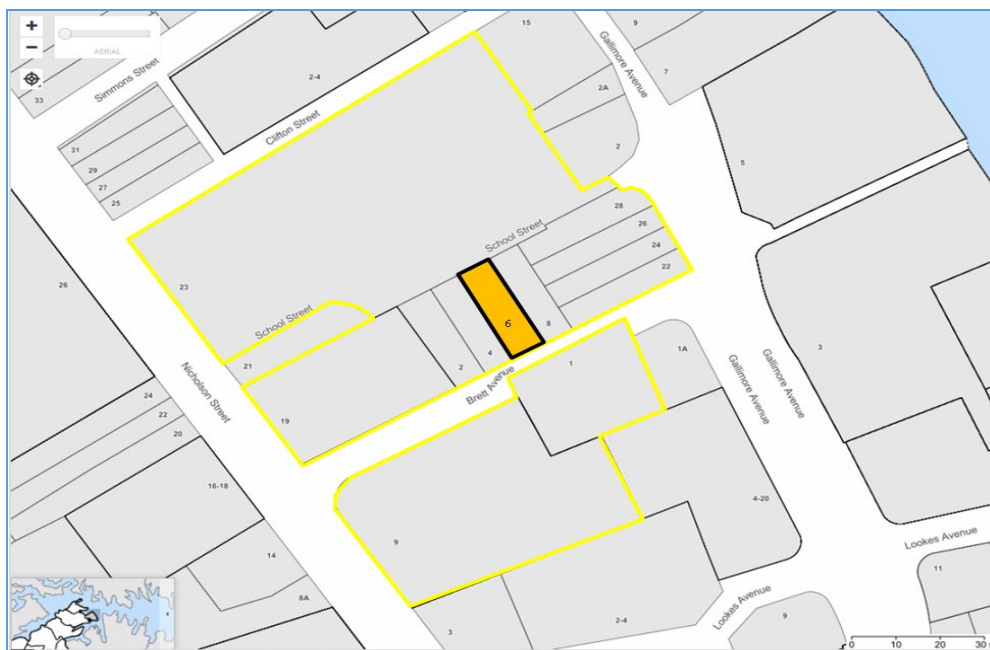


# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2022/0717
<b>Address</b>	6 Brett Avenue BALMAIN EAST
<b>Proposal</b>	Alterations and additions to existing dwelling
<b>Date of Lodgement</b>	14 September 2022
<b>Applicant</b>	Mr Ray Stevens
<b>Owner</b>	Ms Alison L Nash
<b>Number of Submissions</b>	Initial: 0
<b>Value of works</b>	\$99,900.00
<b>Reason for determination at Planning Panel</b>	Variation to FSR development standard exceeds 10%
<b>Main Issues</b>	FSR Variation
<b>Recommendation</b>	Approved subject to conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Section 4.6 Exception to Development Standards – FSR Variation

**FIGURE 1: NOTIFICATION MAP**



**LOCALITY MAP**

Subject Site		Objectors		N ↑
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing dwelling at 6 Brett Avenue Balmain East.

The application was notified to surrounding properties and no submissions were received.

The main issue that has arisen from the application is the FSR variation exceeding 10% as will be discussed in later parts of this report.

This variation is acceptable given that the variation is a small increase from existing and has no undue adverse amenity impacts to any of the adjoining properties, and given the acceptable streetscape and heritage impacts, the application is recommended for approval subject to the imposition of conditions.

## 2. Proposal

The proposed development is for alterations and additions to an existing dwelling as follows:

### Ground Floor:

- Internal alterations and reconfiguration works
- Extend the existing rear paving off the existing living/dining area
- Installation of a new remote controlled operated/retractable awning over new paved area

### First Floor:

- Relocation of the master bed's ensuite and WIR to the eastern wall

### Attic Level:

- New bathroom and laundry on the western wall abutting the stairs
- Enlarge the rear-facing single-dormer window to 4x the existing size
- New skylight above the stairs

## 3. Site Description

The subject site is 6 Brett Avenue, Balmain East and is legally known as Lot 103 in DP875575. Brett Avenue runs on an east/west direction between Nicholson Street to the west and Gallimore Avenue to the east. The subject site is located on the northern side of Brett Avenue.

The west-facing rear of the subject site overlooks the playground of Nicholson Street Public School.

The site contains a terrace which forms part of a consistent row, all of which have two front-facing dormer windows. The townhouses are all set back incrementally from the street to allow view sharing with the adjoining properties due to its proximity to the Sydney Harbour and views of the Sydney Harbour Bridge visible from Brett Avenue.

Figure 2: the subject site is indicated in red border.



The subject site is a neutral dwelling located within the Balmain East Heritage Conservation Area and is within the vicinity of a number of heritage listed items.

The subject site is zoned R1- General Residential under the Inner West Local Environmental Plan 2022, please see Figure 3.

Figure 3: the subject site bordered in dashed yellow is zoned R1 General Residential. Source: NSW e-Planning Spatial Viewer, 12 December 2022.



## 4. Background

### 4(a) Site history

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

#### Subject Site

##### 6 Brett Avenue, Balmain East

Application	Proposal	Decision & Date
BC/1998/98027	Building Certificate	Issued – 28.01.1998

#### Surrounding properties

Nil of relevance

### 4(b) Application history

Not applicable

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)*.

### 5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Inner West Local Environmental Plan 2022*

The following provides further discussion of the relevant issues:

#### 5(a)(i) *State Environmental Planning Policy (Resilience and Hazards) 2021*

##### *Chapter 2 Coastal management*

The SEPP aims to ensure that future coastal development is appropriate and sensitive to its coastal location and category.

The site is not within or within proximity of, nor is it categorised as a coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment, and a coastal use area.

The proposed development will not adversely affect any coastal processes or values.

##### *Chapter 4 Remediation of land*

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

- “(a) *it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

In considering the above, there is no evidence of contamination on the site.

There is no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records for the subject site.

The proposed development was also referred to Council's Environmental Health who raised no objections to the proposal.

Overall, the subject site is suitable for the proposed development.

*5(a)(ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

*5(a)(iii) State Environmental Planning Policy (Biodiversity and Conservation) 2021*

*Chapter 2 Vegetation in Non—rural areas*

No prescribed trees will be adversely affected by the proposal.

*5(a)(iv) Inner West Local Environmental Plan 2022 (IWLEP 2022)*

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 4.3C – Landscaped areas for residential accommodation in Zone R1
- Section 4.4 – Floor space ratio
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 5.10 – Heritage conservation
- Section 6.1 – Acid sulfate soils
- Section 6.3 – Stormwater management
- Section 6.8 – Development in areas subject to aircraft noise

### Section 1.2 Aims of the Plan

The development will result in acceptable streetscape / heritage impacts and will not result in adverse amenity impacts to the subject site and adjoining properties. The proposed development is a satisfactory response to the existing pattern of development along Brett Avenue and the proposed enlargement of the rear-facing dormer is largely not visible from the public domain, and in this instance is acceptable.

### Section 2.3 Land Use Table and Zone Objectives

The subject site is zoned R1 General Residential under the *IWLEP 2022*. The proposed works are to a dwelling house, which is a permissible form of development within the zone.

The objectives of the Zone R1 are as follows:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide residential development that maintains the character of built and natural features in the surrounding area.

The proposal will continue to provide for a variety of housing types and for the housing needs of the community within a low-density residential environment. Further, the proposed works are largely located internally and at the rear of the subject site which has no undue adverse amenity implications to the adjoining properties.

Further, while the proposed development includes further variations to the standards prescribed under the LEP, specifically FSR, this variation results in negligible adverse amenity impacts to adjoining properties, and improved amenity outcomes to the subject site. Furthermore, the proposed development is consistent with other developments within the vicinity of the subject site and does not compromise the low-density residential setting of the neighbourhood.

Overall, the proposed development will result in acceptable impacts on the site and locality, and raises no issue that would be contrary to the zone objectives.

### Section 4 Principal Development Standards

The subject site has a site area of 189.9sqm and the following table outlines an assessment of the proposal against the relevant development standards:

Standard	Proposal	Non compliance	Complies
<b>Floor Space Ratio</b> Maximum permissible: 0.7:1 (132.93sqm)	Proposed: 1.37:1 (259.799sqm)  <i>Existing:</i> 1:31:1 (249.436sqm)	Proposed: 90.47% (120.266sqm)  <i>Existing:</i> 87.64% (116.506sqm)	No – see Section 4.6
<b>Landscape Area</b> Minimum permissible: 15% (28.485sqm)	22.65% (43.003sqm)	N/A	Yes
<b>Site Coverage</b> Maximum permissible: 60% (113.94sqm)	56.81% (107.888sqm)	N/A	Yes

#### Section 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard:

- Section 4.4 Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Section 4.4 of the *IWLEP 2022*. The proposed variation is 90.47% or 120.266sqm, from the existing non-compliance of 87.64% as indicated in the above table.

Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022* justifying the proposed contravention of the development standard which is summarised as follows:

- *The attic level of the premises is used as a home work office. The extended dormer provides space for two additional work stations for the owners.*
- *The proposal requires an increase in room sizes only at the attic level by extending the width of the existing dormer window.*
- *The proposed development continues the use of the site as residential and is consistent with the character of the adjoining townhouses and those in the area.*
- *There is no increase in increase in bedrooms, only available room size within the attic will be increased.*
- *The footprint is maintained by the proposal.*



- *The added bulk is minimized by keeping the main roof intact and only extending the width of the dormer window.*

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable/unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

Pursuant to Section 4.6(4)(a)(ii) of the *IWLEP 2022*, the proposed development is not considered contrary to public interest because it is consistent with the objectives of land zoned R1 General Residential as discussed above. The proposal is also consistent with the objectives of Clause 4.4 Floor Space Ratio of the *IWLEP 2022* as discussed below:

The objectives of Clause 4.4 Floor Space Ratio of the *IWLEP 2022* are:

- a) *to establish a maximum floor space ratio to enable appropriate development density,*

Comment:

There is no increase in the number bedrooms, and only the available room size within the attic will be increased. The increase in the FSR compared to existing is minor in nature (2.83%) and is associated with the proposed dormer window to the attic which is consistent with the pattern of development in the neighbourhood and the Building Typology Controls in Appendix B of the Leichhardt DCP 2013. The increase in FSR does not represent any unacceptable or adverse visual bulk and scale impacts to the public realm or the streetscape.

- b) *to ensure development density reflects its locality,*

Comment:

The density of development in the locality is mixed and the proposed density is not out of character with other development in the vicinity of the site and the distinctive neighbourhood in which the site is located.

- c) *to provide an appropriate transition between development of different densities,*

Comment:

As mentioned earlier, there is no increase in the number bedrooms, and only available room size within the attic will be increased, and the increase in the FSR compared to existing is minor in nature and associated with the proposed dormer window to the attic which is consistent with the pattern of development of the neighbourhood and Council's DCP controls.

d) *to minimise adverse impacts on local amenity,*

Comment:

The proposed development is considered to not result in any undue adverse amenity impacts to any adjoining properties.

e) *to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

Comment:

The proposed development does not include any works which will decrease any of the existing vegetation at the subject site.

Overall, the proposed development is not considered contrary to public interest because it is consistent with the objectives of Section 4.4 Floor Space Ratio of the *IWLEP 2022* development standard and R1 Zone objectives, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* as discussed above.

In this instance, the concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Section 4.4 Floor Space Ratio of the *IWLEP 2022* and it is recommended the Section 4.6 exception be granted.

Section 5.10 – Heritage Conservation

The subject site is located within the Balmain East Heritage Conservation Area and is within the vicinity of a number of heritage listed items including:

- House, including interiors, 1 Brett Avenue, Lot 1, DP 224624 (I689 in Schedule 5 of the Inner West Local Environmental Plan 2022)
- Retaining wall, steps and fence, Gallimore Avenue, Road reserve (I764)
- Sandstone outhouse, including interiors, 19 Nicholson Street, Lots 1–7, CP/SP 19536 (I787)
- Nicholson Street Public School, including interiors, 23 Nicholson Street, Lots 5, 6 and 10, DP 18361; Lot A, DP 190313; Lots 1 and 2, DP 794922; Lot 688, DP 821090; Lot 1, DP 1089096; Lot B, DP 190313 (I788)
- House, “Kaikoura”, including interiors, 2 School Street, Lot 2, DP 870300 (I807)

The subject property at 6 Brett Avenue, Balmain East is one in a row of terrace houses built between 1996-1997, and therefore, falls outside the period of core significance for the HCA of Balmain East HCA as outlined in Schedule 5 of the *IWLEP 2022*.

The proposed development includes alterations to the internal layout of the dwelling, fenestration alterations to Brett Avenue; construction of a retractable awning at the rear of the ground floor and the extension of the rear-facing dormer window. The proposed works are largely internal and sited at the rear, will be complementary with or will not detract from the existing residence and satisfies the dormer window controls contained in the Leichhardt DCP 2013.

A condition is included in the recommendation requiring external colours and finishes of the proposed works to match the external colours and finishes of the existing dwelling.

In summary, the proposal will have acceptable impacts on the appearance of the existing residence and will not detract the Heritage Conservation Area or the significance or setting of any nearby items, and will satisfy the provisions and objectives of Clause 5.10 of the *IWLEP 2022*.

**5(d) Development Control Plans**

The application has been assessed and the following provides a summary of the relevant provisions of the Leichhardt Development Control Plan 2013 (Leichhardt DCP 2013).

The following provides discussion of the relevant issues:

Leichhardt Development Control Plan 2013	Compliance
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes, acceptable as lodged.
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes, as discussed previously in this report.
C1.9 Safety by Design	Yes
C1.11 Parking	Yes, no change from existing.
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes – no prescribed trees will be adversely affected

<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.2: Balmain East Distinctive Neighbourhood	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Yes, see discussion below.
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes, see discussion below.
C3.10 Views	Complies, no impact to views.
C3.11 Visual Privacy	Yes.
C3.12 Acoustic Privacy	Yes
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.3 Residential Development	Yes
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2.2 Managing Stormwater within the Site	Yes
<b>Appendix B – Building Typologies</b>	Yes, see discussion

The following provides discussion of the relevant issues:

*C3.4 Dormer Windows and Appendix B Building Typologies*

The proposed development to enlarge the rear-facing first floor attic dormer window is consistent with the construction period and architectural style of the row of terrace houses.

The dormer is also acceptable with respect to Control C2 as it is sited at the rear and not visible from Brett Avenue and overlooks playground of Nicholson Street Public School (see Figure 4). While the proposed dormer is larger than adjoining properties, the proposal technically not does not have any streetscape implications due to its location. Council's Heritage Specialist also raised no concerns regarding this aspect of the proposal.

Figure 4: the rear of the subject site overlooks Nicholson Street Public School.



The proposed dormer is also acceptable given it complies with Control C4 to Section 7 of Appendix B – Building Typologies of the DCP and the following control:

*C4 - Skillion type dormers may be located on the rear roof plane of buildings or in new additions to a building where they will not be seen from the principal street frontage and are to be set:*

- a. a minimum 200mm below the ridge line;*
- b. a minimum of 500mm from the side wall; and*
- c. a minimum of 200mm up from the rear wall plate*

Given the above, the proposal is a satisfactory response the objectives and controls of Council's Dormer Window controls contained in the Leichhardt DCP 2013.

### C3.9 Solar Access

The subject site is on a south/north (front/rear) orientation and thus, the applicable controls of this Part of the DCP are C13, C15, C17 and C19. The applicant has provided shadow diagrams for 9am, 12pm and 3pm for 21 June. An assessment of the proposed development against these controls are undertaken below.

### Subject Site

*C11 Alterations and additions to residential property shall be designed to minimise overshadowing to the subject site and maximise direct sunlight, natural daylight and ventilation to the subject site.*

#### *Comment:*

The proposed development will maximise solar access through the installation of a larger rear-facing dormer window, and a skylight over the stairwell. Therefore, this control of this part of the DCP is satisfied.

### Neighbouring Properties

- *C13 Where the surrounding allotments are orientated north/south and the dwelling has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice.*
- *C15 Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*
- *C17 Where surrounding dwellings have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.*
- *C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

#### *Comment:*

The shadow diagrams indicate that the proposed development will have minor additional overshadowing to the adjacent property to the west, at No. 4 Brett Avenue, at 9am which is largely to the roof and first-floor pergola. At 12pm, any overshadowing is largely on the existing roof of the subject site and with no additional overshadowing to any of the adjoining properties. Further, from 12pm to 3pm, there is no overshadowing to No. 4 Brett Avenue. Therefore, C13 and C17 are satisfied as No. 4 Brett Avenue is able to retain three hours solar access to its north facing glazing and three hours of solar access to its POS as existing from 12pm to 3pm.

The property to the east, No. 8 Brett Avenue, retains its existing solar access from 9am to 3pm on 21 June.

Thus, the proposed development satisfies this Part of the DCP.

### 5(e) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact on the locality.

**5(f) The suitability of the site for the development**

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

**5(g) Any submissions**

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties.

No submissions were received in response to the initial notification.

**5(h) The Public Interest**

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

**6 Referrals****6(a) Internal**

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

<b>Referral Section</b>	<b>Comments</b>
Development Engineering	Conditions provided.
Environmental Health	No objection to the proposal.
Heritage Internal	Acceptable as lodged.

**6(b) External**

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

**7. Section 7.11 Contributions/7.12 Levy**

Section 7.11 contributions/7.12 levies are not payable for the proposal.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is not considered to be contrary to the public interest.

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

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.4 Floor Space Ratio of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2022/0106 for alterations and additions to an existing dwelling at 6 Brett Avenue, Balmain East subject to the conditions listed in Attachment A below.



## Attachment A – Recommended conditions of consent

### CONDITIONS OF CONSENT

#### DOCUMENTS RELATED TO THE CONSENT

##### 1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
2021/29/DA.01/B	Cover Page	05.07.2022	OIKOS Architects
2021/29/DA.02/B	Plan – Roof	05.07.2022	OIKOS Architects
2021/29/DA.04/B	Plan – First Floor	05.07.2022	OIKOS Architects
2021/29/DA.05/B	Plan – Attic Floor	05.07.2022	OIKOS Architects
2021/29/DA.06/B	Sections – A & B	05.07.2022	OIKOS Architects
2021/29/DA.07/B	Elevation – North & South	05.07.2022	OIKOS Architects
2021/29/DA.08/B	Elevation – East & West	05.07.2022	OIKOS Architects
Certificate No: A465589	BASIX Certificate	05.07.2022	OIKOS Architects
	Party Wall Consent – No. 8 Brett Avenue	n.d.	Lee Steer
	Party Wall Consent – No. 4 Brett Avenue	n.d.	David Whittle

As amended by the conditions of consent.

**FEES**

**2. Security Deposit - Custom**

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$2,800.00
Inspection Fee:	\$350.00

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

**3. Long Service Levy**

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

**GENERAL CONDITIONS****4. Boundary Alignment Levels**

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

**5. Stormwater Drainage System – Simple**

Stormwater runoff from proposed new or altered roof areas may be discharged to the existing site drainage system.

Any existing component of the stormwater system that is to be retained, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.

A minimum 150 mm step up shall be provided between all external finished surfaces and adjacent internal floor areas.

**6. Waste Management Plan**

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

**7. Erosion and Sediment Control**

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

**8. Works Outside the Property Boundary**

This development consent does not authorise works outside the property boundaries on adjoining lands.

**PRIOR TO ANY DEMOLITION****9. Hoardings**

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

**10. Advising Neighbours Prior to Excavation**

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

**11. Construction Fencing**

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

**12. Dilapidation Report**

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of the adjoining dwellings at Nos. 4 and 8 Brett Avenue, Balmain East, to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

**PRIOR TO CONSTRUCTION CERTIFICATE****13. Dilapidation Report – Pre-Development – Minor**

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

**14. Party Walls**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Structural Certificate from a practising structural engineer which verifies that the structural integrity of the existing "Party Walls" are adequate to accept the additional loads imposed thereon by the proposal. A copy of the Structural Certificate must be provided to all owners of the party wall/s.

**15. Structural Certificate for retained elements of the building**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a 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. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

**16. Sydney Water – Tap In**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

*Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92*

**DURING DEMOLITION AND CONSTRUCTION****17. Construction Hours – Class 1 and 10**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

**18. Survey Prior to Footings**

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

**19. External Colours**

All external colours and finishes of the proposed works are to match the existing external colours and finishes of the existing dwelling.

**PRIOR TO OCCUPATION CERTIFICATE****20. Public Domain Works**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. Light/Heavy duty concrete vehicle crossing(s) at the vehicular access location(s);
- b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone;
- c. The existing concrete footpath across the frontage of the site must be reconstructed;  
and
- d. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

### 21. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

### ADVISORY NOTES

#### Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

#### Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

**Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

**Notification of commencement of works**

At least 7 days before any demolition work commences:

- a. The Council must be notified of the following particulars:
  - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
  - ii. the date the work is due to commence and the expected completion date; and
- b. A written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

**Storage of Materials on public property**

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

**Toilet Facilities**

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

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

**Infrastructure**

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

**Other Approvals may be needed**

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.



**Failure to comply with conditions**

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

**Other works**

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

**Obtaining Relevant Certification**

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;  
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

**Disability Discrimination Access to Premises Code**

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

**National Construction Code (Building Code of Australia)**

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by

this consent must be carried out in accordance with the requirements of the National Construction Code.

#### **Notification of commencement of works**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- 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.
- 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.

#### **Dividing Fences Act**

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

#### **Permits from Council under Other Acts**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

**Noise**

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

**Amenity Impacts General**

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

**Lead-based Paint**

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

**Dial before you dig**

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

**Useful Contacts**

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100

			<a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom		9841 8660	To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments	131441	<a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority		1300 552 406	<a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government			<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diysafe.nsw.gov.au">www.diysafe.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage		131 555	<a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water		13 20 92	<a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - Environmental Solutions	SITA	1300 651 116	<a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)			<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW		13 10 50	<a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> Enquiries relating to work safety and asbestos removal and disposal.

**Street Numbering**

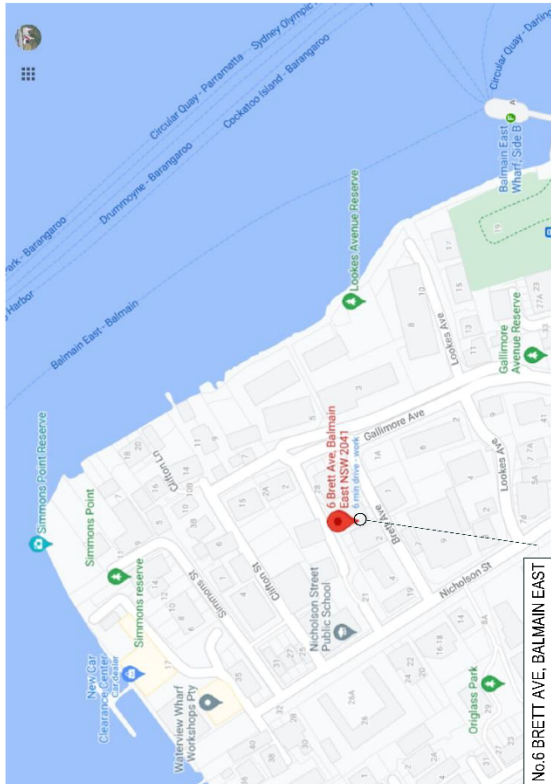
If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.

# Attachment B – Plans of proposed development

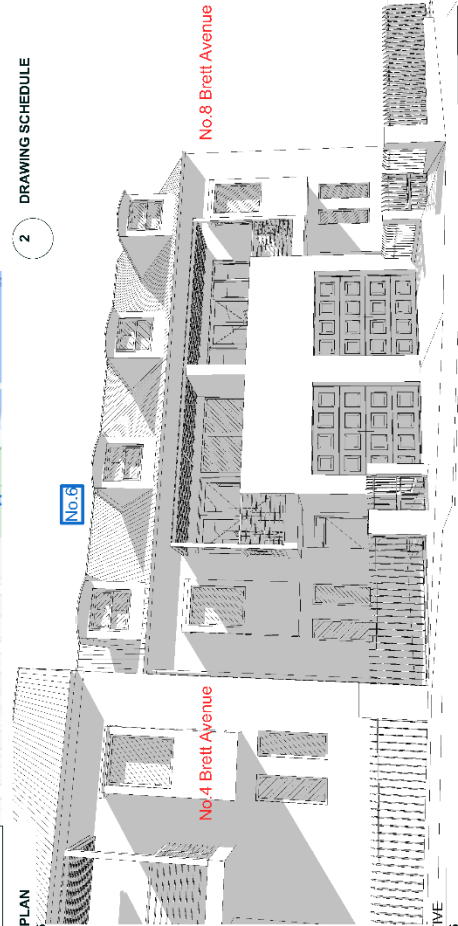
GENERAL LEGEND	REVISION
existing walls	B
existing finish	B
new cb clad 600x600 wall	B
new r/r or wall	B
concrete fins	B
site boundary	B
cursewall lines	B
stairwell lines	B
existing spot levels	B
existing FFL spot levels	B
proposed finished floor level	B
refers to new door number	B
refers to new window number	B
refers to new roof light number	B
hot water services	B
downpipe	B
plasterboard	B
smoke alarm	B
diaphragm	B
C-boutband	B
compressed fibre cement cladding	B
brick work	B
column	B
downpipe	B
rain water head	B
rain water head	B
fixed glass	B
obscure glass	B
penable	B
water tap	B
gas meter	B
water meter	B
instantaneous hot water heater	B
gas outlet connection	B
guttering water tap	B
<b>NEW MATERIALS</b>	
metal	
glass	
tiling	
plasterboard	
concrete/cic	
timber, mdf	
stone	

Drawing No.	DRAWING INDEX	REVISION
DA.01/B	Cover Page	B
DA.02/B	Plan - Roof	B
DA.03/B	Plans - Ground Floor	B
DA.04/B	Plan - First Floor	B
DA.05/B	Plan - Attic Floor	B
DA.06/B	Sections - A & B	B
DA.07/B	Elevation - North & South	B
DA.08/B	Elevation - East & West	B
DA.09/B	Shadow Diagrams 1 @ 9am & 12pm	B
DA.10/B	Shadow Diagrams 2 @ 3pm	B
DA.11/B	Site Analysis	B
DA.12/B	Site Calculations	B
DA.13/B	FSR Calculations	B
DA.15/B	Perspective Views	B

**2 DRAWING SCHEDULE**



**1 LOCALITY PLAN**  
Scale N.T.S.



**3 PERSPECTIVE**  
Scale N.T.S.

**NOTES:**

- Connect rain water down pipes & external stormwater pits to new stormwater system to council requirements
- All toilet suites to be dual flush
- All showerheads 3 star water saving types
- Landscaping shown indicatively only
- All building and associated works involved are to be built in accordance with all relevant authority requirements and to the Building Code of BCA
- Check all work on site and report any discrepancies to the architect.

- No high front gutters  
- All existing brickwork & stone work that is unpainted is to remain unpainted

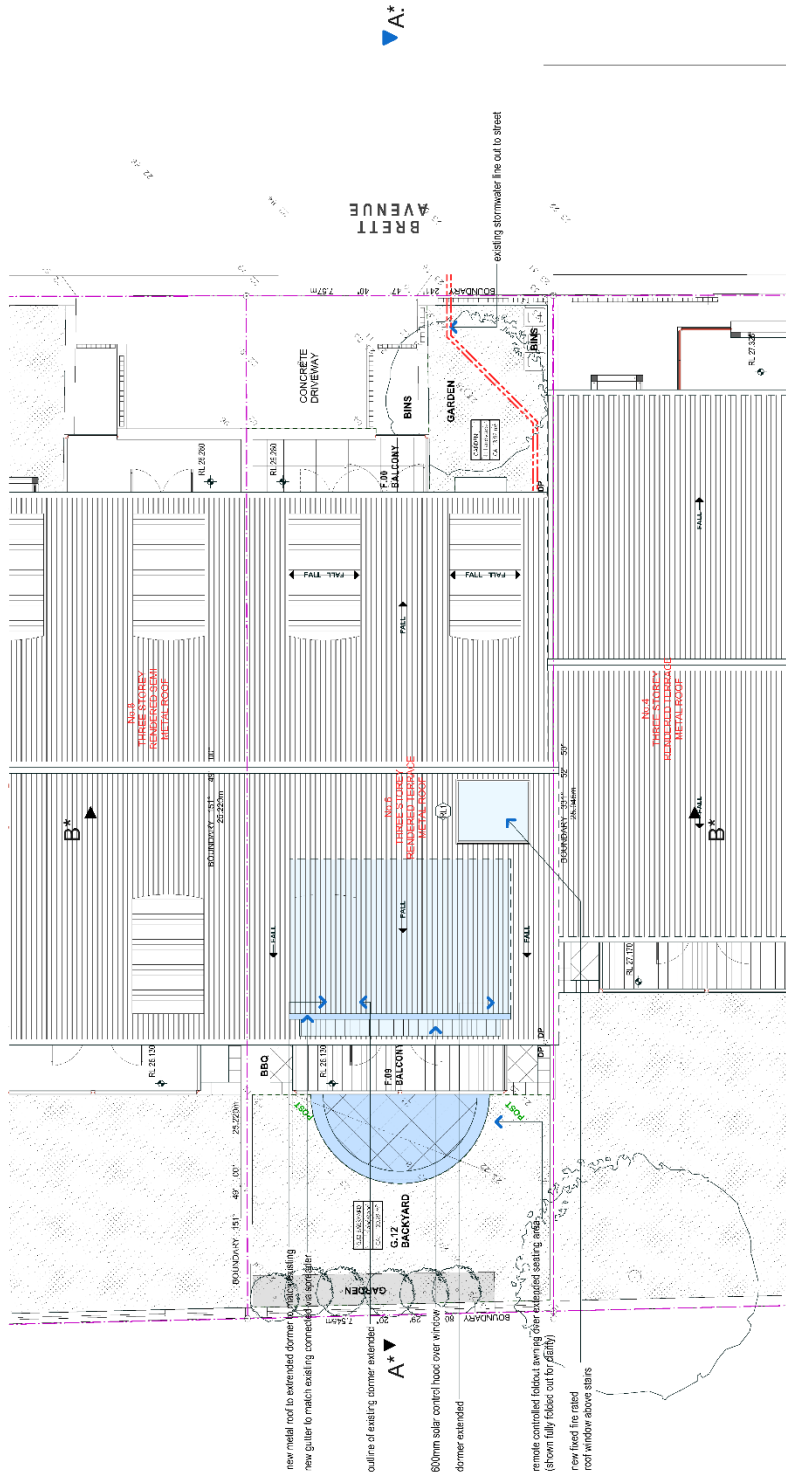
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Date	05/07/2022
Drawing No.	2021/29/DA/01/B
Printed	05/07/2022

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Drawing Title: **Cover Page**

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Client: **Alison Nash & Matthew Wankler**  
Project: **DA Drawings of No.6 Brett Avenue, Balmain East**

B	DA - Issue 1	04/07/22
A	DA - Draft 1	21/01/22
Amend. Description		Date
Version: 1, Version Date: 05/11/2022		



new metal roof to extended dormer to match existing  
 new gutter to match existing connection  
 outline of existing dormer extended  
 600mm solar control hood over window  
 dormer extended  
 remote controlled heliostat saving their existing seating area  
 (stroom fully fabric out/rail)  
 new fixed fire rated  
 roof window above stairs

1 PLAN - ROOF  
 Scale 1:100

B	DA - Issue 1	04/07/22	Date
A	DA - Draft 1	21/01/22	Date

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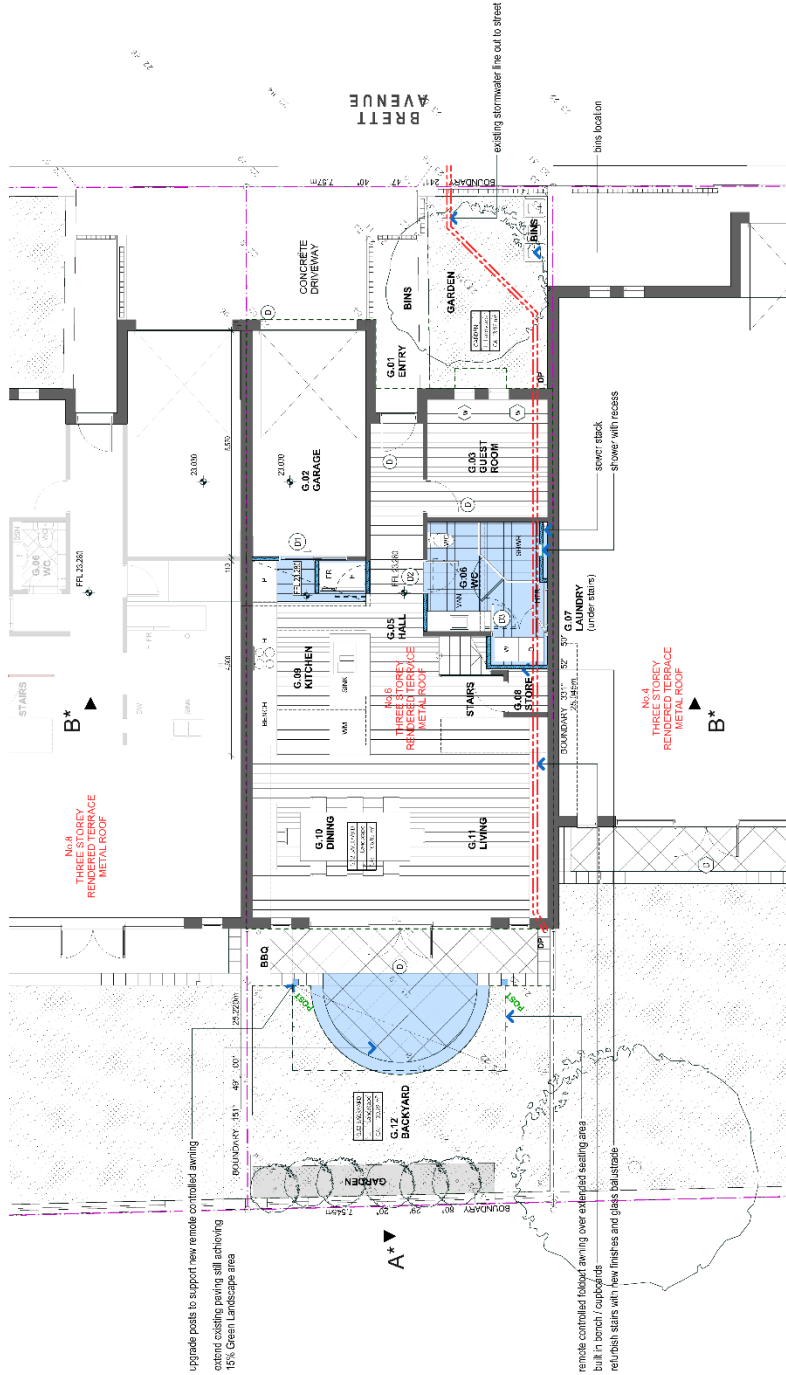
Member of the Institute of Architects

Client: Alison Nash & Matthew Warnken  
 Project: DA Drawings of No.6 Brett Avenue, Balmain East

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Scale	1:100 @ A3
Date	05/07/2022
Drawing No	2021/29/DA/02/B
Project	05/07/2022

Plan - Roof  
 EC



1 PLAN - GROUND FLOOR  
Scale 1:100

Amend.	Description	Date
B	DA - Issue 1	04/07/22
A	DA - Draft 1	21/01/22

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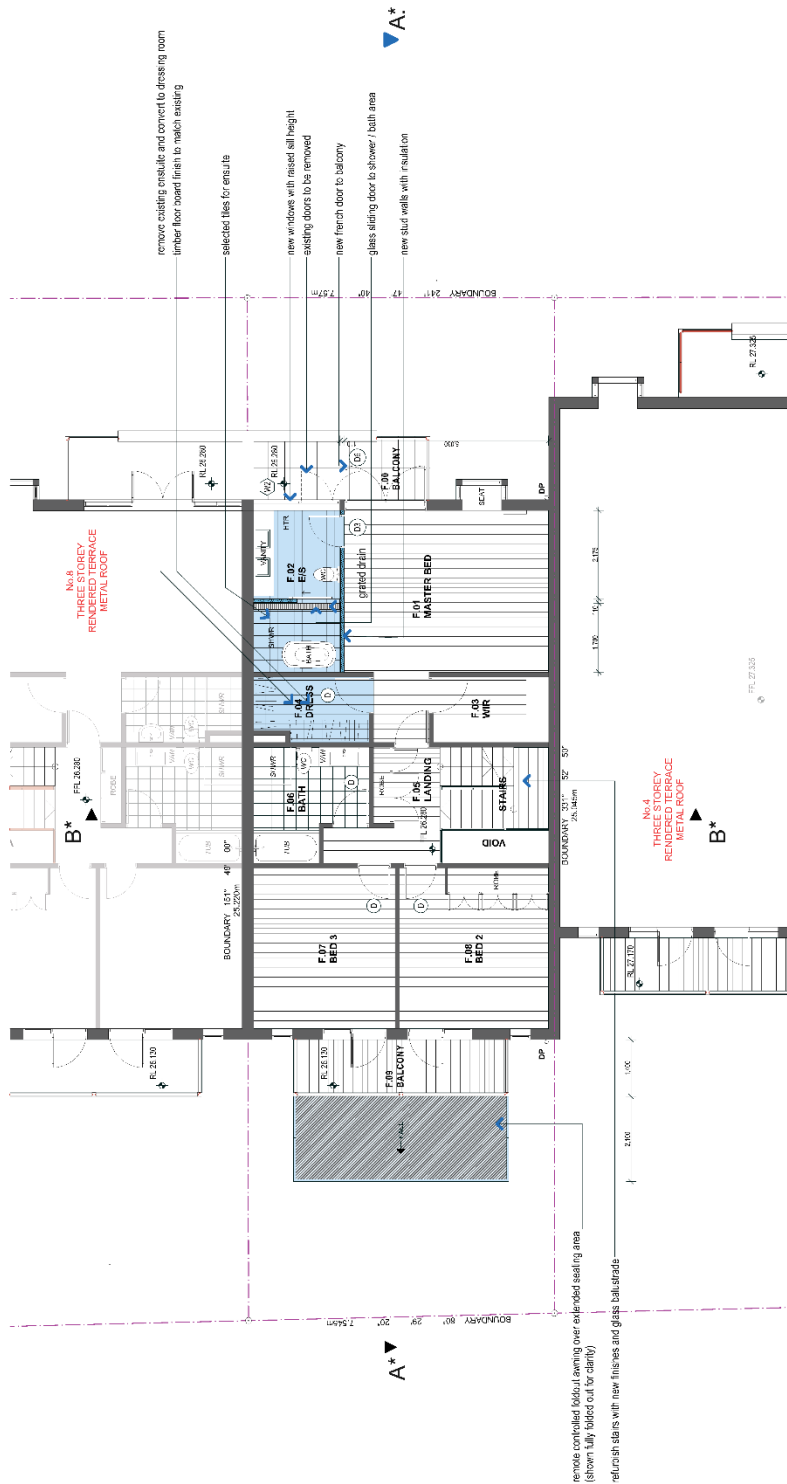
Client: Alison Nash & Matthew Warnken  
Project: DA Drawings of No.6 Brett Avenue, Balmain East

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Scale	Date	Drawn No.	Checked
1:100 @ A3	05/07/2022	X0729/DA/03/B	05/07/2022

Document Ref: 37025086  
Version: 1, Version Date: 03/11/2022





1 PLAN - FIRST FLOOR  
Scale 1:100

Scale	1:100 @ A3
Date	05/07/2022
Drawing No.	2021/29/DA/04/R
Project	05/07/2022

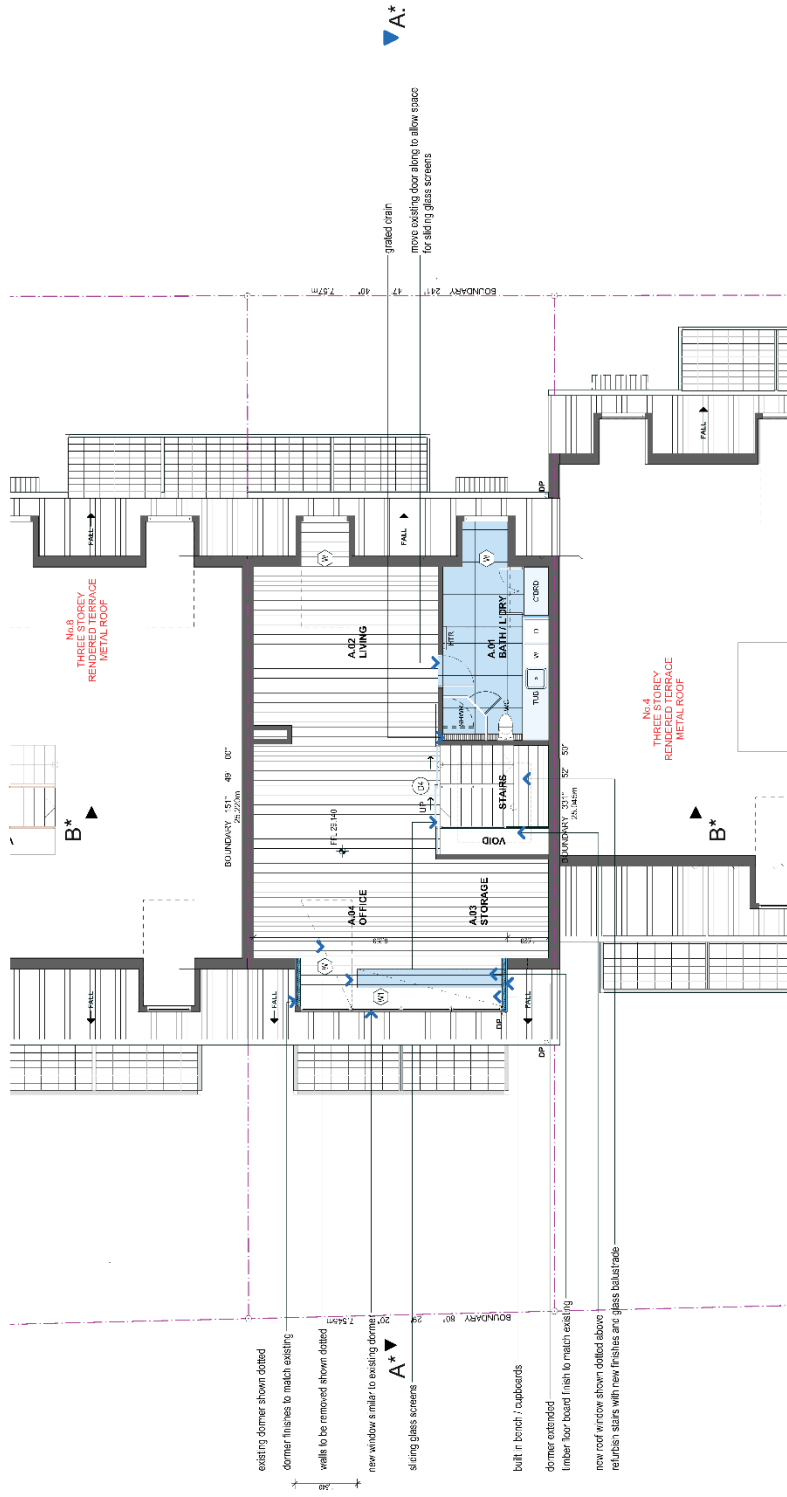
This drawing is protected by copyright law. Check all work on site and report any discrepancies to the architect.  
 Drawing title: Plan - First Floor  
 EC

Client: Alison Nash & Matthew Warnken  
 Project: DA Drawings of No.6 Brett Avenue, Balmain East

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Version	1	Date	05/11/2022
Amend.		Description	
Document	SB1D-37025086		



1 PLAN - ATTIC  
Scale 1:100

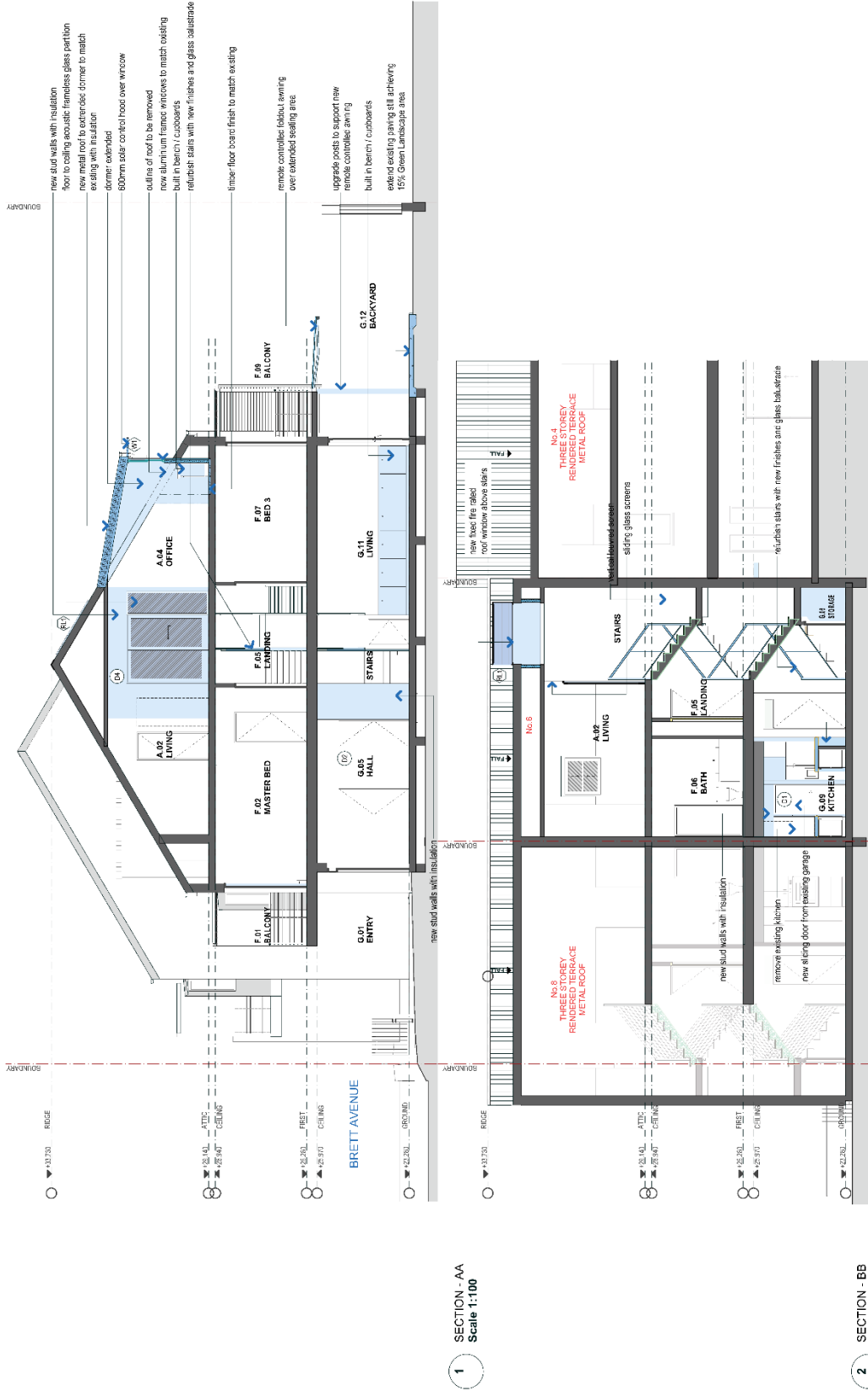
Version	Description	Date
B	DA - Issue 1	04/07/22
A	DA - Draft 1	21/01/22

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Client: Alison Nash & Matthew Warnken  
 Project: DA Drawings of No.6 Brett Avenue, Balmain East

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 Drawing Title: Plan - Attic Floor  
 Scale: 1:100 @ A3  
 Date: 05/07/2022  
 Drawing No: X07/29/DA/05/B  
 Plot No: 05/07/2022

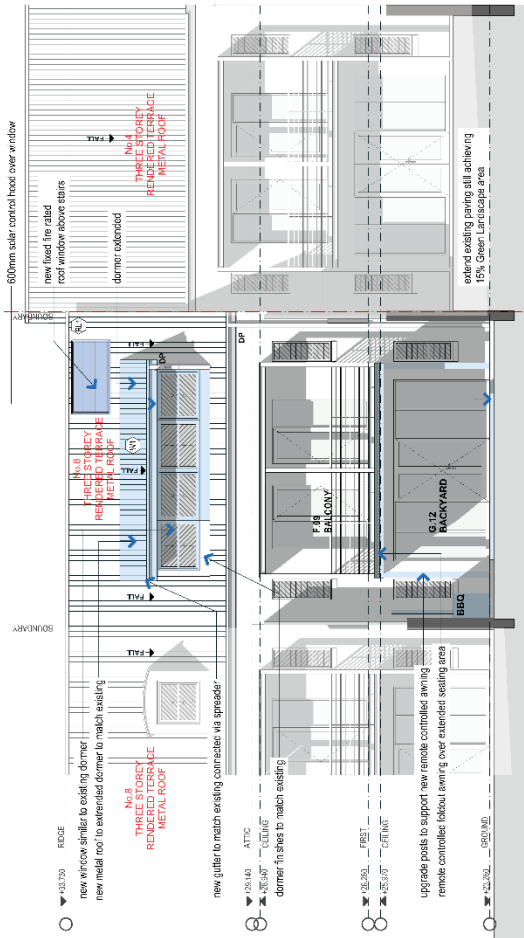
Document Set ID: 37025086  
 Version: 1, Version Date: 05/11/2022



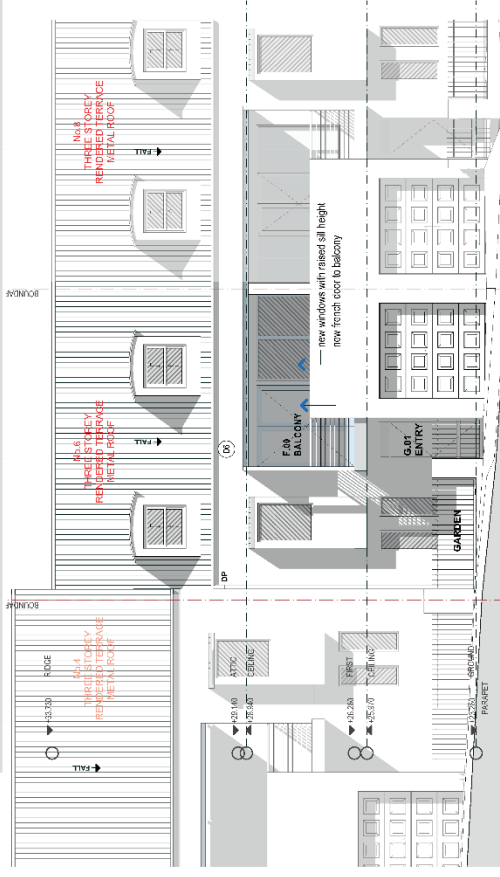
1 SECTION - AA  
Scale 1:100

2 SECTION - BB  
Scale 1:100

<p><b>OIKOS Architects</b> Ray Stevens B. Arch (Hons), M Arch UNSW, A.J.A., A.C.A. NSW AFB No.4458 15 Elliott Street Balmain NSW 2041 E-mail: ray@oikos.com.au Tel. (02) 9910 7854 Mob. 0411 455 669</p>	<p>Client: <b>Alison Nash &amp; Matthew Warnken</b></p>	<p>This drawing is protected by copyright law. Check all work on site and report any discrepancies to the architect. Drawing title: <b>Sections - A &amp; B</b></p>	<p>Scale: 1:100 @ A3 Date: 05/07/2022 Drawing No: 2021/29/DA.06/B Project: 05/07/2022</p>
	<p>Project: <b>DA Drawings of No.6 Brett Avenue, Balmain East</b></p>		
<p>04/07/22 21/01/22</p>	<p>Date</p>	<p>Version: 1, Version Date: 05/11/2022</p>	<p>Amend. Description Document S/N: 37025986</p>

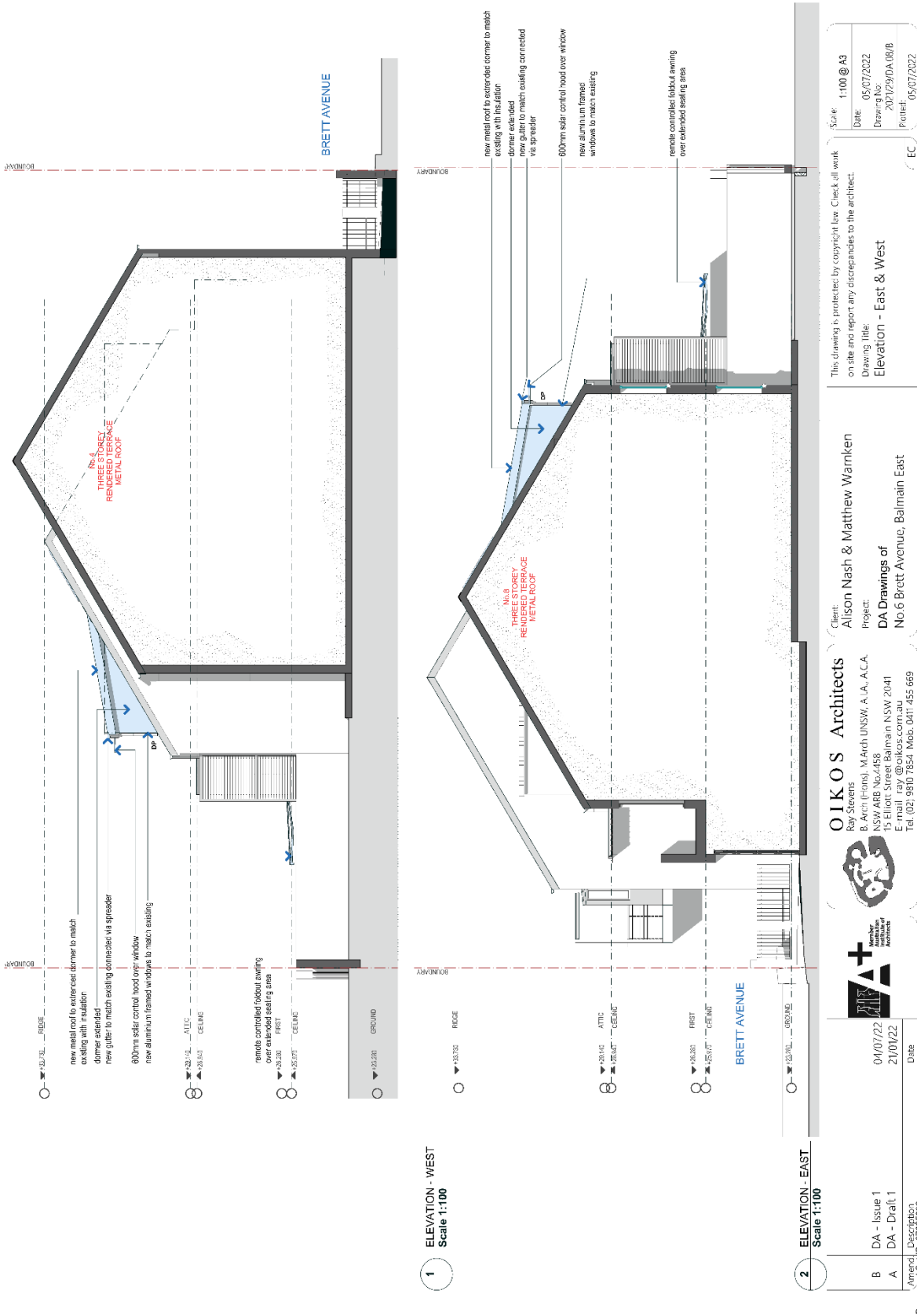


1 ELEVATION - NORTH  
Scale 1:100



2 ELEVATION - SOUTH - Brett Ave.  
Scale 1:100

		<p>Client: Alison Nash &amp; Matthew Warnken</p> <p>Project: DA Drawings of No.6 Brett Avenue, Balmain East</p>	<p>Scale: 1:100 @ A3</p> <p>Date: 05/07/2022</p> <p>Drawing No: X27129/DA/07/B</p> <p>Project: 05/07/2022</p>
		<p>Client: OIKOS Architects</p> <p>Ray Stevens B. Arch (Hons), M Arch (NSW, A.J.A., A.C.A.) NSW ARB No.4458 15 Elliott Street Balmain NSW 2041 E-mail: ray@oikos.com.au Tel. (02) 9910 7854 Mob. 0411 455 669</p>	<p>This drawing is protected by copyright law. Check all work on site and report any discrepancies to the architect.</p> <p>Drawing title: Elevation - North &amp; South</p>
<p>B DA - Issue 1</p> <p>A DA - Draft 1</p>	<p>04/07/22</p> <p>21/01/22</p>	<p>Version: 1, Version Date: 03/11/2022</p>	<p>Amend. Description</p> <p>Document Ref: 37025086</p>



1 ELEVATION - WEST  
Scale 1:100

2 ELEVATION - EAST  
Scale 1:100

Scale 1:100 @ A3  
Date 05/07/2022  
Drawing No. 2021/29/DA/08/B  
Project 05/07/2022

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Drawing title: Elevation - East & West  
Client: Alison Nash & Matthew Warnken  
Project: DA Drawings of No.6 Brett Avenue, Balmain East

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Version	Description	Date
B	DA - Issue 1	04/07/22
A	DA - Draft 1	21/01/22

Version: 1, Version Date: 05/11/2022  
Document S/N: 37025986

## Attachment C – Section 4.6 Exception to Development Standards

SEE & HIS for Alteration sot Town House at No. 6 Brett Avenue Balmain East

22 August 2022

The landscaped area complies to the standard of 15%.

(3)(b) Site cover

Proposed site cover area 106.85 m<sup>2</sup>

% site cover 56.3.0%

The site cover is below the standard of 60%.

#### 4.4 Floor space ratio

Proposed gross floor area

- ground floor 96.72m<sup>2</sup>
- first floor 85.91 m<sup>2</sup>
- attic floor 70.9 m<sup>2</sup>

Total 253.53 m<sup>2</sup>

Proposed FSR 1.33:1

The proposal exceeds the standard set in the LEP of a maximum of 0.9:1 for sites between 150-299.9 m<sup>2</sup>.

#### 4.6 Exemption to development standards

An exemption is sought to vary the following development standards:-

- Floor space ratio - Clause 4.4(2) of the Inner West LEP 2022

The key objectives of clause 4.6 states:-

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

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

The general objectives of the Residential R1 zoning are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide residential development that maintains the character of built and natural features in the surrounding area.

To meet the objectives of clause 4.6 for design flexibility and to achieve better design outcomes in the particular circumstances, it is necessary to test the proposal in terms of the objectives for residential development in order to justify the contravention of the development standard.

In regard to clause 4.3A(2) of LEP 2022, the proposed development has an FSR of 1.33:1.

*What are the environmental planning grounds that justify contravening the development standard?*

Zoning objectives

In regard to justification in meeting general objectives of the Residential R1 zoning it is argued that;

*"To provide for the housing needs of the community"*

The development proposal meets the housing needs of the owners and the community at large. It allows improved and contemporary housing and accommodation options on the site.

*"To provide for a variety of housing types and densities"*

The proposal provides a contemporary design solution to a modern townhouse.

*"To improve opportunities to work from home"*

The attic level of the premises is used as a home work office. The extended dormer provides space for two additional work stations for the owners

*"To provide housing that is complementary to and compatible with, the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas."*

The proposed development continues the use of the site as residential and is consistent with the character of the adjoining townhouses and those in the area.

*What are the environmental planning grounds that justify contravening the landscaped area and site cover standards?*

There is no further increase in site cover and the landscaped area is increased from the existing area.

*"to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents"*

Increased landscaped area will be provided.

*"to maintain and encourage a landscaped corridor between adjoining properties"*

There is no corridor but the landscaped area will be increased.

*"to ensure that development promotes the desired future character of the neighbourhood"*

The design is consistent with the desired future character of the neighbourhood under the DCP and the heritage significance has been respected.

*"to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water"*

This will be achieved.

*"to control site density"*

There is no increase in site density resulting from the proposal as there will be no increase in bedrooms, only available room size within the attic will be increased.

*"to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space"*

The footprint is maintained by the proposal.

FSR objectives

In regard to the objectives of Floor Space Ratio for residential accommodation in Zone R, the LEP states in clause 4.4 :-

- (1) The objectives of this clause are as follows:
  - (a) to establish a maximum floor space ratio to enable appropriate development density,
  - (b) to ensure development density reflects its locality,
  - (c) to provide an appropriate transition between development of different densities,
  - (d) to minimise adverse impacts on local amenity,
  - (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

*What are the environmental planning grounds that justify contravening the FSR and site cover standards?*

In regard to justification in meeting the general objectives of the floor space ratio standards, it is argued that the residential accommodation;

***"is compatible with the desired future character of the area in relation to building bulk, form and scale,"***

The proposal requires an increase in room sizes only at the attic level by extending the width of the existing dormer window.

***"provides a suitable balance between landscaped areas and the built form"***

The landscaping is to be increased and hence the balance is maintained.

***"minimises the impact of the bulk and scale of buildings"***

The added bulk is minimized by keeping the main roof intact and only extending the width of the dormer window.

#### **Other considerations**

In support of the exceedance the following arguments are proposed:

**Previous FSR:** The original development was granted for an FSR of approximately 1.25:1 for the townhouses. This no doubt was partly on the basis of the volume of the townhouses being similar to the two storey factory building that they replaced. Given the FSR was approved prior to the current Inner West LEP 2022 it is argued that Council were satisfied at the time the lawful approval was made. The wider dormer window amounts to only a modest 3.4 m<sup>2</sup> of additional floor area or an increase of only 1.4% which in any terms is inconsequential.

**FSR as a measure of bulk:** Gross floor area is not a volumetric measure and is only indirectly proportional to volume and bulk. The missing dimension is height and much of the attic floor level is enclosed within the roof volume.

**Minimal Impact:** The additional floor area results from a wider dormer window only. This makes no significant increase to the overall bulk.

#### **Public interest**

The proposed development will be in the public interest because it will be consistent with the objectives of the development standards and with those of the R1 Residential zone for the reasons stated above. It will also allow reasonable flexibility in the application of numeric controls to achieve a benefit for the property owners and community and to



sustain the heritage character of the place

**Conclusion**

The proposed application is consistent with the objectives of the development standard for site cover and FSR and strict compliance to the stated standards would hinder attainment of the objectives specified in Section 5(a)(i) and (ii) of the EP & A Act for the;

- (i) proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.
- (ii) the promotion and co-ordination of the orderly and economic use and development of land.

The application will allow the occupants to develop the land in accordance with objectives of the EP&A Act and in compliance to the objectives of the LEP and strict compliance to a numeric control is unreasonable or unnecessary in the circumstances of the case.

**Part 5 Miscellaneous provisions**

**5.9 Preservation of trees and vegetation**

No trees are proposed to be removed.

**5.10 Heritage conservation**

The site is within the *Balmain/Rozelle* Conservation Area. In regard to the objectives clause 5.10(1) states:-

- (a) to conserve the environmental heritage of Leichhardt,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

The application meets these objectives by;

- minimising additions to the rear of the and
- making minor changes to the street facade that are consistent with the existing house and the row.

There are several heritage items within 100 m or so of the site;

**Image 8**

Part plan of Leichhardt Conservation Area for Brett Avenue precinct showing scheduled items in the vicinity. No 6 is indicated with a blue arrow.

