site

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

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. The submitted Finishes Schedule numbered DA705 (Revision A), dated 18 December 2023, prepared by Stephanie Brancatisano Architect, and received by Council on 9 January 2024, must be amended and updated as follows:

- a) to reflect the amendments made in the architectural plans prepared by Stephanie Brancatisano Architect, dated 8 July 2024, and received by Council on 15 July 2024.

External finishes and materials must be in accordance with the above schedule (as modified), and as modified elsewhere by the conditions of this consent, 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 pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

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

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

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

(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 Nos. 28 and 32 Cremorne Road, Cremorne Point detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of any 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 any Construction Certificate.

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

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

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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 any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

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

Construction and Traffic Management Plan (Major DAs and sites with difficult access)

C4. Prior to issue of any Construction Certificate, a Construction and Traffic Management Plan must be prepared. The following matters must be specifically addressed in this Plan:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
 - ii. Signage type and location to manage pedestrians in the vicinity;
 - iii. The locations of any proposed Work Zones in the frontage roadways;
 - iv. Locations and type of any hoardings proposed;
 - v. Area of site sheds and the like;
 - vi. Location of any proposed crane standing areas;
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.

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

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

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

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

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

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

Notes:

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

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

Sediment Control

- C5. Where construction or excavation activity requires the 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.

An Erosion and Sediment Control Plan must be prepared and submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate and 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;

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- 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 Sediment Control plan.

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

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

Waste Management Plan

- C6. A Waste Management Plan is to be submitted for approval by the Principal Certifier prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and
 - c) Administrative arrangements for waste and recycling management during the construction process.

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

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

Colours, Finishes and Materials (Conservation Areas)

- C7. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

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

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Work Zone

- C8. 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 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 developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Maintain Property Boundary Alignment Levels

- C9. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

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

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

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Obtain Driveway Crossing Permit under S.138 Roads Act 1993

C10. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of any Construction Certificate. In order to obtain a permit under S.138 of the Roads Act 1993, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

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

- a) The vehicular access way must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing, or parking floor.
- b) the width of the vehicular crossing must be 15.24 metres (boundary to boundary) on Cremorne Lane.
- c) The vehicular laybacks must be set square to the alignment of the lane.
- d) the vehicular crossing must marry smoothly with road shoulder levels.
- e) the crossing must be placed on a single straight grade of approximately 4.5%, falling to the asphalt carriageway.
- f) the boundary levels/road shoulder levels must match the existing levels and shall not be altered.
- g) full frontage – 600mm (extending out from property boundary) wide road carriageway surface reconstruction in AC10 – 50 mm thick - is required in Cremorne Lane.
- h) any twisting of driveway access must occur entirely within the subject property;
- i) all inspection openings, utility services must be adjusted to match the proposed driveway levels;
- j) the sections must show the calculated clearance to the underside of any overhead structure;
- k) a swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking".

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

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

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

Stormwater Disposal – Drainage Plan

C11. Prior to the issue of any Construction Certificate, site drainage plans must be prepared by a licensed plumber or drainage engineer. The site drainage plans must –be designed in accordance with the following criteria:

- a) compliance with NCC drainage requirements and current Australian Standards and guidelines;
- b) stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity to the existing site stormwater disposal system;
- c) new pipelines within council land shall be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres;
- d) the design and installation of the Rainwater Tanks shall comply with BASIX and Sydney Water requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system; and
- e) prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.

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

(Reason: Proper disposal of stormwater)

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

- C12. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$10,000.00 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
 - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent
 - c) remedying any defects in any such public work that arise within 6 months after the work is completed.
 - 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 any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's 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 any Construction Certificate.

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

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Tree Bond for Public Trees

- C13. Prior to the issue of any construction certificate, security in the sum of \$5,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

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

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

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

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

SCHEDULE

Tree Species	Location	Bond
All vegetation incl <i>Nerium oleander</i>	Kerbside bed, council verge in front of 30 Cremorne Road (eastern frontage)	\$5,000

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

Tree Protection Measures

- C14. To ensure the protection of all trees to be retained, the following measures are to be undertaken:
- a) All documentation for the Construction Certificate application must show the site trees to be retained, and retention of the adjoining trees, with their positions and diameters of trunks and crowns (canopies) to be clearly and accurately shown in relation to all levels of the proposed development.
 - b) All plans and correspondences must refer to the required compliance with the approved Tree Protection and Management Plan, and clearly show the assigned number of each tree on site, adjoining and Council land.

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- c) A Consulting Arboriculturist (“the project arboriculturist”), who holds a minimum Australian Qualification Framework Level 5 in Arboriculture, is a registered consulting member of a nationally recognised arboricultural organisation or association, and who does not remove or prune trees in the North Sydney local government area, shall be engaged before work commences for the duration of site preparation, demolition, construction, and landscaping.
- d) The project arboriculturist shall inspect, monitor, supervise, provide recommendations and written reports and certification relating to protection of the trees and compliance with the conditions of consent.
- e) The contact details of the project arboriculturist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.
- f) The tree protection measures contained in the arborist report prepared by Arborlogix dated 15 July 2024, shall be shown clearly on the Construction Certificate drawings.

Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure the construction plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Tree protection measures)

Protection of Trees

- C15. 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
All vegetation incl <i>Nerium oleander</i>	Kerbside bed, council verge in front of 30 Cremorne Road (eastern frontage)	Various
T1 <i>Plumeria sp</i>	Rear setback - 30 Cremorne Road	7x7m
T2 <i>Jacaranda mimosifolia</i>	Rear setback - 30 Cremorne Road	10x10m
T3 <i>Lagerstroemia indica</i>	Front setback - 30 Cremorne Road	5x3m
T4 <i>Plumeria rubra</i>	Front setback - 30 Cremorne Road	4.5x5m
T5 <i>Caryota sp.</i>	Front setback - 30 Cremorne Road	6x2m
Existing landscaping	Front setback - 30 Cremorne Road	Various

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

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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)

Pruning of Trees

- C16. All pruning works shall 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:

Trees that are acceptable to remove	Location	Height
T2 <i>Jacaranda mimosifolia</i>	Rear setback - 30 Cremorne Road	10x10m

A report detailing the measures to be employed during construction shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Marked-up pictures prepared by an AQ5 arborist, detailing precisely what canopy pruning is required to the above tree shall be provided to Council's Landscape Development Officer for approval prior to any canopy pruning to this tree being permitted. No more than 10% of canopy shall be removed.

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

(Reason: Protection of existing environmental and community assets)

Garbage and Recycling Facilities

- C17. An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:
- a) all internal walls of the storage area must be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
 - b) provision for the separation and storage in appropriate categories of material suitable for recycling;
 - c) the storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property;

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- d) if a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay must be provided no more than 2m from the street boundary of the property;
- e) garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
- f) garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

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

Note: The applicant may wish to discuss bin storage requirements and location with Council's Environmental Services prior to finalisation of the required detail, and a copy of Council's Waste Handling Guide should be obtained for reference purposes before the design is finalised.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

Air Conditioners in Residential Premises

C18. 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 (Infrastructure) 2007 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 EPA Noise Policy for Industry 2017 will be applied.

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

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“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)

Section 7.32 Contributions for affordable housing

- C19. Prior to the issue of a Construction Certificate, the proponent shall make a monetary contribution of **\$180,950.00** to North Sydney Council as a contribution towards providing affordable housing pursuant to Section 7.32(2) of the *Environmental Planning & Assessment Act 1979*, as calculated by Section 48 of the *State Environmental Planning Policy (Housing) 2021*.

The contribution MUST BE paid, and evidence of payment submitted to the Certifying Authority, 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.

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

Section 7.12 Development Contributions

- C20. 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 Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$12,400.00.

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

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A copy of the North Sydney Contribution Plan 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 Contributions Plan 2020)

Security Deposit/Guarantee Schedule

C21. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

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

Note: The following fees applicable

Fees	
Section 7.32 Contribution for affordable housing (Condition C19):	\$180,950.00
Section 7.12 Development Contributions (Condition C20)	\$12,400.00
TOTAL FEES	\$193,350.00

(Reason: Compliance with the development consent)

BASIX Certificate

C22. Under clause 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 Dwelling 1: No. A1731707_02; Dwelling 2: A1731704_02, dated 9 July 2024 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. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

Heritage Requirements

C23. Details demonstrating compliance with the following are to be submitted with the Construction Certificate:

a) **Solar Panels**

To minimise their visual impact, solar panels are to be laid flat upon the roof surface and are not to be tilted.

b) **New Windows and Doors**

New windows and doors, where visible from the public domain, are to be timber-framed with a painted finish.

c) **Garage Doors**

The garage doors are to be timber panel lift with a painted finish.

d) **Original Doors – Outbuildings**

The original doors present on the existing garage and the shed outbuilding are to be salvaged for re-use on the subject site, or elsewhere, to retain heritage assets within the community.

e) **Sandstone**

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

f) **Brick and Sandstone Re-pointing**

Any repointing works to the sandstone walls must be undertaken using traditional lime mortar by a qualified stonemason. Any brick mortar pointing to existing and restored face brickwork must be undertaken using traditional lime mortar by a suitably qualified professional.

g) **Original Architectural Features – Main Building**

Decorative architectural features proposed for removal, such as original doors, windows, fireplaces, mantle pieces, original timber joinery, staircase and entrance terrazzo, and staircase balustrades, are to be salvaged where possible for re-use on the subject site, or elsewhere, to retain heritage assets within the community.

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

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

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Landscape Amendments

C24. The plans approved as per Condition A1 of this consent, must be amended as follows to provide an appropriate landscaped setting:

- 1) The *Pittosporum revolutum* shown to be planted within the rear setback shall be a minimum pot size of 300mm, and not the 200mm pot size shown

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

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

Arborist to be Commissioned

C25. An experienced AQF Level 5 consulting arborist must be commissioned to assist the design development, contract documentation and overseeing of construction works on the site for their duration by undertaking regular inspections of the works in progress and providing advice in relation to tree matters.

Written details of the engagement of the experienced arborist must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Note: This condition, and any advice given by the consulting arborist, should not be construed as authorising the carrying of development with/otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to trees are resolved and recorded using best practice)

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). A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site.

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

All demolition, excavation and construction within the Tree Protection Zone of T1 *Plumeria sp.* and T2 *Jacaranda mimosifolia* within the rear setback-30 Cremorne Road shall be physically supervised by the project arborist.

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

Protection of Public Trees

- D2. 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	Location	Height
All vegetation incl <i>Nerium oleander</i>	Kerbside bed, council verge in front of 30 Cremorne Road (eastern frontage)	1.8m high steel mesh tree protection fencing; Trunk, branch, and root protection.

1.8m-high steel mesh tree protection fencing shall be erected such that any unprotected section of council verge within the Tree Protection Zone of protected trees shall be completely enclosed.

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

(Reason: Protection of existing environmental and community assets)

Project Arborist Engaged

- D3. The project arboriculturist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the approved Tree Protection Plan and as directed by the project arboriculturist before work commences. The tree protection measures detailed in the approved Tree Protection and Management Plan, and as directed by the project arboriculturist shall be established before work commences.

The project arboriculturist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the approved Tree Protection Plan and as directed by the project arboriculturist before work commences.

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The project arboriculturist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained is not compromised.

The project arboriculturist must contact the tree pruning contractor and Council's Tree Management Officer (giving at least 2 working days' notice) to arrange a joint site meeting, prior to commencing any pruning, to determine the exact location and extent of pruning that is permissible, with the tree pruning contractor to comply with any instructions issued by Council, acting reasonably.

Any pruning must be undertaken by a practicing arborist with a minimum Australian Qualification Framework Level 3 in arboriculture, in accordance with the principles of the Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and the NSW Work Cover Code of Practice for the Amenity Tree Industry (1998), as well as any instructions issued on site by Council, acting reasonably.

The practicing arborist must keep a log of dates and times of when they attended the site, the type of works that were performed, and must form part of the certification required prior to Occupation.

(Reason: Tree protection measures)

Temporary Fences and Tree Protection

- D4. All protected trees on-site that are specifically nominated as per **Condition C15** to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builder's waste are to be stored in the vicinity of the nominated tree at any time.

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

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

Public Liability Insurance - Works on Public Land

- D5. 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.

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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

D6. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

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

E. *During Demolition and Building Work*

Reuse of Sandstone

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

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

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

Parking Restrictions

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

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

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Road Reserve Safety

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

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

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

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

(Reason: Stormwater control during construction)

Council Inspection of Public Infrastructure Works

- E5. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points:

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

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

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

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Removal of Extra Fabric

- E6. 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

- E7. The following must be complied with at all times:
- (a) Materials must not be burnt on the site.
 - (b) Vehicles entering and leaving the site with soil or fill material must be covered.
 - (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
 - (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

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

Noise and Vibration

- E8. 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

- E9. 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 developer 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)

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Applicant's Cost of Work on Council Property

E10. 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

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

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

Protection of Trees

E12. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the tree report prepared by Arborlogix, dated 15 July 2024 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.

Notes:

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

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

Special Permits

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

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

1) **On-street mobile plant**

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

(Reason: Proper management of public land)

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)

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Construction Hours

- E14. Construction activities and works approved under this consent must be restricted to within the hours stipulated in the following table:

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

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above, the EPA Noise Policy for Industry 2017 and any Construction Noise Management Plan required under this consent.

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

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

Service Adjustments

- E15. Where required, the adjustment or inclusion of any new utility service or facilities must be carried out by an appropriate 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)

Out-of-hours' Work Permits

- E16. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

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Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.
- 2) Applications for out of hour's works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
 - the erection of awnings,
 - footpath, road and other infrastructure works which cannot be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and
 - craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include:
 - extended concrete pours
 - works which are solely to convenience the developer or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

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

Installation and Maintenance of Sediment Control

- E17. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

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

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

Sediment and Erosion Control Signage

- E18. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

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

Site Amenities and Facilities

- E19. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of work-place 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

- E20. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

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

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

Prohibition on Use of Pavements

- E21. 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

- E22. 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

- E23. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

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

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:
 - 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.

**30 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 371/23**

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

(Reason: Prescribed - Statutory)

Appointment of Principal Certifier (PC)

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

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

Construction Certificate

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

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

Occupation Certificate

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

(Reason: Statutory)

Excavation/Demolition

- F6. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

**30 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 371/23**

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- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

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

Protection of Public Places

- F7. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) No access across public reserves or parks is permitted.

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

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

Site Sign

- F8. 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.

**30 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 371/23**

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

(Reason: Prescribed - Statutory)

G. *Prior to the Issue of an Occupation Certificate*

Infrastructure Repair and Completion of Works

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

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

to the satisfaction of Council Engineers at no cost to Council. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(Reason: Maintain quality of Public assets)

Damage to Adjoining Properties

- G2. 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

- G3. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

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

Certification of Tree Condition

- G4. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Principal Certifier, describing the health of the tree(s) specifically nominated below: -

**30 CREMORNE ROAD, CREMORNE POINT
DEVELOPMENT APPLICATION NO. 371/23**

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Tree Species	Location	Height
All vegetation incl <i>Nerium oleander</i>	Kerbside bed, council verge in front of 30 Cremorne Road (eastern frontage)	Various
T1 <i>Plumeria sp</i>	Rear setback - 30 Cremorne Road	7x7m
T2 <i>Jacaranda mimosifolia</i>	Rear setback - 30 Cremorne Road	10x10m
T3 <i>Lagerstroemia indica</i>	Front setback - 30 Cremorne Road	5x3m
T4 <i>Plumeria rubra</i>	Front setback - 30 Cremorne Road	4.5x5m
T5 <i>Caryota sp.</i>	Front setback - 30 Cremorne Road	6x2m
Existing landscaping	Front setback - 30 Cremorne Road	Various

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

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

BASIX Completion Certificate

G5. In accordance with Section 45 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, prior to issuing a final occupation certificate the Principal Certifier must provide a BASIX completion Certificate.

(Reason: To ensure compliance with the Regulations)

Landscaping

G6. The landscaping shown in the approved plans, as amended by the conditions of this consent, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Unpaved Verge

G7. The unpaved verge area must be constructed or reconstructed and planted with an appropriate species of grass prior to completion of the works at no cost to Council.

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

Compliance with Certain Conditions

G8. Prior to the issue of any Occupation Certificate, Condition C23 (Heritage Requirements) and Condition C24 (Landscape Amendments) must be certified as having been implemented on site and complied with.

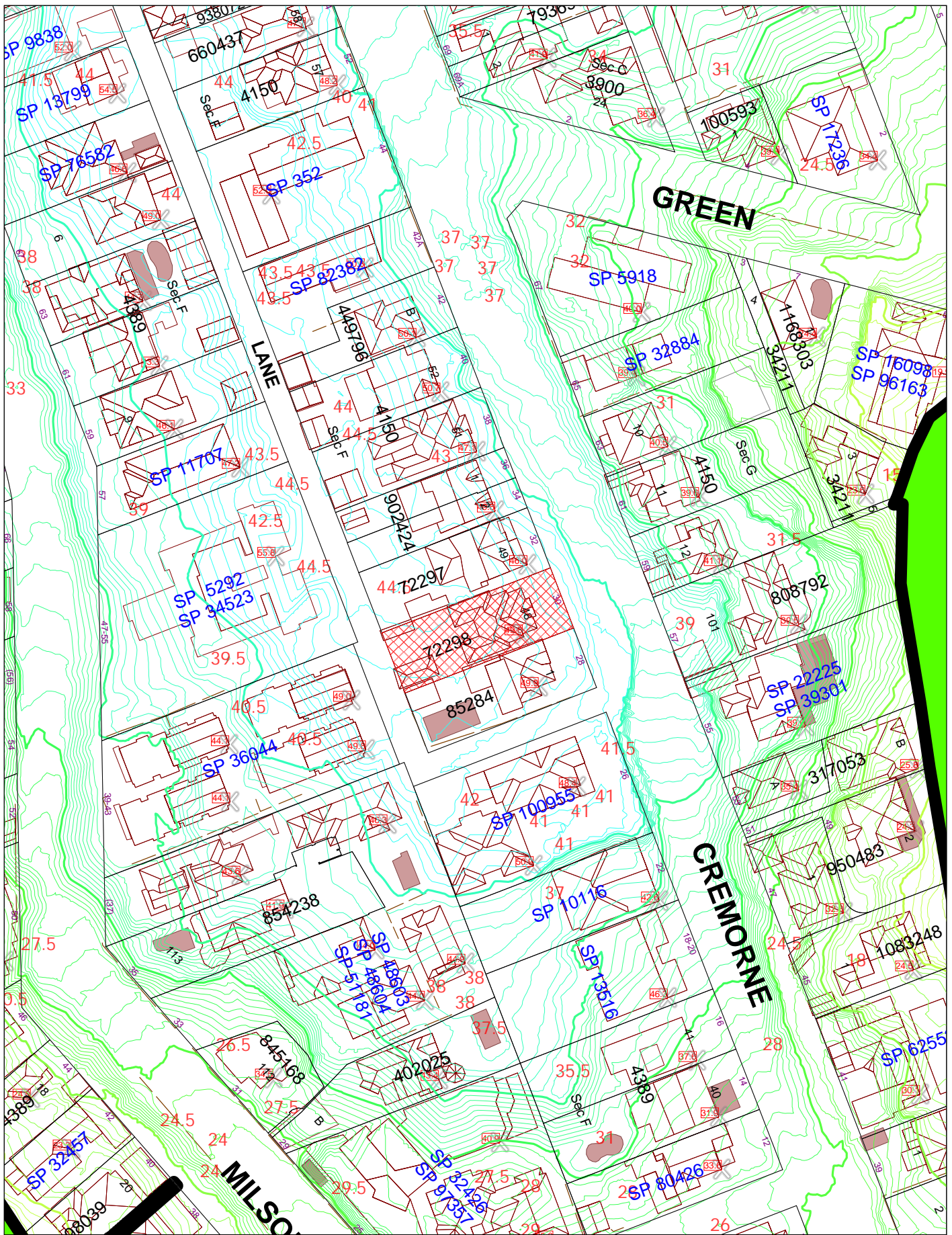
(Reason: To ensure the development is completed in accordance with the requirements of this consent)

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

11. The owner of the premises at 30 Cremorne Road, Cremorne Point, is to maintain the landscaping approved by this consent generally in accordance with the approved plans, and as amended by the conditions of this consent.

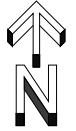
Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

(Reason: To ensure maintenance of the amenity of adjoining properties)

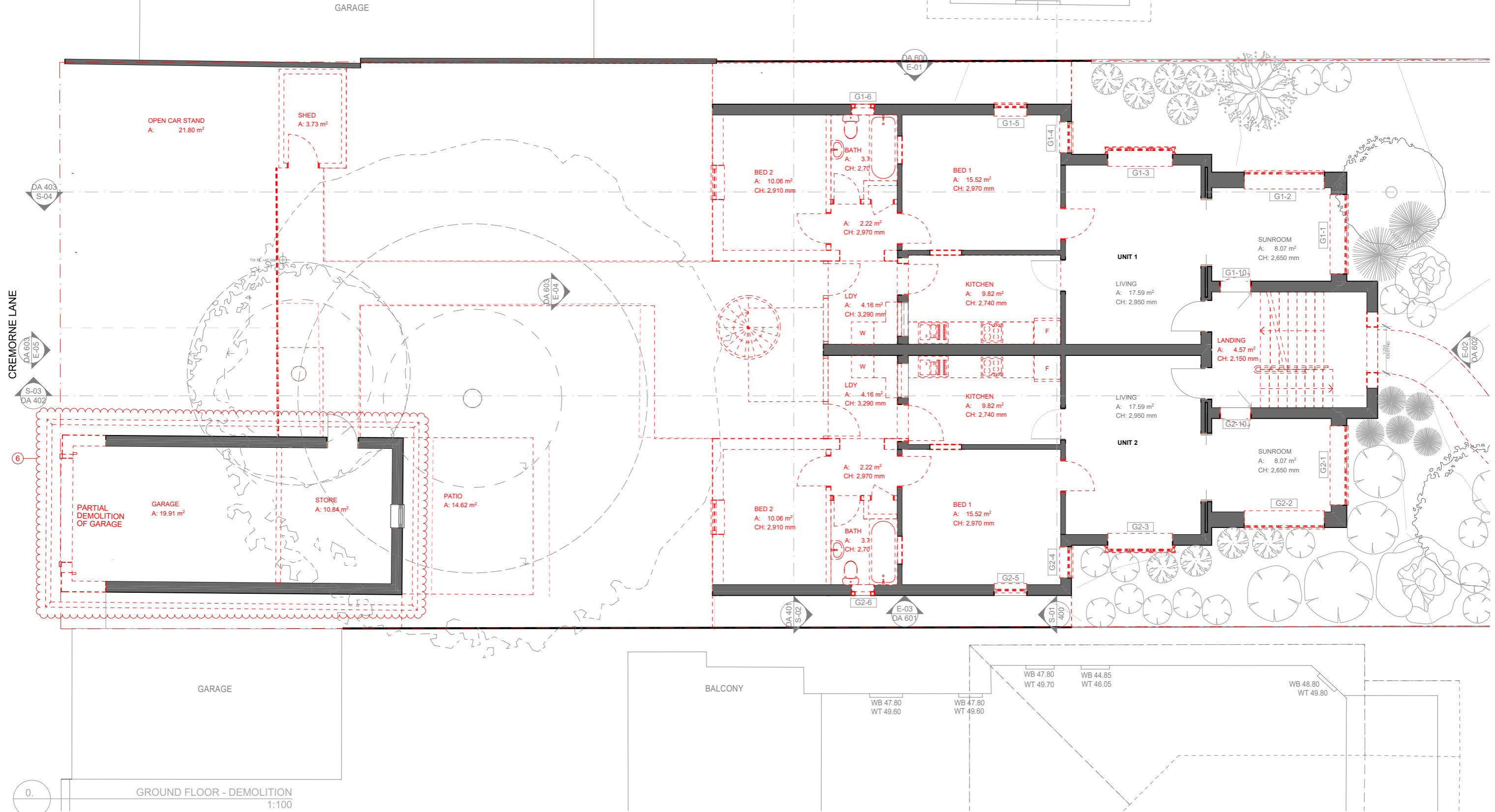


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 Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.

Scale: 1:1200 approx.



- AMENDED DA CHANGES**
- 1 - Original interior elements retained
 - 2 - Original balustrade and terrazzo entry floor finish retained
 - 3 - Patio size reduced and location revised
 - 4 - Timber batten fence proposed in lieu of brick fence
 - 5 - Paved tyre tracks with landscaping proposed in lieu of concrete carstand
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 - 9 - Privacy screens extended to the full depth of balcony
 - 10 - Size of glazing reduced on western facade
 - 11 - Size of attic balcony reduced and extent of terracotta roof increased



0. GROUND FLOOR - DEMOLITION
1:100

NOTE
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REVISIONS		
REV	DATE	ISSUE
A	19/12/23	ISSUE FOR DEVELOPMENT APPLICATION
B	08/07/24	ISSUE FOR DA - AMENDED

**FOR INFORMATION ONLY
NOT FOR CONSTRUCTION**

**Stephanie Brancatisano
Architect Pty Ltd**

Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn: SB
Date: 08/07/2024
Project No: 2301
Project Status: Development Application

Client: Roy Brancatisano
Site: 30 Cremorne Road Cremorne Point NSW 2090

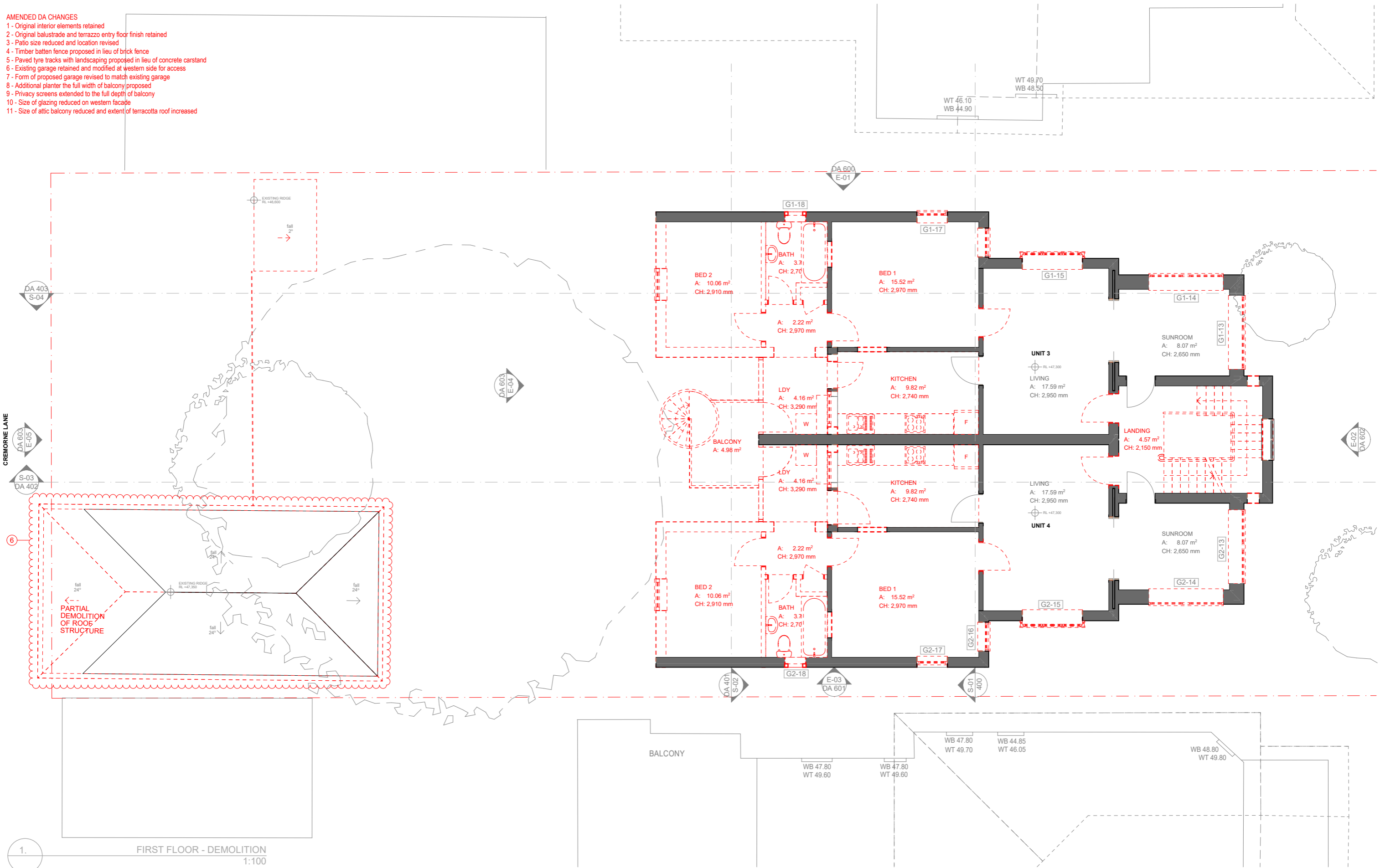
DRAWING TITLE:
GROUND FLOOR PLAN - DEMOLITION

PROJECT NAME:
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
B

DRAWING NO.
DA 200

- AMENDED DA CHANGES**
- 1 - Original interior elements retained
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1. FIRST FLOOR - DEMOLITION
1:100

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Architect Pty Ltd**

Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn: SB
Date: 08/07/2024
Project No: 2301
Project Status: Development Application

Client: Roy Brancatisano
Site: 30 Cremorne Road Cremorne Point NSW 2090

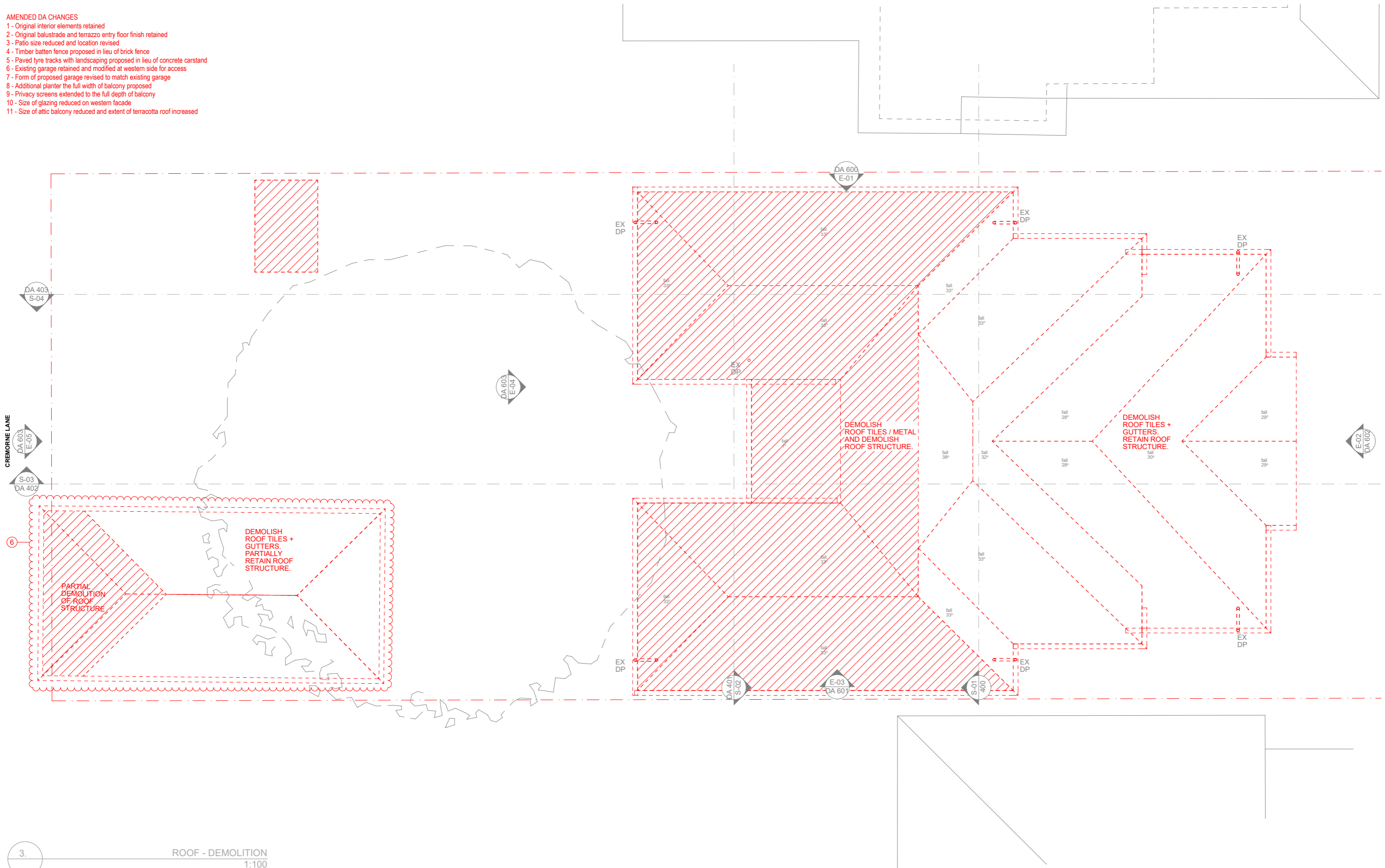
DRAWING TITLE:
FIRST FLOOR PLAN - DEMOLITION

PROJECT NAME:
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
B

DRAWING NO.
DA 201

- AMENDED DA CHANGES**
- 1 - Original interior elements retained
 - 2 - Original balustrade and terrazzo entry floor finish retained
 - 3 - Patio size reduced and location revised
 - 4 - Timber batten fence proposed in lieu of brick fence
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3. ROOF - DEMOLITION
1:100

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Architect Pty Ltd**

Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn: SB
Date: 08/07/2024
Project No: 2301
Project Status: Development Application

Client: Roy Brancatisano
Site: 30 Cremorne Road Cremorne Point NSW 2090

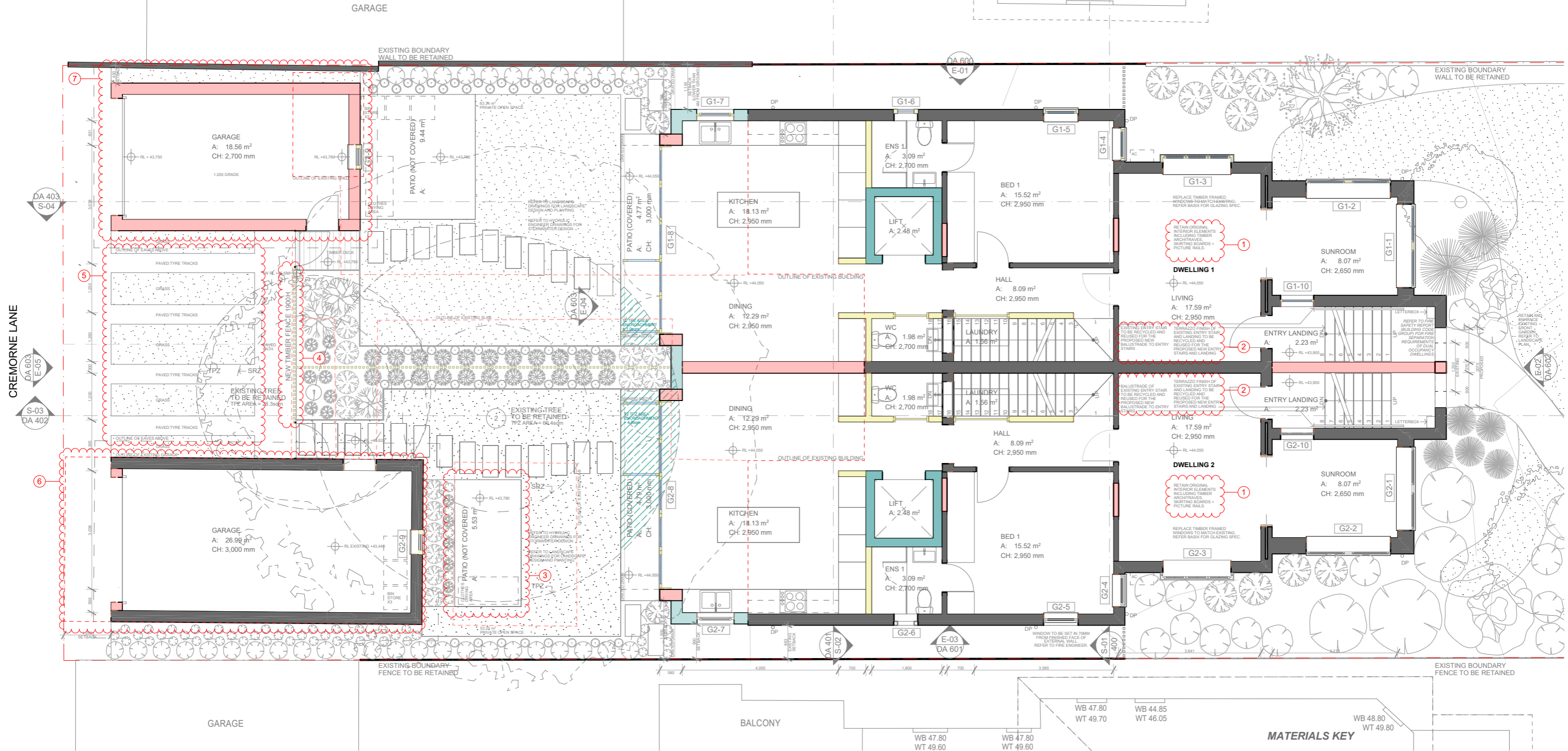
DRAWING TITLE :
ROOF PLAN - DEMOLITION

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
B

DRAWING NO.
DA 202

- AMENDED DA CHANGES**
- 1 - Original interior elements retained
 - 2 - Original balustrade and terrazzo entry floor finish retained
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0. GROUND FLOOR - PROPOSED
1:100

MATERIALS KEY

 TERRACOTTA ROOF TILES TO MATCH EXISTING	 CONCRETE / RENDER
 METAL ROOF	 TIMBER
 BRICKWORK TO MATCH EXISTING	 GLAZING

NOTE
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REVISIONS

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Architect Pty Ltd

Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn Date: SB 08/07/2024 2301
Project No: Development Application
Project Status:

Client Site: Roy Brancatisano 30 Cremorne Road Cremorne Point NSW 2090

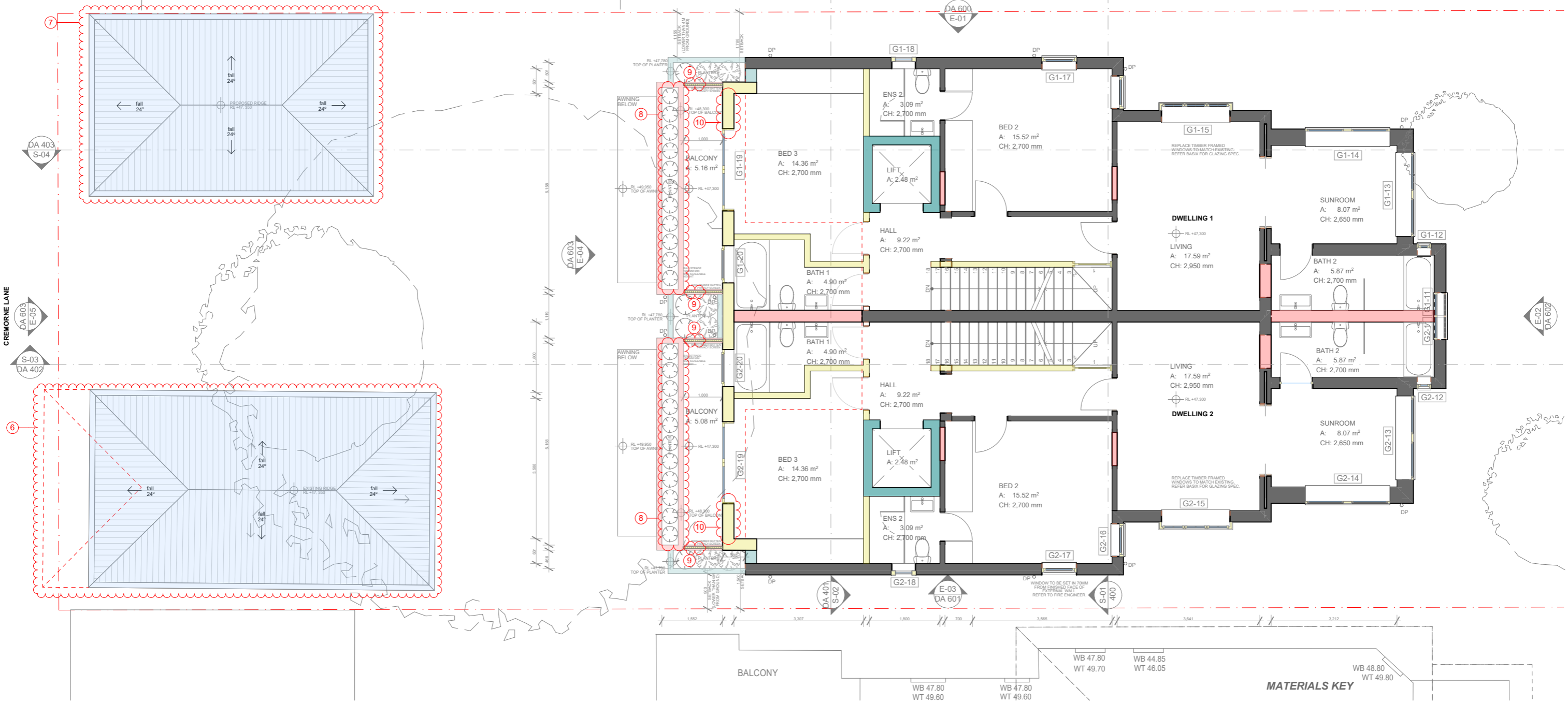
DRAWING TITLE:
GROUND FLOOR PLAN - PROPOSED

PROJECT NAME:
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
C

DRAWING NO.
DA 300

- AMENDED DA CHANGES**
- 1 - Original interior elements retained
 - 2 - Original balustrade and terrazzo entry floor finish retained
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MATERIALS KEY

	TERRACOTTA ROOF TILES TO MATCH EXISTING		CONCRETE / RENDER
	METAL ROOF		TIMBER
	BRICKWORK TO MATCH EXISTING		GLAZING

1. FIRST FLOOR - PROPOSED
1:100

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Email stephanie@brancatisano.com
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ABN 95 632 485 959

Drawn: SB
Date: 08/07/2024
Project No: 2301
Project Status: Development Application

Client: Roy Brancatisano
Site: 30 Cremorne Road Cremorne Point NSW 2090

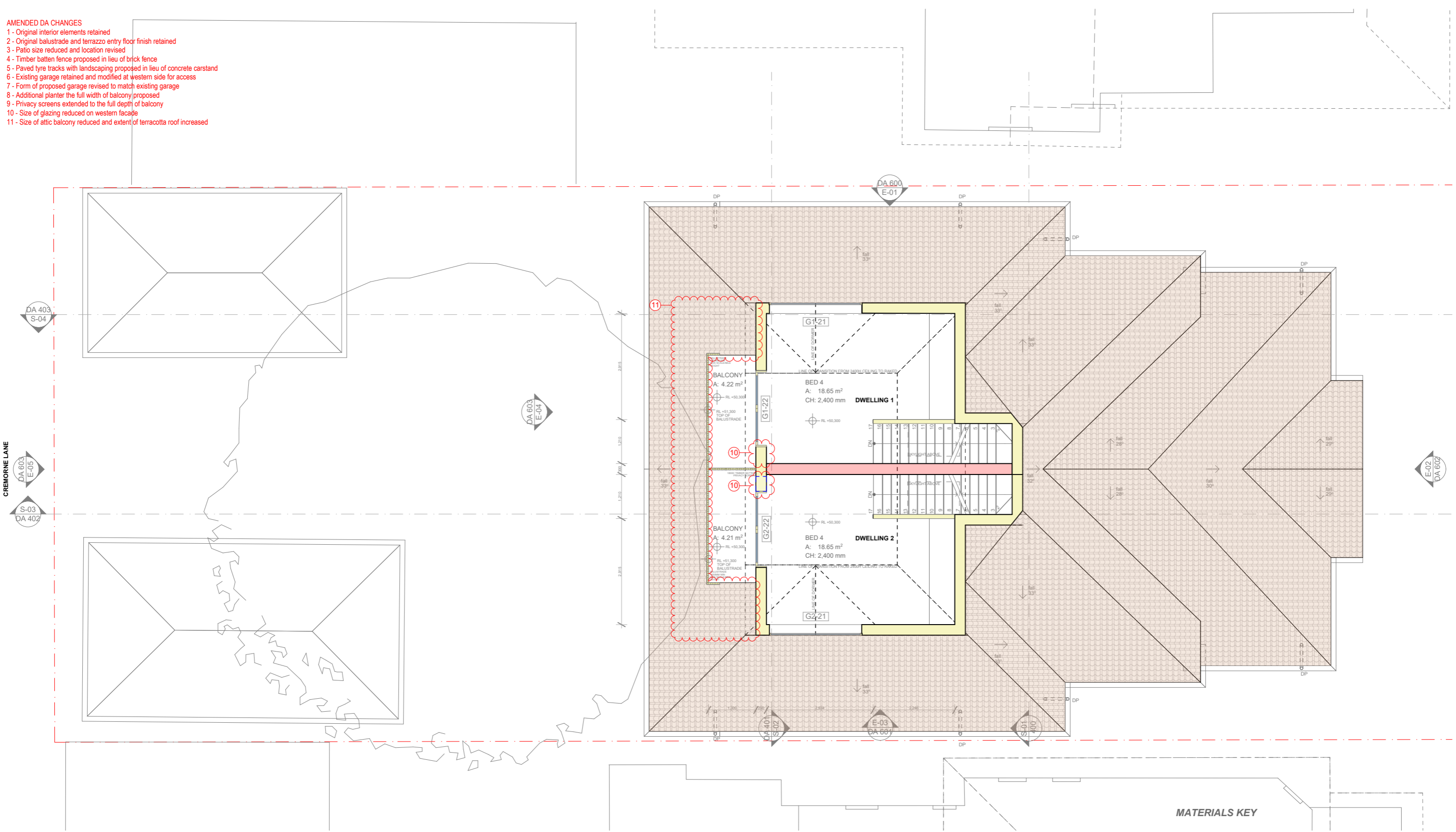
DRAWING TITLE:
FIRST FLOOR PLAN - PROPOSED

PROJECT NAME:
30 Cremorne Road, Cremorne Point, NSW, 2090







REVISION NO.
C

DRAWING NO.
DA 301

- AMENDED DA CHANGES**
- 1 - Original interior elements retained
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MATERIALS KEY

	TERRACOTTA ROOF TILES TO MATCH EXISTING		CONCRETE / RENDER
	METAL ROOF		TIMBER
	BRICKWORK TO MATCH EXISTING		GLAZING

2. SECOND FLOOR - PROPOSED
1:100

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Architect Pty Ltd

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Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn SB
Date 08/07/2024
Project No 2301
Project Status Development Application

Client Roy Brancatisano
Site 30 Cremorne Road Cremorne Point NSW 2090

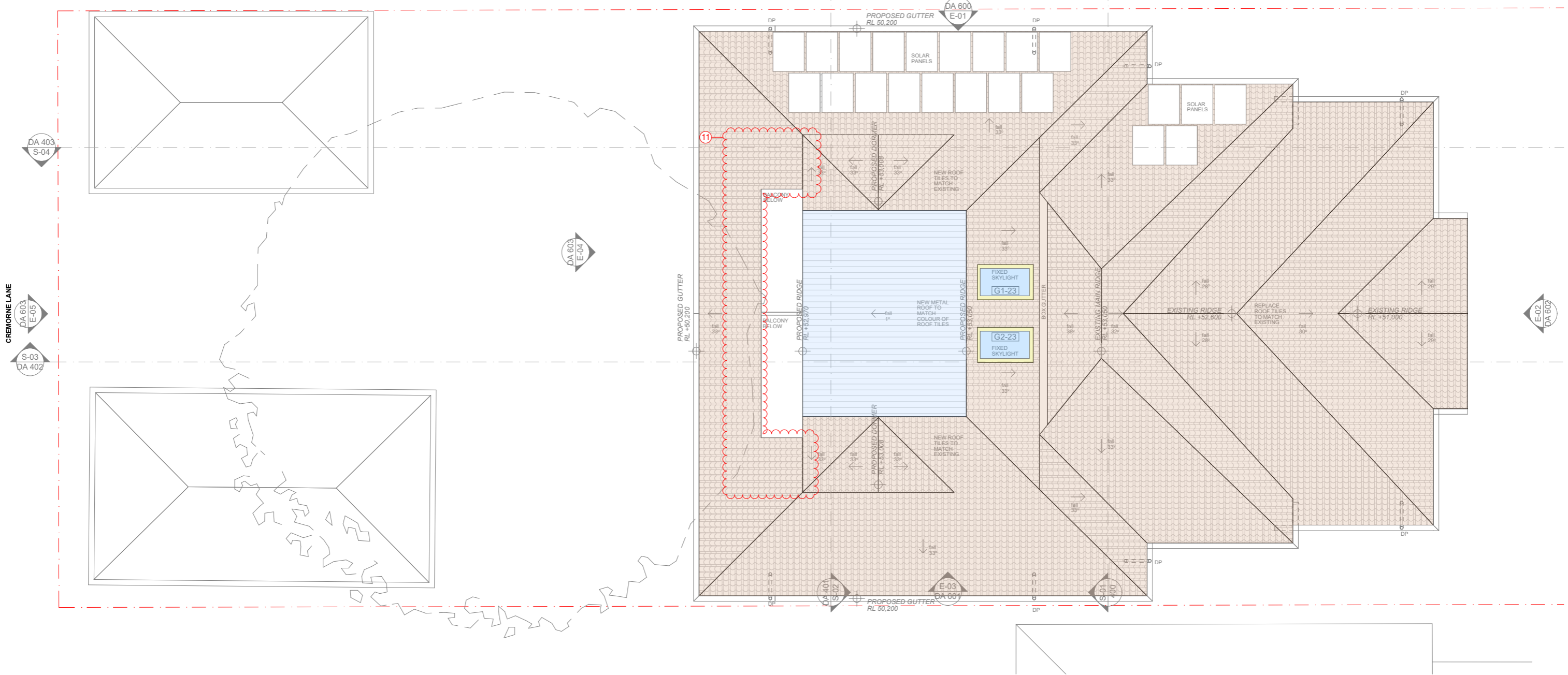
DRAWING TITLE :
ATTIC FLOOR PLAN - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
C

DRAWING NO.
DA 302

- AMENDED DA CHANGES**
- 1 - Original interior elements retained
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MATERIALS KEY

- TERRACOTTA ROOF TILES TO MATCH EXISTING
- METAL ROOF
- BRICKWORK TO MATCH EXISTING
- CONCRETE / RENDER
- TIMBER
- GLAZING

3. ROOF - PROPOSED
1:100

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Drawn SB
Date 08/07/2024
Project No 2301
Project Status Development Application

Client Roy Brancatisano
Site 30 Cremorne Road Cremorne Point NSW 2090

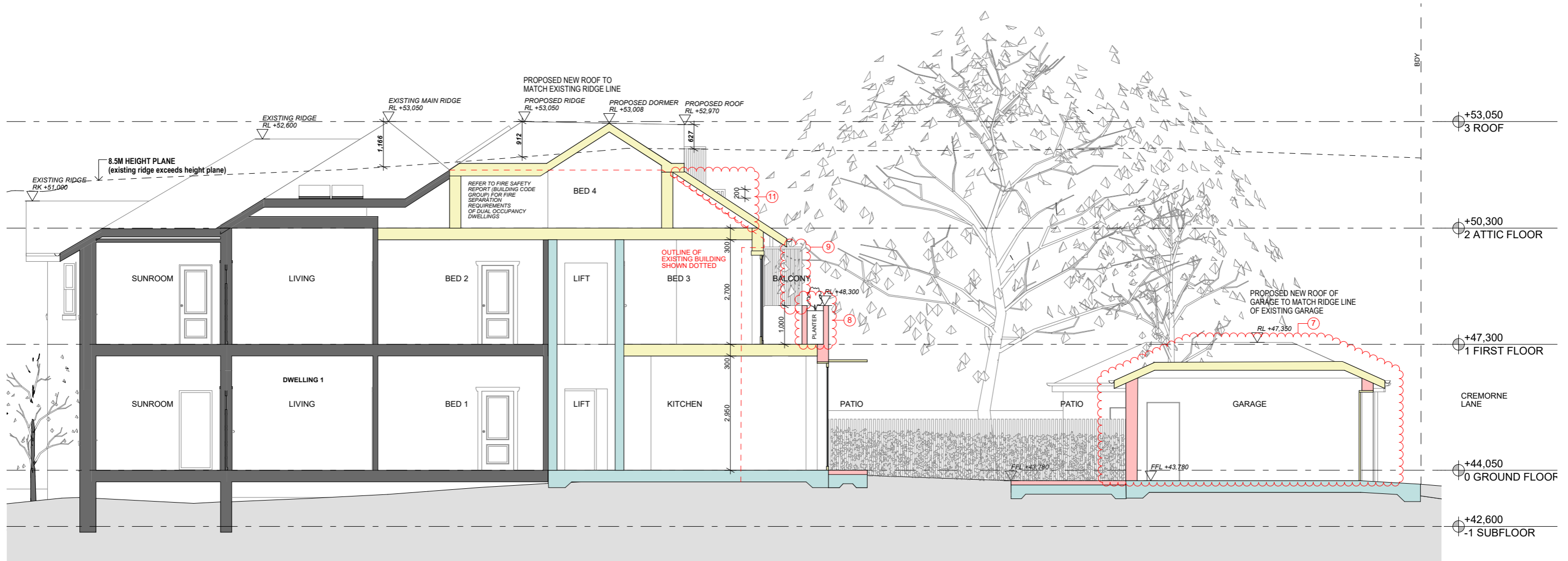
DRAWING TITLE :
ROOF PLAN - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
C

DRAWING NO.
DA 303

- AMENDED DA CHANGES**
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 - 7 - Form of proposed garage revised to match existing garage
 - 8 - Additional planter the full width of balcony proposed
 - 9 - Privacy screens extended to the full depth of balcony
 - 10 - Size of glazing reduced on western facade
 - 11 - Size of attic balcony reduced and extent of terracotta roof increased



S-04 SECTION 4 - PROPOSED
1:100

MATERIALS KEY

- TERRACOTTA ROOF TILES TO MATCH EXISTING
- CONCRETE / RENDER
- METAL ROOF
- BRICKWORK TO MATCH EXISTING
- CONCRETE / RENDER
- TIMBER
- GLAZING

NOTE
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A	19/12/23	ISSUE FOR DEVELOPMENT APPLICATION
B	10/06/24	ISSUE FOR COUNCIL REVIEW
C	08/07/24	ISSUE FOR DA - AMENDED

FOR INFORMATION ONLY
NOT FOR CONSTRUCTION

Stephanie Brancatisano
Architect Pty Ltd

Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn SB
Date 08/07/2024
Project No 2301
Project Status Development Application

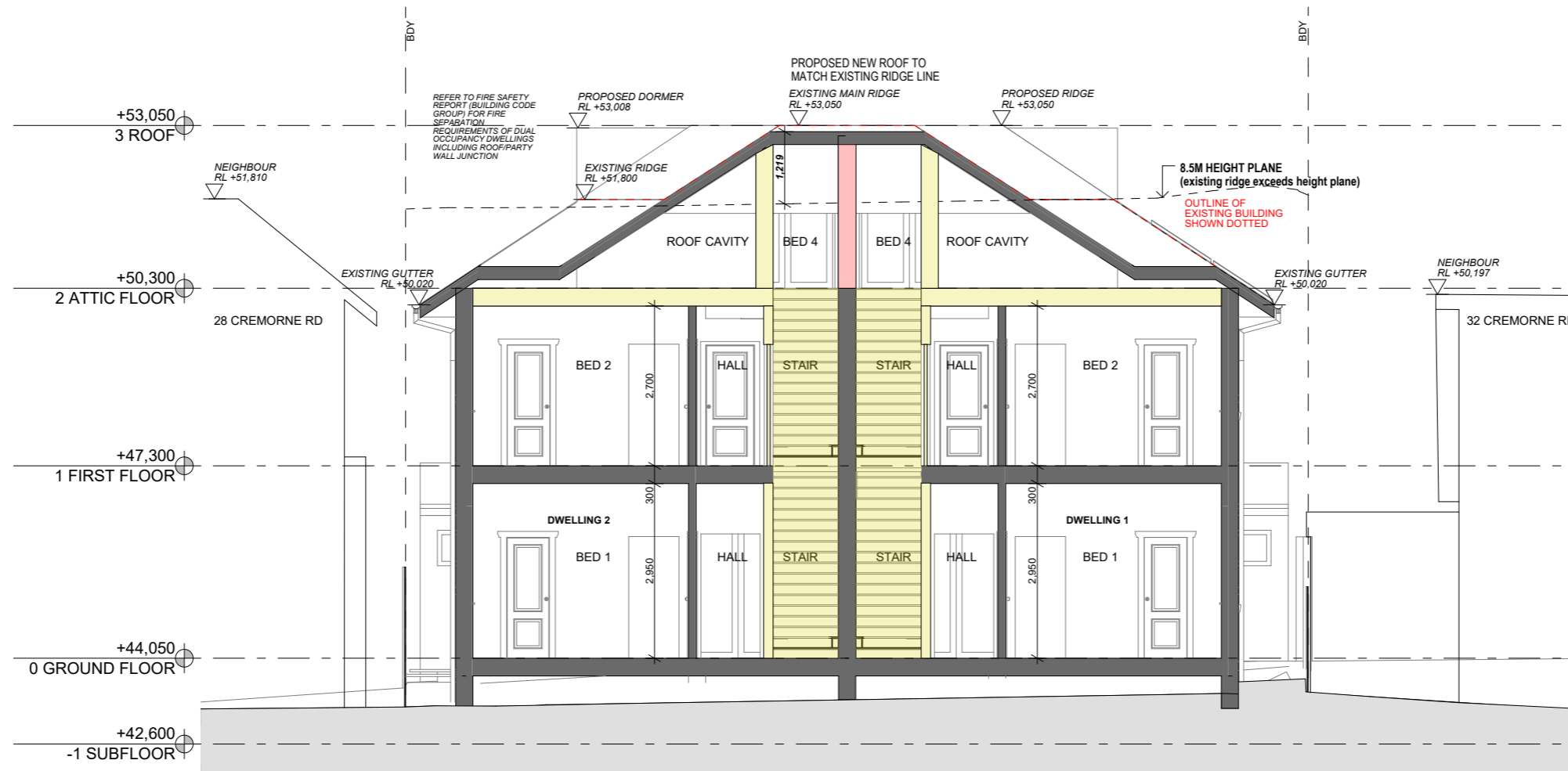
Client Roy Brancatisano
Site 30 Cremorne Road Cremorne Point NSW 2090

DRAWING TITLE :
SECTION 4 - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
C

DRAWING NO.
DA 404



S-01 SECTION 1 - PROPOSED
1:100

MATERIALS KEY

- TERRACOTTA ROOF TILES TO MATCH EXISTING
- METAL ROOF
- BRICKWORK TO MATCH EXISTING
- CONCRETE / RENDER
- TIMBER
- GLAZING

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ABN 95 632 485 959

Drawn SB
Date 18/12/2023
Project No 2301
Project Status Development Application

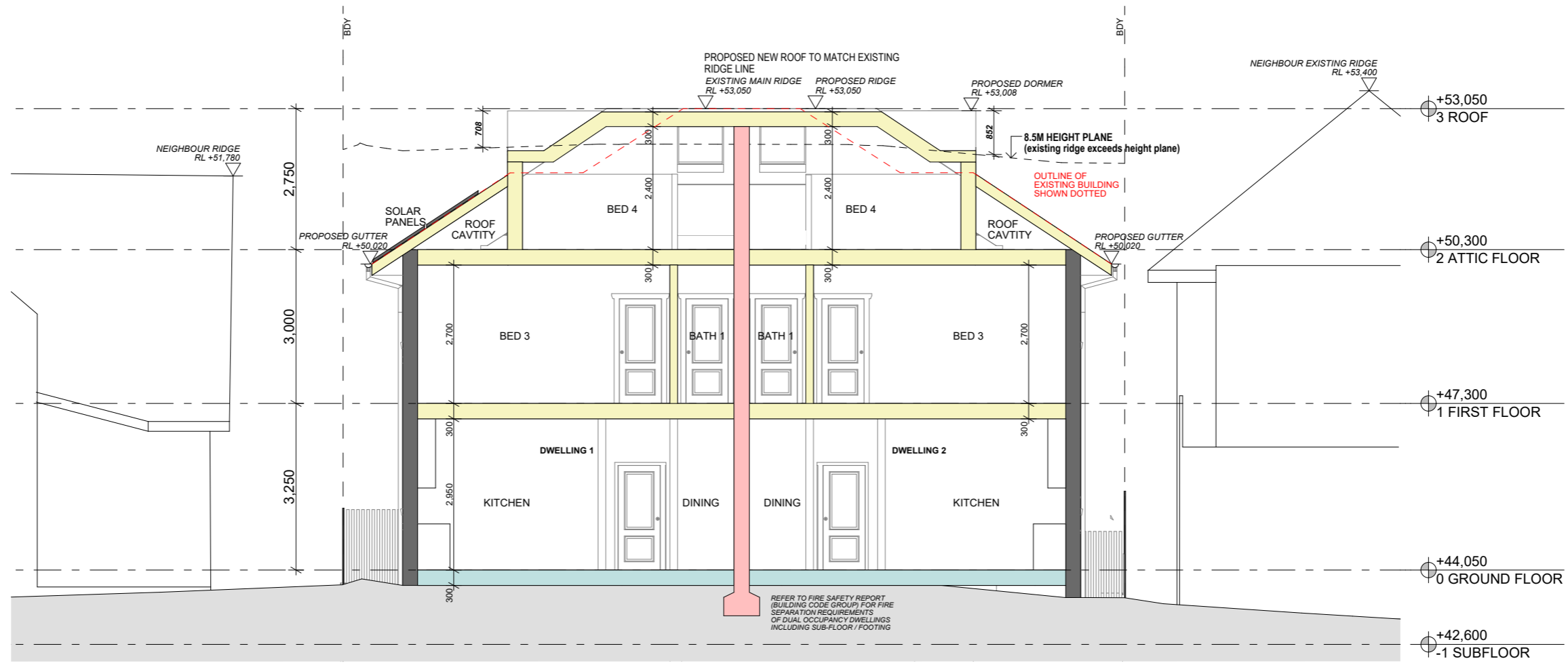
Client Roy Brancatisano
Site 30 Cremorne Road Cremorne Point NSW 2090

DRAWING TITLE :
SECTION 1 - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
A

DRAWING NO.
DA 500



S-02 SECTION 2 - PROPOSED
1:100

MATERIALS KEY

- TERRACOTTA ROOF TILES TO MATCH EXISTING
- METAL ROOF
- BRICKWORK TO MATCH EXISTING
- CONCRETE / RENDER
- TIMBER
- GLAZING

NOTE
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Drawn SB
Date 18/12/2023
Project No 2301
Project Status Development Application

Client Roy Brancatisano
Site 30 Cremorne Road Cremorne Point NSW 2090

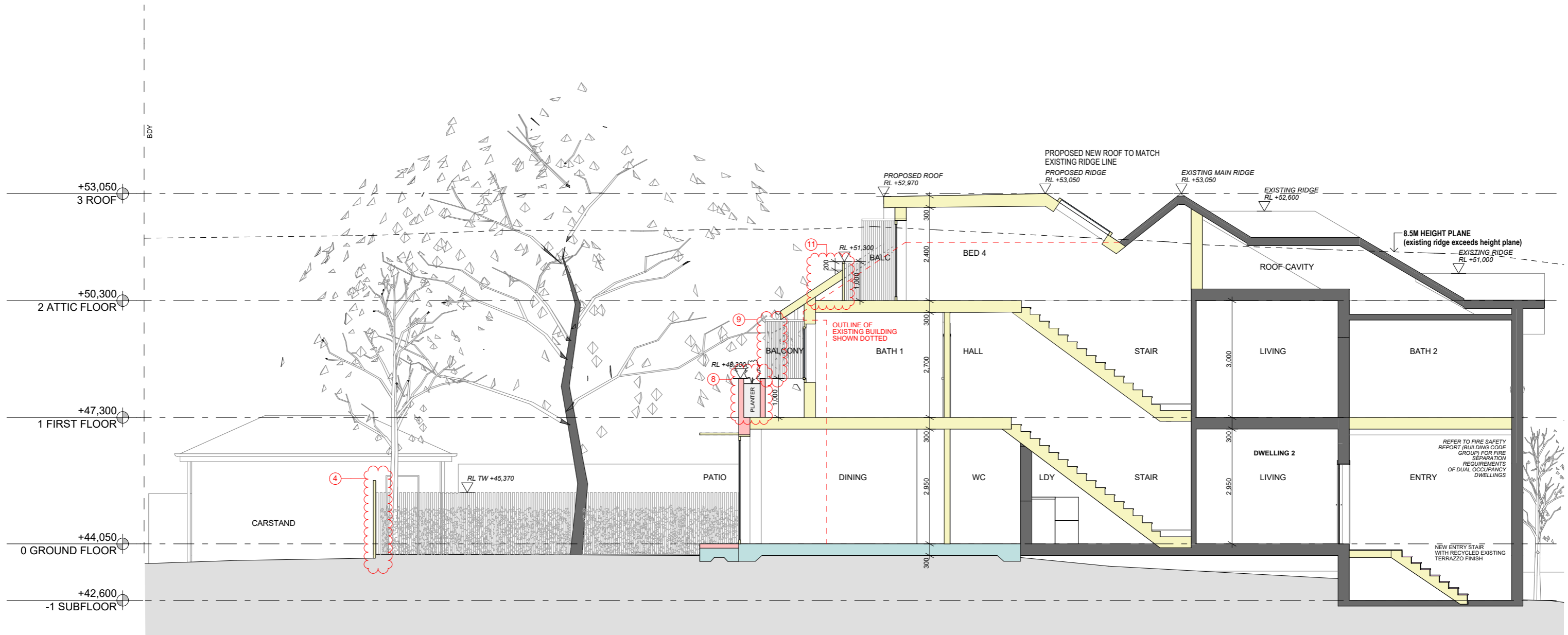
DRAWING TITLE :
SECTION 2 - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
A

DRAWING NO.
DA 501

- AMENDED DA CHANGES**
- 1 - Original interior elements retained
 - 2 - Original balustrade and terrazzo entry floor finish retained
 - 3 - Patio size reduced and location revised
 - 4 - Timber batten fence proposed in lieu of brick fence
 - 5 - Paved tyre tracks with landscaping proposed in lieu of concrete carstand
 - 6 - Existing garage retained and modified at western side for access
 - 7 - Form of proposed garage revised to match existing garage
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 - 9 - Privacy screens extended to the full depth of balcony
 - 10 - Size of glazing reduced on western facade
 - 11 - Size of attic balcony reduced and extent of terracotta roof increased



S-03 SECTION 3 - PROPOSED 1:100

MATERIALS KEY

- TERRACOTTA ROOF TILES TO MATCH EXISTING
- CONCRETE / RENDER
- METAL ROOF
- TIMBER
- BRICKWORK TO MATCH EXISTING
- GLAZING

NOTE
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Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn SB
Date 08/07/2024
Project No 2301
Project Status Development Application

Client Roy Brancatisano
Site 30 Cremorne Road Cremorne Point NSW 2090

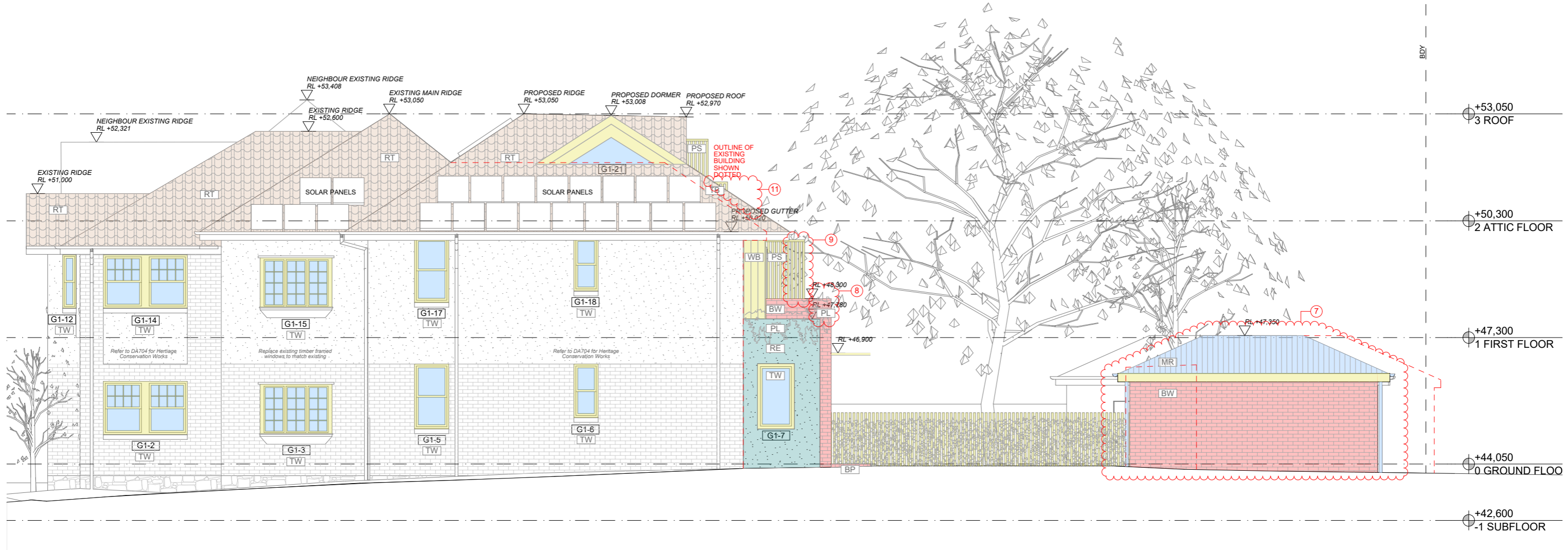
DRAWING TITLE :
SECTION 3 - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
C

DRAWING NO.
DA 502

- AMENDED DA CHANGES**
- 1 - Original interior elements retained
 - 2 - Original balustrade and terrazzo entry floor finish retained
 - 3 - Patio size reduced and location revised
 - 4 - Timber batten fence proposed in lieu of brick fence
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 - 6 - Existing garage retained and modified at western side for access
 - 7 - Form of proposed garage revised to match existing garage
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 - 9 - Privacy screens extended to the full depth of balcony
 - 10 - Size of glazing reduced on western facade
 - 11 - Size of attic balcony reduced and extent of terracotta roof increased



E-01 NORTH ELEVATION - PROPOSED
1:100

MATERIALS PALATTE
Refer to DA705 for references

- | | | |
|---|--|---|
| RT TERRACOTTA ROOF TILES TO MATCH EXISTING | PS TIMBER BATTEN PRIVACY SCREEN | RE STUCCO RENDER TO MATCH EXISTING |
| MR METAL ROOF | TB TIMBER BATTEN BALUSTRADE | TW TIMBER WINDOWS AND DOORS |
| BW BRICKWORK TO MATCH EXISTING | WB WEATHERBOARD CLADDING | BP BRICK PAVING TO MATCH EXISTING BRICKS |

MATERIALS KEY

- | | |
|---|-------------------|
| TERRACOTTA ROOF TILES TO MATCH EXISTING | CONCRETE / RENDER |
| METAL ROOF | TIMBER |
| BRICKWORK TO MATCH EXISTING | GLAZING |

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Architect Pty Ltd

Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn: SB
Date: 08/07/2024
Project No: 2301
Project Status: Development Application

Client: Roy Brancatisano
Site: 30 Cremorne Road Cremorne Point NSW 2090

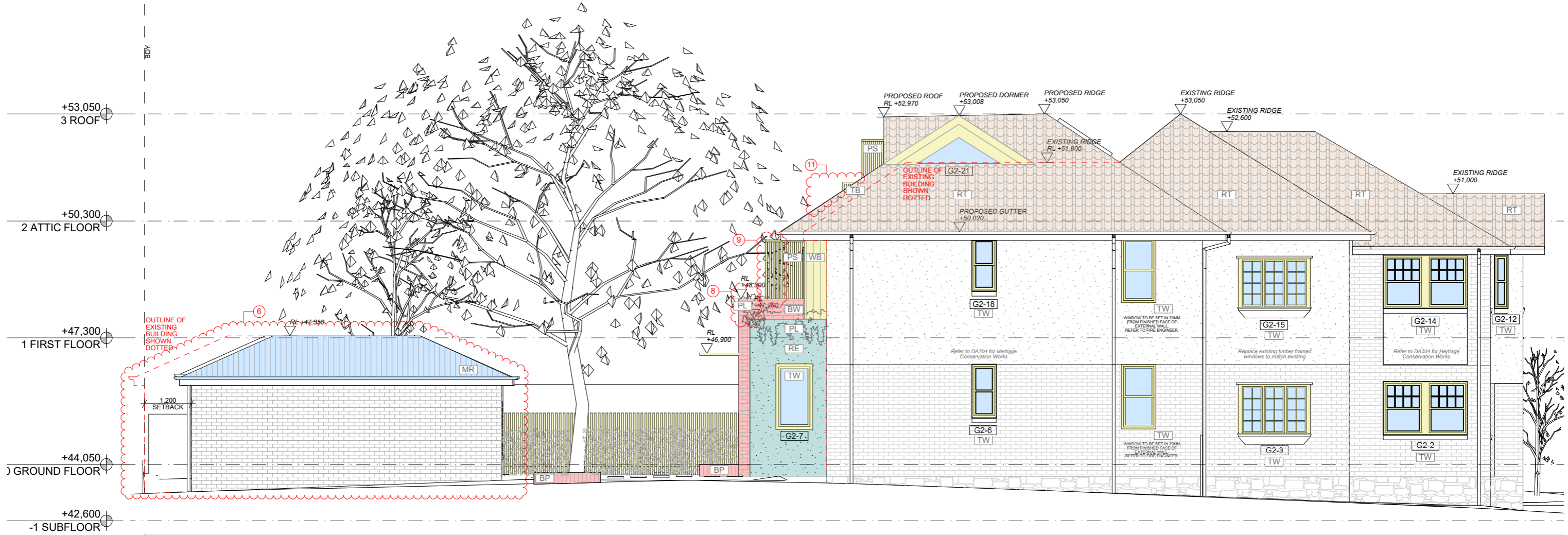
DRAWING TITLE :
NORTH ELEVATION - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
C

DRAWING NO.
DA 700

- AMENDED DA CHANGES**
- 1 - Original interior elements retained
 - 2 - Original balustrade and terrazzo entry floor finish retained
 - 3 - Patio size reduced and location revised
 - 4 - Timber batten fence proposed in lieu of brick fence
 - 5 - Paved tyre tracks with landscaping proposed in lieu of concrete carstand
 - 6 - Existing garage retained and modified at western side for access
 - 7 - Form of proposed garage revised to match existing garage
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 - 9 - Privacy screens extended to the full depth of balcony
 - 10 - Size of glazing reduced on western facade
 - 11 - Size of attic balcony reduced and extent of terracotta roof increased



E-03 SOUTH ELEVATION - PROPOSED
1:100

MATERIALS PALATTE
Refer to DA705 for references

- | | | |
|---|--|---|
| RT TERRACOTTA ROOF TILES TO MATCH EXISTING | PS TIMBER BATTEN PRIVACY SCREEN | RE STUCCO RENDER TO MATCH EXISTING |
| MR METAL ROOF | TB TIMBER BATTEN BALUSTRADE | TW TIMBER WINDOWS AND DOORS |
| BW BRICKWORK TO MATCH EXISTING | WB WEATHERBOARD CLADDING | BP BRICK PAVING TO MATCH EXISTING BRICKS |

MATERIALS KEY

- | | |
|---|-------------------|
| TERRACOTTA ROOF TILES TO MATCH EXISTING | CONCRETE / RENDER |
| METAL ROOF | TIMBER |
| BRICKWORK TO MATCH EXISTING | GLAZING |

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Stephanie Brancatisano
Architect Pty Ltd

Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn SB
Date 08/07/2024
Project No 2301
Project Status Development Application

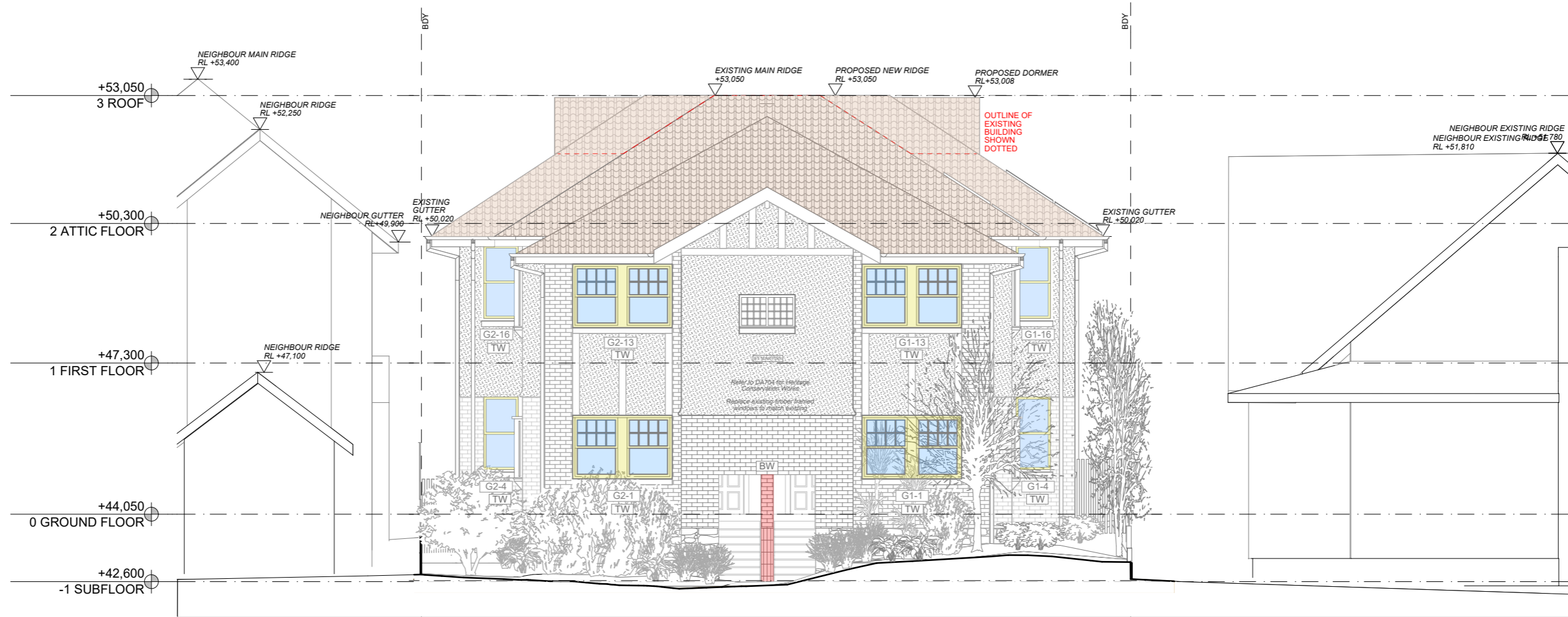
Client Roy Brancatisano
Site 30 Cremorne Road Cremorne Point NSW 2090

DRAWING TITLE :
SOUTH ELEVATION - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
C

DRAWING NO.
DA 701



01 EAST ELEVATION - MATERIALS PROPOSED
1:100

MATERIALS PALATTE
Refer to DA705 for references

- | | | |
|---|--|---|
| [RT] TERRACOTTA ROOF TILES TO MATCH EXISTING | [PS] TIMBER BATTEN PRIVACY SCREEN | [RE] STUCCO RENDER TO MATCH EXISTING |
| [MR] METAL ROOF | [TB] TIMBER BATTEN BALUSTRADE | [TW] TIMBER WINDOWS AND DOORS |
| [BW] BRICKWORK TO MATCH EXISTING | [WB] WEATHERBOARD CLADDING | [BP] BRICK PAVING TO MATCH EXISTING BRICKS |

MATERIALS KEY

- | | | | |
|--|---|--|-------------------|
| | TERRACOTTA ROOF TILES TO MATCH EXISTING | | CONCRETE / RENDER |
| | METAL ROOF | | TIMBER |
| | BRICKWORK TO MATCH EXISTING | | GLAZING |

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Architect Pty Ltd

Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn: SB
Date: 18/12/2023
Project No: 2301
Project Status: Development Application

Client: Roy Brancatisano
Site: 30 Cremorne Road Cremorne Point NSW 2090

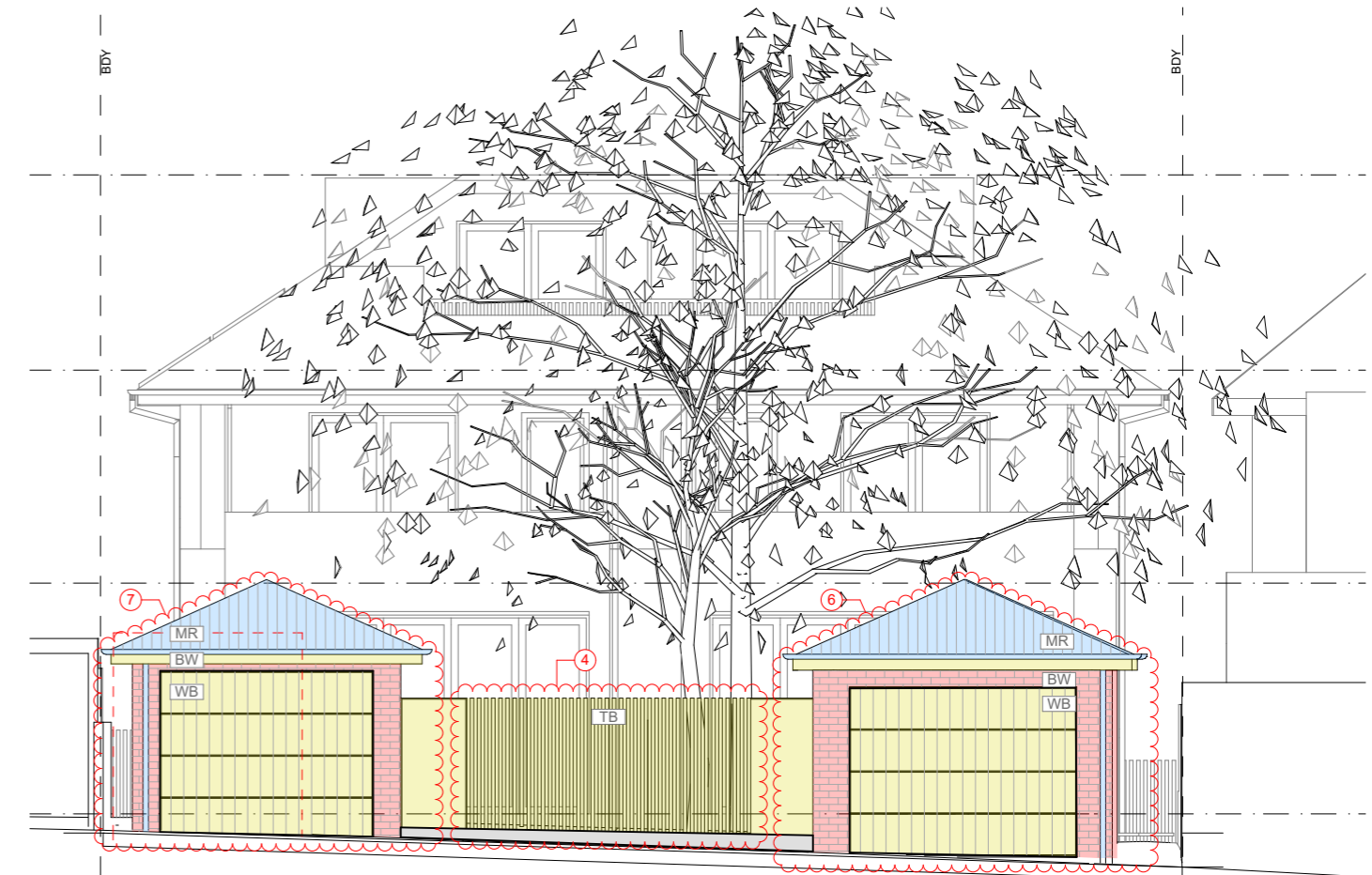
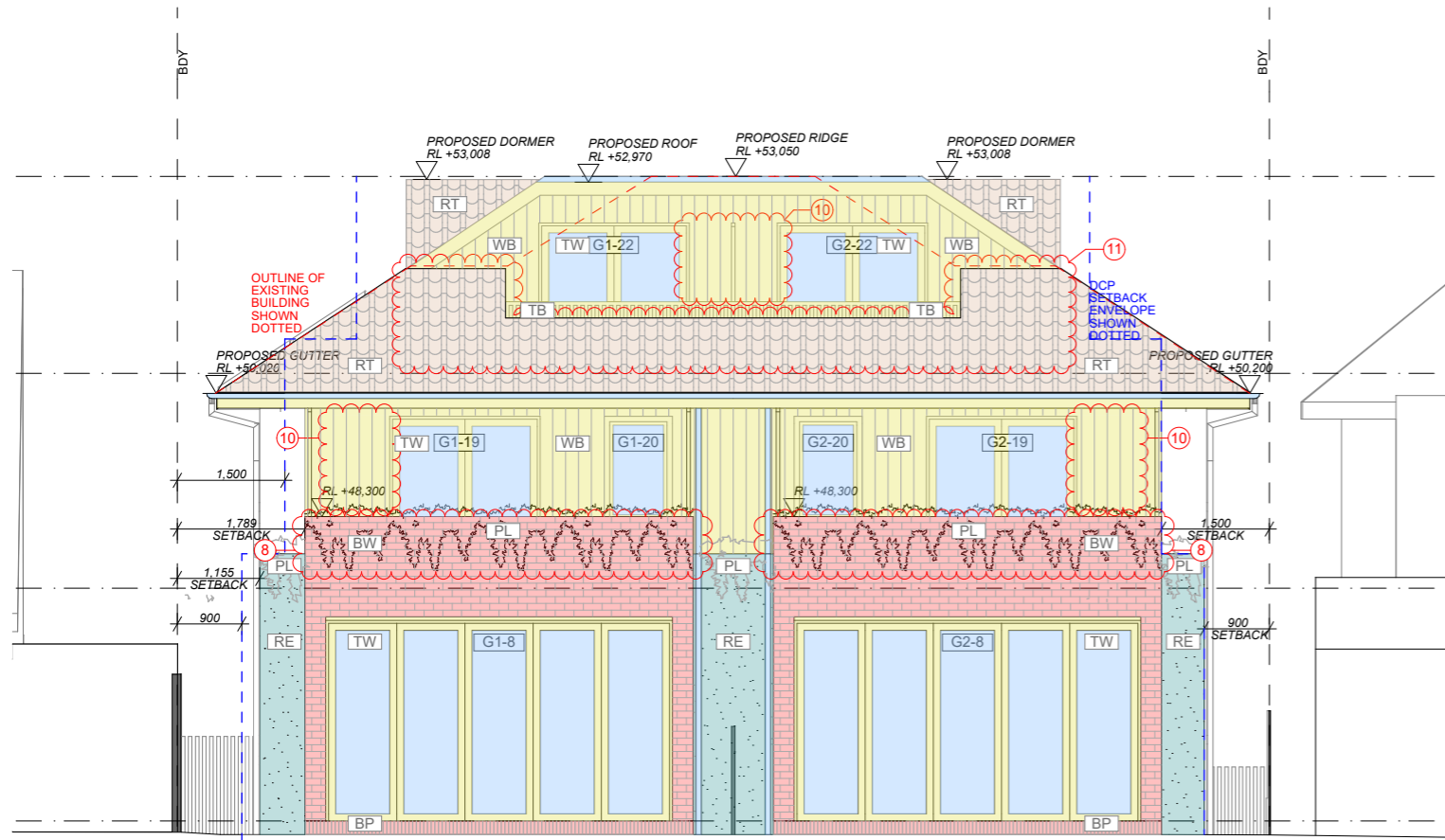
DRAWING TITLE :
EAST ELEVATION - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
A

DRAWING NO.
DA 702

- AMENDED DA CHANGES**
- 1 - Original interior elements retained
 - 2 - Original balustrade and terrazzo entry floor finish retained
 - 3 - Patio size reduced and location revised
 - 4 - Timber batten fence proposed in lieu of brick fence
 - 5 - Paved tyre tracks with landscaping proposed in lieu of concrete carstand
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 - 10 - Size of glazing reduced on western facade
 - 11 - Size of attic balcony reduced and extent of terracotta roof increased



E-04 WEST ELEVATION - PROPOSED
1:100

E-05 WEST ELEVATION - REAR LANE - PROPOSED
1:100

MATERIALS PALATTE
Refer to DA705 for references

- | | | |
|---|--|---|
| RT TERRACOTTA ROOF TILES TO MATCH EXISTING | PS TIMBER BATTEN PRIVACY SCREEN | RE STUCCO RENDER TO MATCH EXISTING |
| MR METAL ROOF | TB TIMBER BATTEN BALUSTRADE | TW TIMBER WINDOWS AND DOORS |
| BW BRICKWORK TO MATCH EXISTING | WB WEATHERBOARD CLADDING | BP BRICK PAVING TO MATCH EXISTING BRICKS |
| | PL PLANTER | |

MATERIALS KEY

- | | |
|---|-------------------|
| TERRACOTTA ROOF TILES TO MATCH EXISTING | CONCRETE / RENDER |
| METAL ROOF | TIMBER |
| BRICKWORK TO MATCH EXISTING | GLAZING |

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Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn SB
Date 08/07/2024
Project No 2301
Project Status Development Application

Client Roy Brancatisano
Site 30 Cremorne Road Cremorne Point NSW 2090

DRAWING TITLE :
WEST ELEVATION - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
C

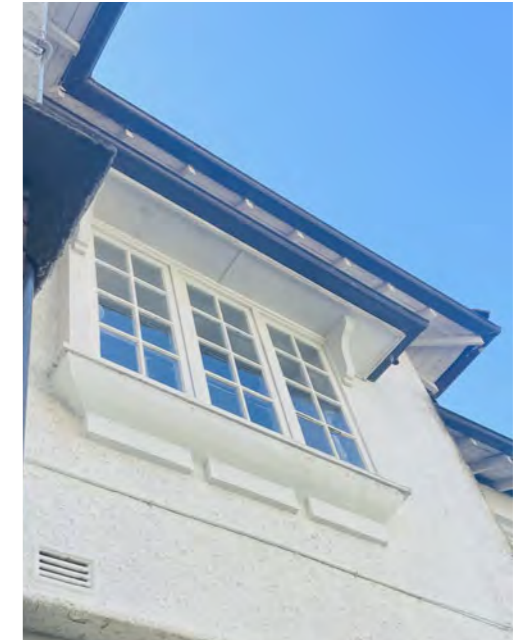
DRAWING NO.
DA 703



01 EAST ELEVATION - MATERIALS
1:75



1. Retain and restore bell cast rail
2. Retain and restore white stucco
3. Repoint existing brickwork
4. Retain lead light window (new infill window behind)
5. Restore 'St Martin's' lightbox sign



6. Replace existing timber framed windows to match existing



7. Restore sandstone front fence and reinstate timber rail



8. Retain and enhance front garden landscape. Refer to front landscape plan.



9. Widen front entry for dual access with recycled bricks
10. Repoint sandstone base
11. Restore front path and garden edge with recycled bricks



12. Restore timber panelling
2. Retain and restore white stucco

NOTE
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Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn Date Project No Project Status
SB 18/12/2023 2301 Development Application

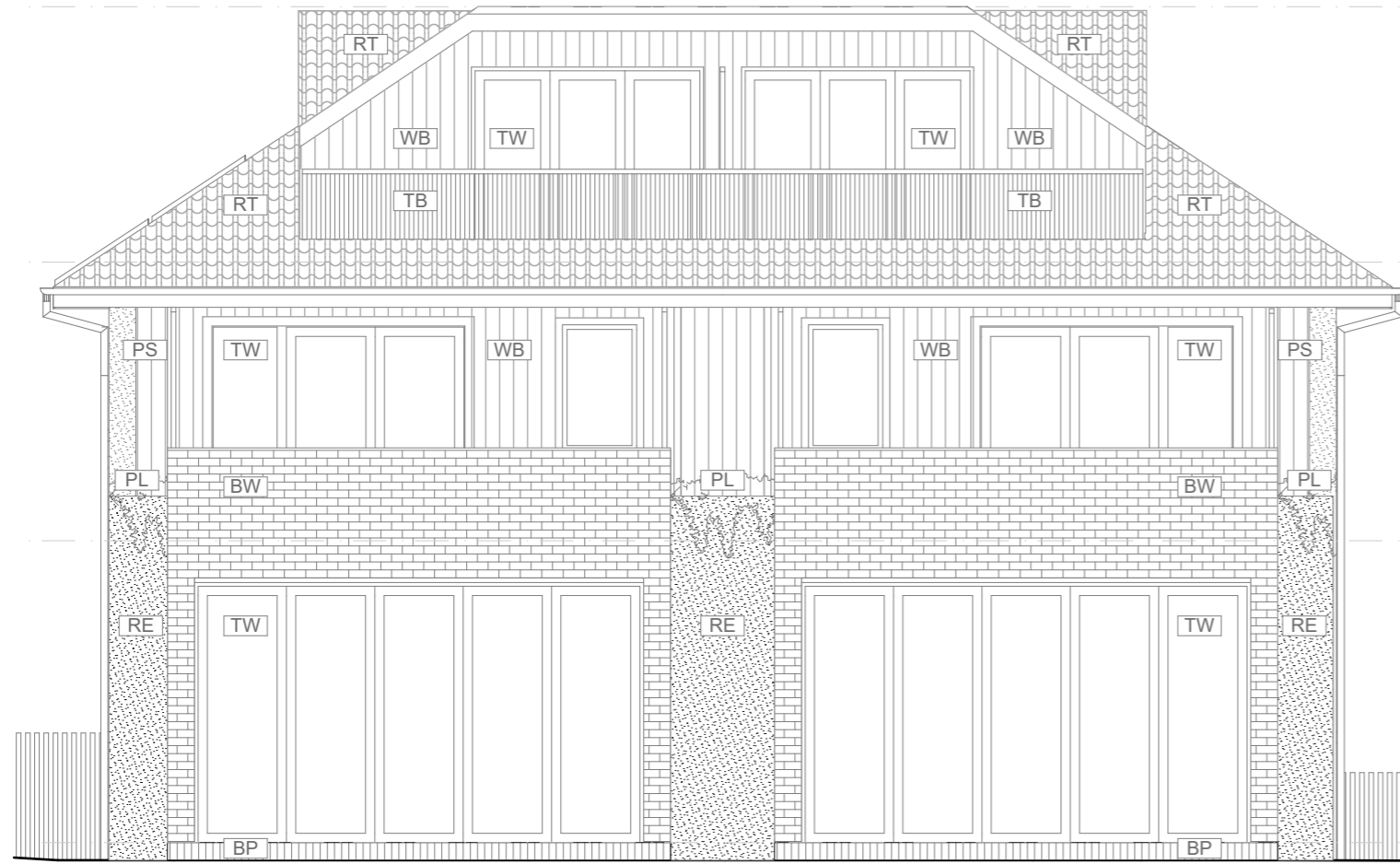
Client Site
Roy Brancatisano
30 Cremorne Road Cremorne Point NSW 2090

DRAWING TITLE :
HERITAGE STREETSCAPE - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

Images Source: Stephanie Brancatisano

REVISION NO.
A
DRAWING NO.
DA 704



RT. Terracotta roof tiles to match existing
Source: The Local Project



WB. 'Natural White' vertical weatherboard cladding
TW. 'Vivid White' timber frame windows and doors
Source: The Local Project

01 WEST ELEVATION - PROPOSED - MATERIALS
1:75



BP. Brick paving to patio to match existing bricks
Source: Manna Gum Building and Garden Supplies



TB. 'Vivid White' timber batten balustrade
Source: Stephanie Brancatisano



RE. 'Natural White' stucco render to match existing
PL. Planters
Source: The Local Project



BW. Bricks to match existing
TW. 'Vivid White' timber frame windows and doors
Source: Cedar and Suede



PS. 'Vivid White' timber batten privacy screen
Source: The Local Project

NOTE
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Drawn SB
Date 18/12/2023
Project No 2301
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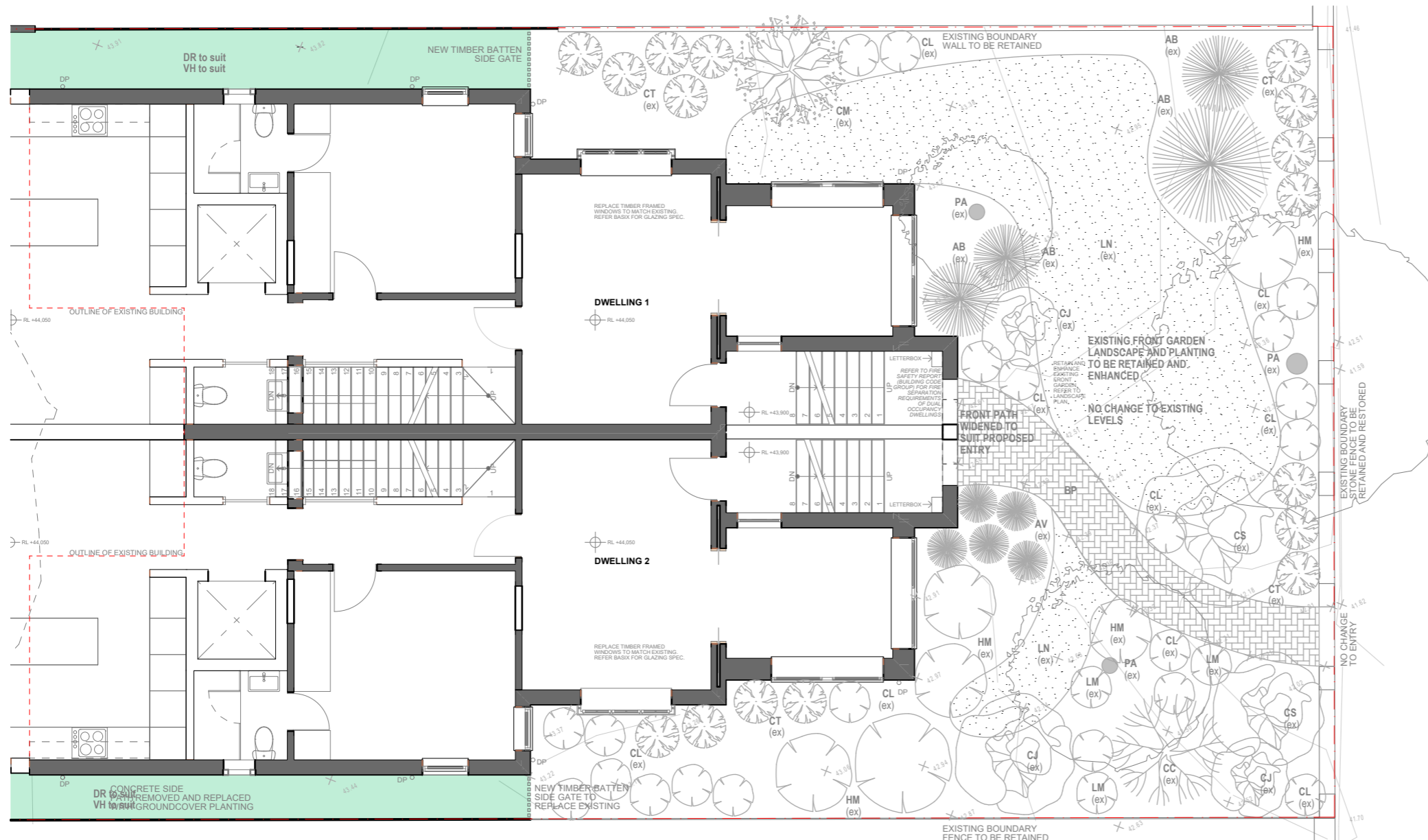
Client Roy Brancatisano
Site 30 Cremorne Road Cremorne Point NSW 2090

DRAWING TITLE :
MATERIALS PALETTE - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
A

DRAWING NO.
DA 705



0. FRONT LANDSCAPE PLAN - PROPOSED
1:100

Planting Schedule - Existing to be Retained

ID	Botanical Name	Common Name
Trees and Palms		
PA	Plumeria Acutifolia	Frangipani Tree
AB	Alloe Barbare	Tree Aloe
CM	Caryota Mitis	Fish Tail Palm
SA	Schefflera Actinophylla	Australian Umbrella Tree
Shrubs and Ferns		
CS	Camelia Sasanqua	Sasanqua Camelia
CJ	Camelia Japonica	Japanese Camelia
CC	Cyathea Cooperii	Australian Tree Fern
CT	Cordyine Terminalis	Ti Plant
CF	Cordyine Fruticosa	Ti Plant
CL	Clivia Miniata	Kaffir Lily
AV	Aloe Vera	Aloe Vera
LM	Liriope Muscati	Lily Turf
HM	Hydrangea Macrophylla	Bigleaf Hydrangea



PA Frangipani Tree
Source: Planet Natural



CM Fish Tail Palm
Source: Gardens Online



CS Sasanqua Camelia
Source: Brisbane Plant Nursery



CC Australian Tree Fern
Source: Gardens Online



CL Clivia Miniata
Source: Garden Express



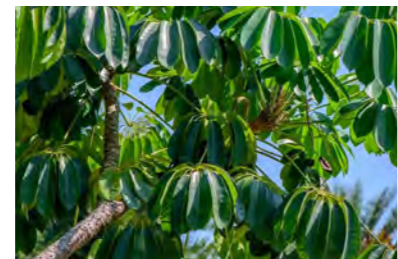
AV Aloe Vera
Source: The Gardener's Path



HM Bigleaf Hydrangea
Source: Garden Design



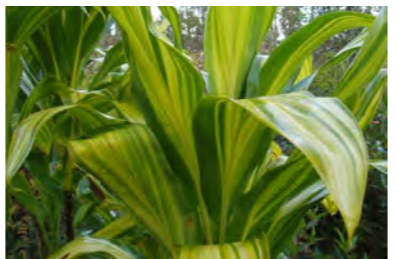
AB Tree Aloe
Source: Aloes in Wonderland



SA Australian Umbrella Tree
Source: Gardener's Path



CJ Japanese Camelia
Source: Australian Plants Online



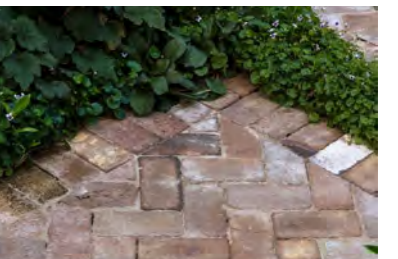
CT Cordyline Terminalis
Source: Vintage Green Farms



CF Cordyline Fruticosa
Source: The National Gardening Association



LM Lily Turf
Source: Plantmark



BP Brick Paving to match existing
Source: Fig Landscapes

NOTE
The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the architect. Refer to written dimensions only. Do not scale drawings. Drawings shall not be used for construction purposes until issued for construction. This drawing reflects a design by Stephanie Brancatisano Architect Pty Ltd and is to be used only for work when authorized in writing by Stephanie Brancatisano Architect Pty Ltd.

All boundaries and contours are subject to survey drawing 230782-1 Rev 0 (by Total Surveying Solutions Pty Ltd dated 3/11/23). All levels to Australian Height Data. It is the contractor's responsibility to confirm all measurements on site and locations of any services prior to work on site.

All documents here within are subject to Australian Copyright Laws.

REVISIONS		
REV	DATE	ISSUE
A	19/12/23	ISSUE FOR DEVELOPMENT APPLICATION



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Stephanie Brancatisano
Architect Pty Ltd

Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn: SB
Date: 18/12/2023
Project No: 2301
Project Status: Development Application

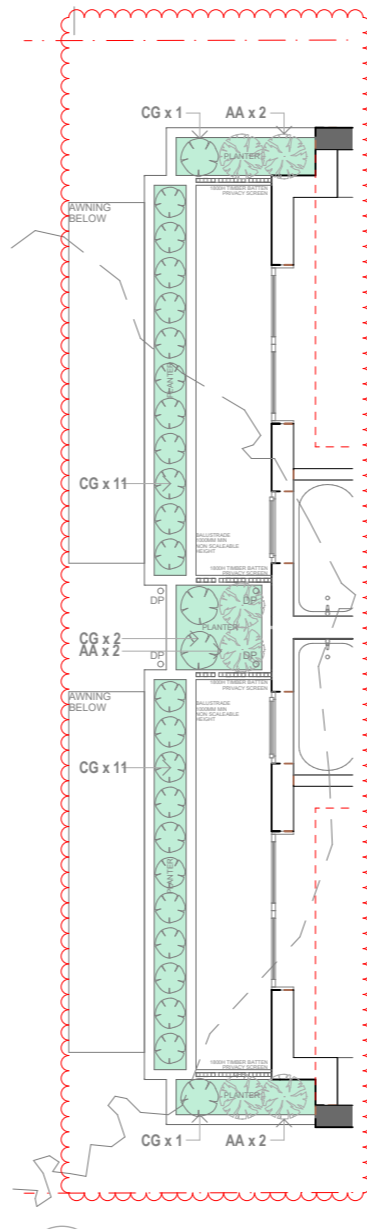
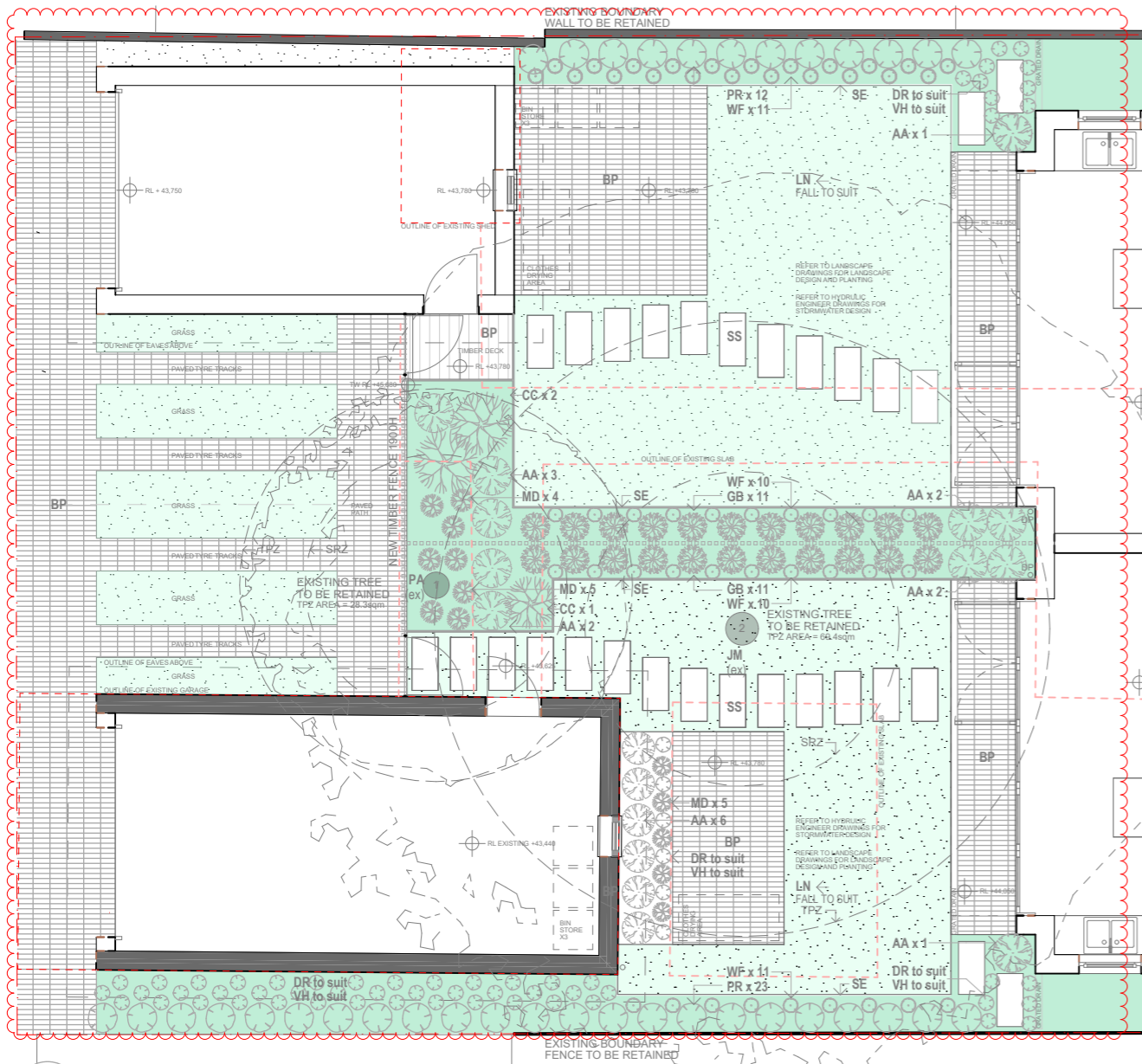
Client: Roy Brancatisano
Site: 30 Cremorne Road Cremorne Point NSW 2090

DRAWING TITLE:
FRONT LANDSCAPE PLAN - PROPOSED

PROJECT NAME:
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.
A

DRAWING NO.
DA 900



Tree Schedule - Existing (as per survey)

ID	Botanical Name	Common Name	Height	Spread	Diameter	Status
PA	Plumeria Acutifolia	Frangipani Tree	8m	6m	0.4m	Retained
JM	Jacaranda Mimosifolia	Blue Jacaranda	12m	14m	0.5m	Retained

Planting Schedule - Proposed

ID	Botanical Name	Common Name	Mature Height	Size	Quantity	Native
Shrubs and Ferns						
PR	Pittosporum Revolutum	Yellow Pittosporum	3-4m	200mm	35	Yes
WF	Westringia Fruticosa	Coastal Rosemary	1-2m	140mm	42	Yes
GB	Grevillea Buxifolia	Grey Spider Flower	1-2m	140mm	22	Yes
CC	Cyathea Cooperii	Australian Tree Fern	4-6m	300mm	3	Yes
AA	Asplenium australasicum	Birds Nest Fern	1-2m	200mm	23	Yes
MD	Microsorium Diversifolium	Kangaroo Fern	0.3-0.6m	200mm	14	Yes
Groundcover and Grasses						
DR	Dichondra Repens	Kidney Weed	0.05-0.15m	Tubestock	To suit	Yes
VH	Viola hederacea	Native Violet	0.05-0.15m	Tubestock	To suit	Yes
Cascading Plants (For Planter)						
CG	Casuarina Glauca	Kattang Carpet	0.1-0.5m	200mm	26	Yes
Lawn						
LN	Sir Walter Soft Leaf Buffalo	Sir Walter			68sqm	

Landscape Schedule - Proposed

Landscape Elements

SS	Sandstone Stepping Stones
SE	Sandstone Garden Bed Edging
BP	Brick Pavers to match existing bricks

0. REAR LANDSCAPE PLAN - PROPOSED
1:100

1. REAR PLANTER PLAN - PROPOSED
1:100



PA Frangipani Tree
Source: Planet Natural



PR Yellow Pittosporum
Source: Wild Plant Rescue



GB Grey Spider Flower
Source: Wikipedia



AA Birds Nest Fern
Source: Garden Express



DR Kidney Weed
Source: Benara Nurseries



CG Kattang Karpet
Source: Alpine Nurseries



BP Brick Paving to match existing
Source: Manna Gum Building and Garden Supplies



JM Blue Jacaranda
Source: Plant Care Today



WF Coastal Rosemary
Source: Plants in a Box



CC Australian Tree Fern
Source: Gardens Online



MD Kangaroo Fern
Source: Australian Plants Online



VH Native Violet
Source: Plantmark



LN Sir Walter
Source: Sydney Lawn and Turf Supplies



SS Sandstone Stepping Stones
Source: Miraliores

NOTE
The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the architect. Refer to written dimensions only. Do not scale drawings. Drawings shall not be used for construction purposes until issued for construction. This drawing reflects a design by Stephanie Brancatisano Architect Pty Ltd and is to be used only for work when authorized in writing by Stephanie Brancatisano Architect Pty Ltd.

All boundaries and contours are subject to survey drawing 230728-1 Rev 0 (by Total Surveying Solutions Pty Ltd dated 3/11/23). All levels to Australian Height Data. It is the contractors responsibility to confirm all measurements on site and locations of any services prior to work on site.

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REVISIONS		ISSUE
REV	DATE	
A	19/12/23	ISSUE FOR DEVELOPMENT APPLICATION
B	08/07/24	ISSUE FOR DA - AMENDED



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Stephanie Brancatisano
Architect Pty Ltd

Nominated Architect S Brancatisano NSW ARB Reg #10667
Email stephanie@brancatisano.com
Phone 0436 002 716
ABN 95 632 485 959

Drawn SB
Date 08/07/2024
Project No 2301
Project Status Development Application

Client Roy Brancatisano
Site 30 Cremorne Road Cremorne Point NSW 2090

DRAWING TITLE :
REAR LANDSCAPE PLAN - PROPOSED

PROJECT NAME :
30 Cremorne Road, Cremorne Point, NSW, 2090

REVISION NO.

B

DRAWING NO.

DA 901



**CLAUSE 4.6 VARIATION TO
CLAUSE 4.3 (2) (HEIGHT OF BUILDING) UNDER
NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN
2013 (NSLEP 2013)**

***30 Cremorne Road,
Cremorne Point***

22nd December 2023



Introduction

- This is a written request to vary **Clause 4.3** of the North Sydney LEP 2013, being the **8.5m** maximum height of buildings *development standard*. The proposed attic roof does not exceed the maximum height of the existing roof.
- The variation request is made under **Clause 4.6** of NSLEP 2013 and supports the proposed demolition, alterations, additions and conversion of a residential flat building containing 4 apartments into an attached dual occupancy at 30 Cremorne Road, Cremorne Point (the site).
- The subject application propose height breaches of **627mm - 1.202m** measured across portions of the proposed attic style roof ridge above the existing natural ground levels underneath the building. The extent and location of the proposed height breaches are detailed in the architectural plans prepared by Stephanie Brancatisano, dated 18.12.23.
- The observed height breaches are limited to portions of the main roof line to the rear of the building above the proposed attic level and west-facing dormer and balcony. The roof over the front portion of the building otherwise complies with the maximum 8.5m height limit.
- Height is a *development standard* for the purposes of the *EP & A Act 1979* as it prescribes a numerical value to an aspect of the permitted development (see Justice Mc Clellans decision in *Georgakis v North Sydney Council* [2004] NSWLEC 123)
- This request to vary the Clause 4.3 of NSLEP 2013 has regard to the judgments in:
 - a. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (“Initial Action”)
 - b. *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [42] (“Wehbe”)
 - c. *SJD DB2 Pty Ltd v Woollahra Council* [2020] NSWLEC 1112 (SJD DB2).
- The objective of Clause 4.6 (1)(a) is to provide an ‘*appropriate degree of flexibility in applying certain development standards to particular development*’. The intent is ‘*to achieve better outcomes for and from development by allowing flexibility in particular circumstances*’ in accordance with Clause 4.6 1(b).
- The extent of the discretion available to the consent authority is unfettered (see SJD DB2) and therefore a variation can be granted to the height variation articulated in this written request.

Development Standard to be Varied

The relevant *development standard* to be varied is the **8.5m** maximum height control under Clause 4.3(2) of NSLEP 2013. Clause 4.3 of the NSLEP 2013 relevantly provides:

4.3 Height of buildings

(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 relevant height of buildings map is identified below:

The subject site is mapped “1” – **8.5m (max)**.

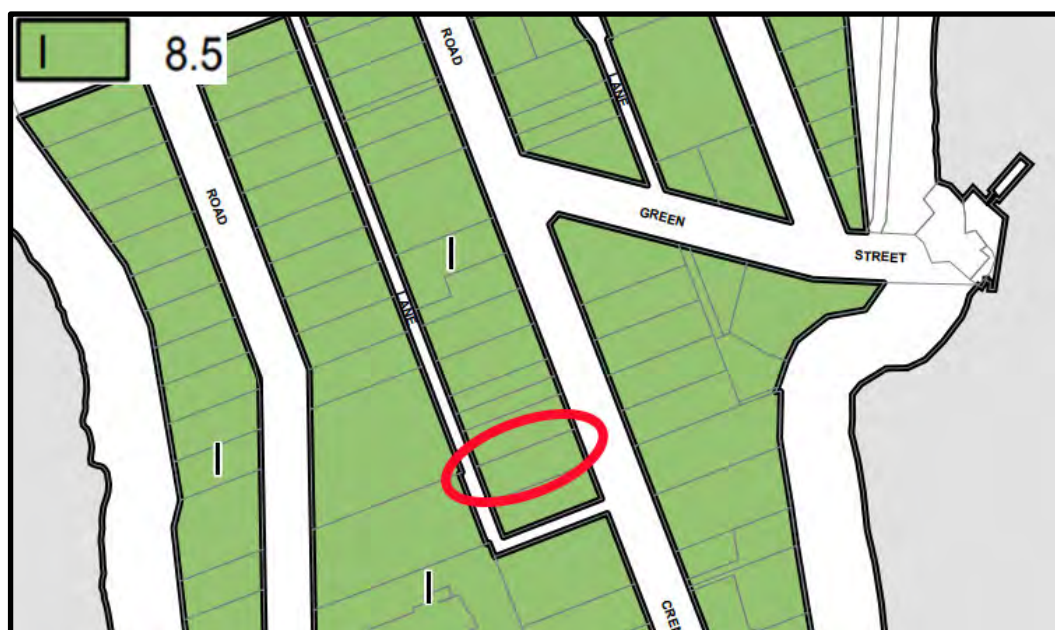


Fig A: Height map extract from NSLEP 2012 (FSR_004)

Nature of Variation Sought

The requested variation is as follows:

- Maximum height variation as measured to the top of the roof ridge line above the attic level and dormer is **1.219m (14.34%)**.

The cross-section below shows the extent of the height variations in Figures B – C below.



Figure B – Western elevation indicating the extent of the maximum height departure to the main roof over the attic to the rear (western) side of the building

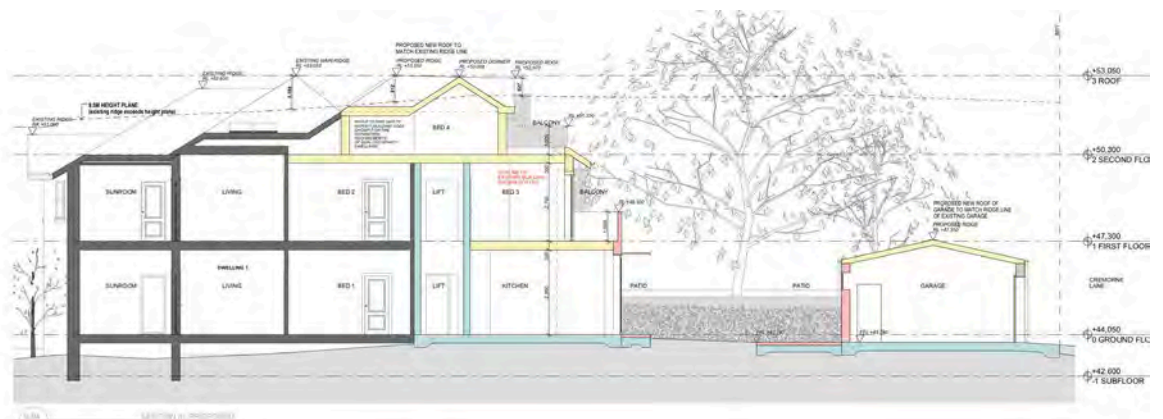


Figure C – Northern elevation indicating minor breaches to the top of the new roof ridge

Clause 4.3 Height - Development Standard

A *development standard* is defined in S 1.4 of the *Environmental Planning and Assessment Act 1979* (“EPA Act”) to mean:

“provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*
- (n) the emission of pollution and means for its prevention or control or mitigation, and*
- (o) such other matters as may be prescribed.” (our emphasis)*

The **8.5m** maximum height standard is a *development standard* as defined under the *EP & A Act 1979*.

Clause 4.6 of North Sydney Local Environmental Plan 2013 (NSLEP 2013)

- 6.1 Clause 4.6 of the **NSLEP 2013** provides a legal pathway by which an Applicant can vary a *development standard*. Clause 4.6 of **NSLEP 2013** relevantly provides as follows:

(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)

Response to Clause 4.6 of NSLEP 2013

The following provides a response to the Clause 4.6 provisions:

1. We deal with **Clause 4.6 (1)(a) and (b)** below:

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.*

The purpose of Clause 4.6 of NSLEP 2013 is to provide flexibility in the application of development standards (see SJD DB2).

Justification within this written request demonstrates that an appropriate degree of flexibility should be applied to this particular application notwithstanding the **height variations** articulated in this written request.

The environmental planning grounds justifying the variation is also provided later in this written request.

The proposal whilst exceeding the **height** development standard provides an acceptable planning outcome with regard to:

- The provision of a new multi-pitched roof over the building being consistent with the prevailing character of traditional roof forms in Cremorne Point. This includes the creation of a partial attic level within the high-pitched roof structure and rear dormer which are observed in similar properties across the peninsula.
- Solar amenity maintained to the neighbouring properties to the south and west due to the maintained building separation and centralised built form pitched roof elements which breach the height limit.
- The overall height of the development remains consistent and compatible with that of existing surrounding built form found in this particular setting. Most notably, the pitch of the roof over the attic level sits lower in the streetscape than the neighbouring pitched roof at 28 Cremorne Road.
- High pitched traditional and decorative roof forms over early 20th century guesthouses are a prominent feature in the surrounding area and streetscape. Many of the high-pitched roof ridges breach the maximum 8.5m height limit.
- The surrounding area is characterised by an eclectic mix of 2-3 storey residential buildings as well as taller residential flat buildings constructed in the 1950's and 1960's. The surrounding built form character does not reflect a

consistent 8.5m height limit as intended to be applied under Clause 4.3 of the NSLEP 2013.

- The main height breach is observed to the rear of the building over the proposed attic level and dormer and does not exceed the maximum height of the existing roof. The extent and locations of the height breaches do not unreasonably contribute to building bulk and scale as a result of the increased height in the context of the streetscape. Furthermore, the high-pitched gable roofs are an important stylistic feature of the architectural design of the building and assists in innovatively defining the top of the building when viewed from the street.

The variation is considered acceptable given that the breaches are relatively minor in the context of the overall building height compliance and nature of other height breaches observed on properties in the nearby surrounds.

2. The variation has been prepared as required by **4.6(2)**.
3. **Clause 4.6 (3)** requires the making of a written request to justify the contravention of a *development standard* and states as follows:

“(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that -

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances, and

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

The proposed development does not comply with the **8.5 metre** maximum height control under **Clause 4.3** of the NSLEP 2013.

Strict compliance with the **8.5m** height *development standard* is considered to be ‘*unreasonable and unnecessary in the circumstances of this case*’ as justified in this written variation request.

The relevant justification dealing with **Clause 4.6 (3)(a)** criteria is contained in this written variation request.

This written variation request demonstrates that strict compliance is unreasonable and unnecessary in the circumstances of this case and sufficient environmental planning grounds exist to justify contravening the development standard.

Clause 4.6 (4) provides that the consent authority must keep a record of the variation, noted.

Clause 4.6(5) has been repealed.

Clause 4.6(6) relevantly provides:

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.

None of the matters above are relevant to the proposed development or subject variation request.

Clause 4.6(7) has been repealed.

Clause 4.6(8) provides that: -

(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)*

The proposed variation does not contravene a development standard for complying development; any matter that arises as a result of the Regulations or BASIX. The land is not mapped as being within Area 1.

Compliance is Unreasonable or Unnecessary - Clause 4.6(3)(a)

In dealing with the “unreasonable and unnecessary” we refer to Preston CJ where he identifies and validates at least 5 arguments available to an applicant in *Wehbe v Pittwater Council* which can be adopted in dealing with the *unreasonable and unnecessary* test under **Cl. 4.6(3)(a)**.

Preston CJ concluded as follows:

“As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”

*‘An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The 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**’ (our emphasis)*

The first way identified in *Wehbe* to justify this written variation (as set out at 42 of the judgment):

“42 An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The 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”

This written **8.5m** height variation request relies in the first instance by demonstrating that compliance is *unreasonable and unnecessary* as the objectives of the development standard are achieved notwithstanding a variation with the development standard.

Clause 4.3 of the NSLEP 2013 provides express objectives of the *development standard*. Clause 4.3 relevantly provides:

‘4.3 Height of buildings

(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.

The objectives above are discussed below:

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

The subject site exhibits little variation in landform across its depth, with the exception of the front setback area which falls noticeably towards the street in front of the existing building. The bulk of the ground level of the existing building is retained and accordingly the height breaches are the direct result of a higher pitched roof, however, this is largely comparable to the height of the existing roof line to be replaced. The height departing roof elements are situated over what is previously disturbed site area therefore the height departure does not affect natural landform. The upper level attic is essentially contained in what would otherwise be a large pitched roof form therefore there is no specific planning purpose served by stepping the roof. Overall the built form respects the natural gradients which are reasonably level across the area upon which the attic roof element is located. The objective is reasonably satisfied.

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

As addressed in the Statement of Environmental Effects (SEE) the proposed development maintains the established setbacks of the existing building and accordingly will not impede any significant views. The additional height does not obscure views over the building given the site is on the high side of Cremorne Road, being the ridge of the peninsula. The objective is reasonably satisfied.

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

The proposal maintains the general height of the existing building to be partially demolished and modified. The neighbouring property to the south at 28 Cremorne Road will continue to receive solar access to internal living areas and external private open space in the manner that it currently receives. No additional adverse overshadowing impacts are incurred to the southern neighbours or any elements of the public domain. The height breaches are largely centralised within the proposed roof form, are modest and do not contribute to additional overshadowing impacts. The objective is reasonably satisfied.

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

Impacts to the visual privacy of neighbouring residents has been dealt with in the supporting SEE. The additional height proposal accommodates a dormer and upper level balcony positioned to the rear (western) elevation that will provide views across the rear yard and further to the west beyond Cremorne Lane. Direct overlooking opportunities to the neighbouring rear yards to the north and south are obscured due to the sitting and design of this balcony and dormer windows being shrouded by the roof form below and to the side of the dormer.

Elsewhere, the height breaches have not contributed in any way to the reduction or impacts to the visual privacy of neighbouring properties or residents of the subject residence. The objective is reasonably satisfied.

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

The surrounding built form context of Cremorne Road and Cremorne Point is underpinned by an eclectic mix of property types. A prevailing feature of properties, particularly along the high ridge-line of Cremorne Point are early 20th century guest-houses that were later converted into apartments or grand houses, including the subject site, being the former.

These guest-houses, like the earlier manor homes comprise high-pitched tiled roofs and some with dormers and other stylistic elements of the period. The proposed roof form is commensurate to the existing roof being replaced and a number of other examples in the street, being a multi-component hip and gable with dormer to the rear.

The maximum pitch and height of the roof proposed sits lower in the streetscapes than other properties positioned on the ridge, including, most notably, that of the dwelling to the south at 28 Cremorne Road. Accordingly, the proposed roof is deemed to be compatible with, and directly comparable to other developments in the area and R2 zone. As established in *Project Ventures v Pittwater Council*.

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

Addressed largely in the point above. The overall scale, density and height of the proposed building is appropriate having regard to that of the surrounding built form context and relationship with neighbouring properties. The proposed multi-component roof structure is grand and decorative in its appearance which reflects one of the prevailing built form stylistic elements of the character area.

The objective is achieved.

(g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and C4 Environmental Living

The site is located within a R2 Low Density Zone, however, the intent of this particular objective is largely at odds with the nature of building types and heights across the R2 zoned areas of Cremorne Point. Much of the area comprises 2 storey development that extent upwards of 6-7 storeys for remnant residential flat buildings developed across the point during the 1950s and 1960s.

Nevertheless, the proposed development mainly retains a 2 storey form, with the exception of a modest attic level included within the roof structure at the rear. The addition of an attic space does not severely contribute to the overall building bulk, scale or height and remains consistent with that of neighbouring properties. The objective is reasonably satisfied.

Sufficient Environmental Planning Grounds – Clause 4.6(3)(b)

Clause 4.6 (3)(b) prescribes the following:

(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.

The following provides sufficient environmental planning grounds to warrant the variation. The following identifies the benefit of the adopted architectural solutions as one which minimally breaches the 8.5m height control:

- The maximum pitch and height of the roof proposed sits lower in the streetscapes than other properties positioned on the ridge, including, most notably, that of the dwelling to the south at 28 Cremorne Road. Accordingly, the height of the building is in keeping with the reading and rhythm of the streetscape, which is critically positioned on the high/ ridge side of the road.
- Considering the point above, a person standing at the street/footpath level in front of the property is not presented with unreasonable additional bulk and scale associated with the additional height because it is concentrated to the rear and is contained behind the main roof structure across the front and central sections of the building.
- No additional overshadowing impacts to neighbouring properties is incurred due to the position of the height departing roof and separation provided to neighbouring properties, particularly the southern neighbour at 28 Cremorne Road. The shadows cast by the tallest elements are contained within the broader shadows cast by the development, resulting from an otherwise height compliant development that is consistent with the shadows cast from the existing building and roof.
- The extent of the height breaches will not be visually discernible from the road or public domain given that they are contained largely to the rear above the dormer and balcony opening. From neighbouring properties, the height of the structure will appear similar to the existing heights of the dwelling roof to be replaced.
- The overall mass and height of the building is considered to be comparable to that of the existing dwelling to be partially demolished and commensurate to that of other similar neighbouring properties as discussed in point 1 above.
- The otherwise compliant 8.5m height achieved for the main bulk of the roof and building elements below is consistent with the objectives of the NSLEP and intent of the height control.
- The proposed bulk, scale and height of the development does not result in excessive or unreasonable overshadowing, privacy or obstruction of view impacts given the buildings location, siting, design and orientation.
- The roof form proposed comprises multiple hip and gable elements that are grand, decorative, visually interesting and emblematic of the period roof features. The additional height breaches observed at the rear of the dwelling are therefore considered acceptable having regard to the architectural merits of the buildings' roof.
- Notwithstanding the intent of objective (g), the height of buildings development standard as it applies to the Cremorne Point context has been thwarted somewhat by the pre-existing residential flat buildings scattered across the peninsula that far exceed two storeys, up to 6-7 storeys. To this end, there is no observed consistent building height in the surrounding area that would be drastically offended by the proposed height breaches.

Clause 1.3 Objects of the EP and Act 1979

In explaining the sufficient environmental planning grounds referred to in cl 4.6 Preston CJ in 'Initial Action' considers that it is available to the applicant to also deal with the Objectives of the Act under S1.3 when considering a Clause 4.6 variation. Clause 1.3 of the EP and A Act 1979 relevantly provides:

“1.3 Objects of Act

The objects of this Act are as follows:

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

(c) to promote the orderly and economic use and development of land,

(d) to promote the delivery and maintenance of affordable housing,

(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),

(g) to promote good design and amenity of the built environment,

(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

(j) to provide increased opportunity for community participation in environmental planning and assessment. (emphasis added)

The proposal reasonably satisfies the objectives of under S1.3 *EP&A Act 1979*. The plans by Stephanie Brancatisano satisfy the objectives in bold (as above) given that:

- The development achieves the zone objectives providing for a form which is consistent with the desired character of the R2 low density residential zone.
- The proposal represents an economically viable development of the site, that is both capable and suitable for the site, when assessed on a merit based assessment under the s4.15 heads of the consideration of the EP & A Act 1979.
- The proposal mitigates significant adverse impacts to neighbouring properties with respect to solar access and overshadowing, visual impacts and privacy.
- The proposal exhibits a quality design which enhances residential amenity and reflects the traditional built form characteristics of the conservation area.
- The development offers better and proper management of the States land resources by providing a more efficient use of private land which is serviced by power, water and sewer.

Based on the above sufficient environmental planning grounds exist to warrant the variation.

Conclusion

The proposed development contravenes **Clause 4.3(2)** of the **NSLEP 2013** being a *development standard* and height is not excluded from the application of **clause 4.6 of NSLEP 2013**.

Pursuant to Clause 4.6(2), this variation request deals specifically with the proposed height of building breaches as no other relevant development standards are contravened by the proposal.

This written request to vary the development standard has been prepared in accordance with **cl4.6 of the NSLEP 2013** and demonstrates that strict compliance with the development standard is unreasonable and unnecessary for the following reasons:

- Notwithstanding the contravention of the development standard, the proposed development is consistent with the relevant aims and objectives of the NSLEP 2013 and is not antipathetic to the stated objectives of the R2 Low Density Residential zone and therefore, the proposed development is in the public interest.
- Notwithstanding the proposed height variation as articulated in this report, the development will not result in adverse environmental harm in that, the existing and future amenity of neighbouring properties will be reasonably maintained and the built form remains responsive and appropriate for its context and zoning.
- The design of the new roof structure accommodating an attic space to the rear features period design elements and reflects the prevailing roof types of converted guest-houses and manor homes along Cremorne Road.
- The height breaches relate only to portions of the roof positioned over the rear sections of the building and are not visually discernible from the street frontage. The roof over the front and central portions of the building remain within the compliant 8.5m height standard. The proposed attic roof does not exceed the maximum height established by the existing roof.
- The proposal is consistent with the height standard objectives which are to manage form and scale and to provide reasonable levels of amenity.
- The new roof form better aligns with the prevailing roof structures observed across Cremorne Point, particularly those of traditional guest homes and manor homes in the area, including most notably the taller property to the south at 28 Cremorne Road.
- Strict numeric compliance would not materially change or improve the development, nor reduce any measurable impact to the amenity of the neighbouring properties.
- The application provides for the orderly and economic development of land, improvement of built form configuration and adequate protection of the environment and public interest.

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- The variation is considered to be well-founded and will create a satisfactory planning outcome consistent with the applicable planning controls as detailed in the SEE.

In addition, this written request outlines sufficient environmental planning grounds to justify contravention of the height development standard.

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Andrew Martin MPIA
Planning Consultant