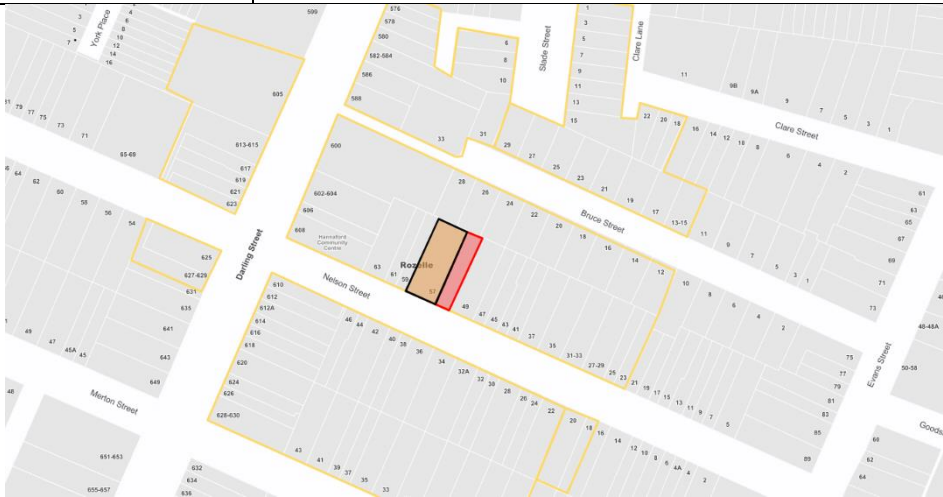




	
DEVELOPMENT ASSESSMENT PANEL REPORT	
Application No.	DA/2024/0933
Address	57 Nelson Street ROZELLE
Proposal	Alterations and additions to an existing mixed-use building, including partial demolition of existing structures, construction of ground floor and first floor addition and associated works, including remediation of the site
Date of Lodgement	30 October 2024
Applicant	Mr Ray Stevens
Owner	Justine V Patterson
Number of Submissions	One (1) in opposition
Cost of works	\$952,500.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	Non-compliance with Floor Space Ratio, Site Coverage and Landscaped Area development standards; Impact to the heritage conservation area, Visual Privacy impact to an adjoining property.
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards
Attachment D	Statement of Heritage Significance of Heritage Conservation Area
	
LOCALITY MAP	
Subject Site 	Objectors 
Notified Area 	Supporters 

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing mixed-use building, including partial demolition of existing structures, construction of ground floor and first floor addition and associated works, including remediation of the site at 57 Nelson Street Rozelle.

The application was notified to surrounding properties and one (1) submission was received in response to the initial notification.

The main issues that have arisen from the application include:

- Non-compliance with Floor Space Ratio, Site Coverage and Landscaped Area development standards.
- Impact to the Heritage Conservation Area.
- Visual privacy impact to an adjoining property.

The non-compliances are considered to be acceptable subject to conditions to reduce the size of the proposed first floor balcony and conditions in relation to colours and materials and the application is recommended for approval.

2. Proposal

The proposal is for a staged application to convert the rear-most part of the building for residential use and to allow the community arts use to continue in the front part of the building as follows;

- Retain and refurbish original doors and windows and fascia signage;
- Replace finial/flag mast on gable of Stage 1 building;
- Replace asbestos-cement roof cladding of Stage 1 building with galvanised corrugated steel, guttering and downpipes;
- Repair front parapet cornice mouldings to Stage 2 building;
- The rear Stage 3 part of the building is proposed for conversion to a dwelling house with arts workshop, inserting a first floor within essentially the existing building envelope and removing parts of the building to provide ground-level garden space and a private open space terrace at first-floor level, and involving the following alterations:
- Demolish central part of western two-storey wall and central part of single-storey roof; provide open garden space;
- Demolish part roof and part gable wall in north-east corner; provide first-floor terrace with operable louvred roof;
- Alterations at ground-floor level to provide entry, living/workspace, home office, bedroom with walk-in wardrobe and en-suite bathroom, toilet, laundry, lift and stair to first-floor level; kitchen and toilet on western side accessible from Stage 1 building;
- New first-floor level to provide dining, kitchen, living, master bedroom with walk-in wardrobe and en-suite bathroom, storage, toilet; terrace at rear; toilet on western side accessible from Stage 1 building;
- Demolish roof, rebuild at lower pitch from existing ridge level, replace asbestos-cement roof cladding with galvanised corrugated steel, guttering and downpipes;
- Replace asbestos-cement roof cladding of western single-storey element with galvanised corrugated steel, guttering and downpipes;
- Remove concrete paving of open area at front of site; provide garden bed along eastern side; re-pave remainder for pedestrian access pathway and driveway/parking spaces for two cars in tandem;

- New metal railing front fence and swing/slide access gates. The concrete blockwork walls of the Stage 3 building will be painted;
- New windows and doors will be framed in powder-coated aluminium;
- Strip side window sills of paint and repair as required; and
- Repair and repaint as required.

Note: This proposal is not a staged development.

3. Site Description

The subject site is located on the northern side of Nelson Street, between Darling Street and Evans Street. The site is generally rectangular shaped with a total area of 357 sqm and is legally described as Lot 1 in DP1295190. The site has a frontage to Nelson Street of 11.72 metres and has no rear access.

The site contains a building constructed in three stages: Stage 1, a two-storey late Victorian double-brick industrial building with a gabled roof; Stage 2, a single-storey early twentieth-century addition to the front with a parapet roof; and Stage 3, an extension to the rear, a large open hall of two-storey scale with a single-storey annex along the western boundary built in 1973 of concrete block construction for use by the then recently established Rozelle School of Visual Arts.

Adjoining to the east and west at Nos. 51 and 59 respectively are two-storey Victorian terrace houses; there is a large *Brachychiton acerifolius* (Illawarra flame) tree in the back yard of No. 51 and a large *Corymbia maculata* (Spotted gum) tree in the back yard of No. 61 near its boundary with No. 59. Adjoining to the rear are the back yards of Nos. 26 and 28 Bruce Street, the latter currently being redeveloped.

The immediate locality contains a variety of residential development, mostly late Victorian houses of one or two storeys on relatively small lots, and along Darling Street the Rozelle local business centre.

The property is not heritage listed, however, it is located within a Heritage Conservation Area. The property is not identified as a flood prone lot.



Figure 2: Photo of subject site as viewed from Nelson Street



Figure 3: Zoning Map (subject site in red)

4. Background

Site History

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

Subject Site

Application	Proposal	Decision & Date
DA3742	Use of the building as a Visual Arts Training School.	Approved 5 March 1970
DA3742	Modification to DA 3742 which include extending hours of operation	Approved 20 March 1997
PDA/2024/0077	Adaptive reuse of former Rozelle Visual Arts School for residential and related arts tenancy with parking	Issued 15 July 2024

Surrounding Properties

Application	Proposal	Decision & Date
DA/2024/0442	<u>51 Nelson Street</u> Alterations and additions to an existing detached dwelling house, including partial demolition of existing structures and construction of a two storey addition and attic level	28/02/2025 Approved

Application History

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

Date	Discussion / Letter / Additional Information
15 January 2025	<p>A request for further information was sent to the applicant requiring the following;</p> <ul style="list-style-type: none"> • Issues in relation to compliance with development standards/ adaptive re-use • Issues in relation to impacts on the Heritage Conservation Area • Issues in relation to visual privacy • Issues in relation to impact on neighbouring tree
5 February 2025	<p>Amended plans and supporting documentation were received.</p> <p>The amendments included amendments to materials and finishes and the introduction of louvre screening over W16.</p> <p>Renotification was not required in accordance with Council's Community Engagement Strategy. The amended plans and supporting documentation are the subject of this report.</p>

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* (EP&A Act 1979).

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.6(1) of the *Resilience and Hazards 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 evidence of contamination on the site.

The site has previously been used for industrial purposes, including explosives and gunpowder manufacture, printing works, embossing machine manufacture and footwear manufacture. A Detailed Site Investigation and Assessment Report has been submitted with the application. The investigation found asbestos and lead levels to exceed relevant screening levels/assessment criteria. The report recommended the site could be made suitable for the use subject to:

- a. RAP being prepared and implemented, followed by a Validation Report
- b. Hazardous Materials Report and asbestos management plan being prepared
- c. Waste classification for off site disposal of materials removed from site

A Remediation Action Plan (RAP) has also been provided with the Development Application, which recommends excavation of contaminated soils/removal of contaminated materials and off-site disposal as the preferred remediation strategy, followed by remediation.

On the basis of this report the consent authority can be satisfied that the land will be suitable for the proposed use and that the land can be remediated. Standard conditions will be recommended to require the RAP recommendations to be implemented and site to be validated prior to occupation.

SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The *Biodiversity and Conservation SEPP* requires consideration for the protection and/or removal of vegetation and gives effect to the local tree preservation provisions of Part C1.14 - *Tree Management* of the Leichhardt Development Control Plan 2013 (LDCP 2013).

Assessment of the proposal against the above controls as concluded as follows:

- There are no trees on the subject site that will be adversely affected by the proposal.
- There is a large and significant Eucalypt at rear of 61 Nelson St, has a broad canopy which extends across No 59 and over part of the subject site, and during the assessment of the proposal, Council requested that the applicant demonstrate that construction of the proposal will require little or no pruning, which could be illustrated with height poles, indicating the extent the proposed structure. In response, String lines have been set up for the extent of the raised roof of 600mm. The raised roof will be clear of peripheral foliage of the tree one house removed from the site. In response, string lines have been set up for the extent of the raised roof line, and photos of this string lines have been provided demonstrating that the raised roof will be clear of peripheral foliage of the tree one house removed from the site. A review of this information has concluded that the proposed building fabric will be clear of the Eucalypt of concern, and even allowing for a scaffolding zone, it appears that the works can be undertaken without damaging the canopy of the neighbouring tree; and
- The *Buckinghamia celsissima* (Ivory Curl Flower) proposed in the Landscape Plan is an adequate tree planting.

Overall, the proposal is considered acceptable with regard to the *Biodiversity and Conservation SEPP* and Part C1.14 - *Tree Management* of the LDCP 2013, subject to the imposition of conditions, including tree protection and replacement tree planting conditions, which have been included in the recommendation of this report.

Chapter 6 Water Catchments

Section 6.6 under Part 6.2 of the *Biodiversity and Conservation SEPP* provides matters for consideration which apply to the proposal. The subject site is located within the designated hydrological catchment of the Sydney Harbour Catchment and is subject to the provisions contained within Chapter 6 of the above *Biodiversity Conservation SEPP*.

The proposal is not in the immediate vicinity of Sydney Harbour or any waterway, and would not have an adverse effect in terms of water quality and quantity, aquatic ecology, flooding, or recreation and public access.

SEPP (Sustainable Buildings) 2022

Chapter 2 Standards for residential development - BASIX

The application is accompanied by a BASIX Certificate (lodged within 3 months of the date of the lodgment of this application) in compliance with the *EP&A Regulation 2021*.

SEPP (Transport and Infrastructure) 2021

Chapter 2 Infrastructure - Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of the *Transport and Infrastructure SEPP* and has been referred for comment for 21 days.

Ausgrid consents to the development subject to conditions which have been included as conditions of consent.

Overall, subject to compliance with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice the proposal satisfies the relevant controls and objectives.

Part 3.4 Schools – Specific Development Controls

Section 3.36(6) of the SEPP requires the consent authority to take the following into consideration:

- (a) *the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and*
- (b) *whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.*

DA 3742 approved the subject site to be used as a school for visual arts. under the banner of the Rozelle School of Visual Arts the site has been used for a wide variety of artistic, recreational and creative purposes, including dance classes and community arts activities as currently carried out.

The proposal is to convert the rearmost part of the building for their own residential use and to allow the existing approved use to continue in the front part of the site (therefore there is a reduction of the gross floor area associated with the school use).

The following is an assessment against the seven design quality principles.

Principle	Comment	Compliance
1 – context, built form and landscape	The proposed development retains the built form to the front portion of the site and will be of a built form that is compatible with the existing streetscape. There is negligible landscaped area currently existing and the proposal will result in an increase of landscaped areas at the front portion of the site.	Yes
2 – sustainable, efficient and durable	While direct solar access cannot be achieved due to the orientation of the site, the proposal will continue to allow cross ventilation and is considered to be acceptable.	Yes
3 – accessible and inclusive	A BCA report had been submitted in support of the application. The Certifier would need to be satisfied with compliance at CC stage where performance solutions may be utilised.	Yes
4 – health and safety	No significant changes to existing in this regard and therefore is considered to be acceptable.	Yes
5 – Functional and comfortable	Direct solar access cannot be achieved due to the orientation of the site and will not result in any adverse visual or acoustic privacy as this is similar to the existing situation in this regard and therefore is considered to be acceptable.	Yes
6 – Flexible and adaptable	The design is one where it can be adapted to other type of educational uses.	Yes
7 – Visual appeal	The proposed development retains the built form and aesthetics to the front portion of the site and will be compatible with the existing streetscape.	Yes

Given the above, the proposal includes sufficient information to determine that the use of school facilities (including any recreational facilities) are to be shared with the community in accordance with Section 3.36 of *SEPP (Transport and Infrastructure) 2021*.

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)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal, subject to conditions, satisfies the section as follows:</p> <ul style="list-style-type: none"> The proposal encourages development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles, The proposal prevents adverse social, economic and environmental impacts on the local character of Inner West, The proposal prevents adverse social, economic and environmental impacts, including cumulative impacts 	Yes, subject to conditions

Part 2 – Permitted or Prohibited Development

Section	Proposed	Compliance
Section 2.3 Zone Objectives and	See discussion below	Yes, subject to conditions

Section	Proposed	Compliance
Land Use Table		
Section 2.7 Demolition Requires Development Consent	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • Demolition works are proposed, which are permissible with consent; and • Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to conditions

Section 2.3 - Land Use Table and Zone Objectives

The site is zoned R1 under the *IWLEP 2022*. The *IWLEP 2022* defines this mixed-use development as:

dwelling house means a building or place used predominantly as a place of residence

educational establishment means a building or place used for education (including teaching)

The workshop component is considered to be an ancillary use to the residential dwelling and meets the definition of home occupation:

home occupation means an occupation that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve—

- (a) the employment of persons other than those residents, or
 - (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
 - (c) the display of goods, whether in a window or otherwise, or
 - (d) the exhibition of any signage (other than a business identification sign), or
 - (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,
- but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises

The proposed development introduces a dwelling house and educational establishment which are not listed as a prohibited development under R1 Zoning land use table and therefore is a permissible use. It can also be noted that as R1 is listed as a prescribed zone under Part 3.34(1) of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, S3.36 of the SEPP also allows schools to be permissible use within the R1 Zoning. The school is an existing use on the site.

The proposal is consistent with the relevant objectives of the zone in providing the housing needs of the community and contributes towards providing a variety of housing types and densities in the locality.

Part 4 – Principal Development Standards

Section 4.4 - Floor Space Ratio Development Standard

Section	Proposed		Compliance
Section 4.3C (3)(a) Landscaped Area	Minimum	20% (site area > 235sqm)	No
	Proposed	15.5% (55.2 sqm)	
	Variation	16sqm or 22.7%	
Section 4.3C (3)(b) Site Coverage	Maximum	60% (214 sqm)	No
	Proposed	70% (250 sqm)	
	Variation	36 sqm or 16.7%	
Section 4.4 Floor Space Ratio	Maximum	0.7:1 or 250sqm	No
	Proposed	1.04:1 or 370.7sqm	
	Variation	120.8sqm or 48.3%	
Section 4.5 Calculation of Floor Space Ratio and Site Area	The Site Area and Floor Space Ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to Development Standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.3C(a)(b) and 4.4 – see discussion below.		See discussion below

Section 4.6 – Exceptions to Development Standards

The applicant seeks a variation to the above mentioned under section 4.6 of the *IWLEP 2022*.

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

A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard. 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.

Landscaped Area

The applicant seeks variations to the Landscaped Area and Site Coverage development standards under Section 4.6 of the *IWLEP 2022* by 22.7% or -16sqm (Landscaped Area). It can be noted that despite this non-compliance, this is an improvement to the existing situation as there is nil Landscaped Area currently existing on the site. 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(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the landscaped area and site coverage development standards are achieved notwithstanding the numeric non-compliance.

The **first objective** of Section 4.3C is "*to provide landscaped area for substantial tree planting and for the use and enjoyment of residents*". The written request is as follows:

- *The proposal includes removal of concrete paving at the front of the site to provide a garden bed on the eastern side and demolition of part of the building to provide an area of open garden space against the western boundary of the site that exceeds Council's dimensional requirements for private open space. Both spaces will be available for the use and enjoyment of residents. Because of the proximity of buildings, however, neither space is suitable for substantial tree planting. Nevertheless, the proposal will provide two open areas of sufficient dimensions to provide useful residential amenity for the occupants and both spaces would be suitable for the planting of one or more small trees.*

In consideration of the points above, despite the shortfall, the proposal includes sufficient space for tree planting and landscaping that benefits residents. Accordingly, the breach is consistent with the first objective.

The **second objective** of Section 4.3C is "*to maintain and encourage a landscaped corridor between adjoining properties*". The written request provides several points for demonstrating how the second objective is met notwithstanding the non-compliances. The key point in the applicant's written request is as follows:

- *Many nearby back yards are small and/or paved and any landscaped corridor is discontinuous, but the proposal will provide two vegetated areas (where there is currently none) that could form part of such a corridor.*

In consideration of the points above, the proposed design does not result in any further reduction of Landscaped Area, and as there are limited opportunities to provide a landscaped corridor between adjoining properties, it is considered to be acceptable in this regard. Accordingly, the proposed breach is consistent with the second objective.

The **third objective** of Section 4.3C is "*to ensure that development promotes the desired character of the neighbourhood*". The written request is as follows:

- *The existing non-residential building is not typical of the surrounding residential neighbourhood, but the LEP makes specific provision for the adaptive reuse of such buildings for residential use. As one would expect in those circumstances, the proportion of built form to open area will remain greater than is typical in the neighbourhood, but the proposal is consistent with the zone objectives relating to a variety of housing types and densities and maintaining the character of built and natural features in the surrounding area as well as with the relevant elements of desired future character set out in part C2.2.5.1 The Valley Rozelle Distinctive Neighbourhood of Leichhardt Development Control Plan 2013 (LDGP 2013).*

In consideration of the points above, strict compliance with the Landscaped Area and Site Coverage requirements is unreasonable and unnecessary given the unique characteristics of

the subject site where a non-residential building is currently exists. Overall, the proposed development is consistent with the desired character of the neighbourhood. Accordingly, the proposed breach is consistent with the third objective.

The **fourth objective** of Section 4.3C is “*to encourage ecologically sustainable development*”. The written request is as follows:

- *The proposed adaptive reuse of a substantial building with a significant increase in landscaped area (from a zero base) represents an ecologically sustainable development of the site..*

In consideration of the points above, the objective of encouraging ecologically sustainable development is met through adherence to BASIX and landscape enhancements. Accordingly, the proposed breach is consistent with the fourth objective.

The **fifth objective** of Section 4.3C is “*to control site density*”. The written request provides several points for demonstrating how the fifth objective is met notwithstanding the non-compliances. The key points in the applicant’s written request are summarised as follows:

- *This objective, which is primarily achieved by management of floor space ratio, is not strictly relevant to the landscaped area standard. Under clause 6.12(5) of the LEP, the floor space ratio development standard is not applicable to the subject site.*

In consideration of the points above, this statement incorrectly states that Floor Space Ratio is not applicable. As the proposed additional floor area as part of this application is not located fully within the building envelope of the existing area, therefore Clause 6.12 of *IWLEP 2022* cannot apply. Notwithstanding this, as the proposal does not extend beyond the building footprint of the existing building and the proposed Landscaped Area is an improvement to the existing situation where no Landscaped Area exists, the non-compliance of the Landscaped Area standard does not have a direct impact to density. Accordingly, the breach is consistent with the fifth objective.

The **sixth objective** of Section 4.3C is “*to provide for landscaped areas and private open space*”. The written request provides several points for demonstrating how the fifth objective is met notwithstanding the non-compliances. The applicant’s written request is as follows:

- *“As set out above, the proposal incorporates landscaped areas and private open space.”*

In consideration of the points above, the objective of providing Landscaped Areas and Private Open Space (POS) is met through the provision of modest courtyards sufficient landscaping. The compliant POS ensures that the development provides adequate outdoor space for residents. Accordingly, the breach is consistent with the sixth objective.

As the proposal achieves the objectives of the Landscaped Area development standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant advances 5 environmental planning grounds to justify contravening the landscaped area development standard. Each will be dealt with in turn:

Environmental Planning Ground 1 – *To comply with the landscaped area standard it would be necessary to demolish more of the building and/or further reduce the provision of car*

parking for the Rozelle School of Visual Arts. The proposed provision of landscaped area is reasonable as argued above in relation to the objectives of the control. By adaptive reuse of part of the building to provide residential accommodation with a good standard of amenity while maintaining the long-established community arts activity in the front part of the building, the proposal represents proper development and conservation of resources on the site and will enhance social and economic welfare in accordance with s1.3(a) of the EP & A Act.

Comment – This environmental planning ground is accepted because, notwithstanding the non-compliance, the proposed landscaping does not inhibit the ability of the site to accommodate adequate areas for tree planting and recreational purposes.

Environmental Planning Ground 2 – *With exceptions that arise from the nature of existing development on the site, the proposed development otherwise complies with the relevant provisions of the applicable environmental planning instruments and development control plan [s4.15(1)(a) of the EPA Act] and represents orderly and economic development of the site in accordance with s1.3(c) of the EPA Act*

Comment – This environmental planning ground is accepted because the non-compliance is directly related to the existing building form, and the proposal represents an improvement to Landscaped Area provision on this site.

Environmental Planning Ground 3 – *By enabling its longer-term occupation and conservation, the proposal will extend the useful life of the building without material adverse impacts on streetscape, character, amenity or heritage values [s4.15(1)(b) of the EPA Act] and represents sustainable management of built heritage in accordance with s1.3(f) of the EPA Act.*

Comment – This environmental planning ground is accepted because the proposal maintains the visual characteristics of the existing building and aligns with the desired future character of the area, despite non-compliances with Landscaped Area.

Environmental Planning Ground 4 – *The proposal will allow the implementation of alterations that will improve the design and amenity of the building and the health and safety of its occupants in accordance with s1.3(g) and s1.3(h) of the EPA Act*

Comment – This planning ground is accepted as there are no significant adverse impacts on neighbouring properties, and the proposal provides adequate amenity for its future occupants.

Environmental Planning Ground 5 – *Consistent with the LEP provisions for adaptive reuse of non-residential buildings for dwellings, the site is suitable for the proposed development [s4.15(1)(c) of the EPA Act].*

Comment – As the proposal includes elements that extends beyond the existing building enveloped, Clause 6.12(4) of *IWLEP 2022* is not achieved, and therefore, Clause 6.12 does not apply to this proposal and this environmental planning ground is not accepted.

Cumulatively, and while not all the grounds have been adequately made out, the grounds 1-4 are considered sufficient to justify contravening the development standard in question.

For the reasons outlined above, it is recommended that the section 4.6 exception be granted.

Site Coverage Development Standard

The applicant seeks variations to the Site Coverage development standards under Section 4.6 of the *IWLEP 2022* by 16.7% or 36sqm (Site Coverage). It can be noted that despite a non-compliance, this is an improvement to the existing situation as the proposal reduces the

building footprint by 26 sqm to create private open space. 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(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard.

Whether compliance with the development standard is unreasonable or unnecessary

The **first objective** of Section 4.3C is “*to provide landscaped area for substantial tree planting and for the use and enjoyment of residents*”. The written request is as follows:

- *The proposal includes removal of concrete paving at the front of the site to provide a garden bed on the eastern side and demolition of part of the building to provide an area of open garden space against the western boundary of the site that exceeds Council’s dimensional requirements for private open space. Both spaces will be available for the use and enjoyment of residents. Because of the proximity of buildings, however, neither space is suitable for substantial tree planting. Nevertheless, the proposal will provide two open areas of sufficient dimensions to provide useful residential amenity for the occupants and both spaces would be suitable for the planting of one or more small trees.*

In consideration of the points above, despite the shortfall, the proposal includes sufficient space for tree planting and landscaping that benefits residents. Accordingly, the breach is consistent with the first objective.

The **second objective** of Section 4.3C is “*to maintain and encourage a landscaped corridor between adjoining properties*”. The written request provides several points for demonstrating how the second objective is met notwithstanding the non-compliances. The key point in the applicant’s written request is as follows:

- *Many nearby back yards are small and/or paved and any landscaped corridor is discontinuous, but the proposal will provide two vegetated areas (where there is currently none) that could form part of such a corridor.*

In consideration of the points above, the proposed design does not result in any further reduction of Landscaped Area and as there are limited opportunities to provide a landscaped corridor between adjoining properties, it is considered to be acceptable in this regard as the proposal reduces the overall site coverage. Accordingly, the proposed breach is consistent with the second objective.

The **third objective** of Section 4.3C is “*to ensure that development promotes the desired character of the neighbourhood*”. The written request is as follows:

- *The existing non-residential building is not typical of the surrounding residential neighbourhood, but the LEP makes specific provision for the adaptive reuse of such buildings for residential use. As one would expect in those circumstances, the proportion of built form to open area will remain greater than is typical in the neighbourhood, but the proposal is consistent with the zone objectives relating to a variety of housing types and densities and maintaining the character of built and natural features in the surrounding area as well as with the relevant elements of desired future*

character set out in part C2.2.5.1 The Valley Rozelle Distinctive Neighbourhood of Leichhardt Development Control Plan 2013.

In consideration of the points above, strict compliance with the Landscaped Area and Site Coverage requirements is unreasonable and unnecessary given the unique characteristics of the subject site where a non-residential building is currently existing. Overall, the proposed development is consistent with the desired character of the neighbourhood. Accordingly, the proposed breach is consistent with the third objective.

The **fourth objective** of Section 4.3C is “*to encourage ecologically sustainable development*”. The written request provides several points for demonstrating how the fourth objective is met notwithstanding the non-compliances. The key points in the applicant’s written request is as follows:

- *The proposed adaptive reuse of a substantial building with a significant increase in landscaped area (from a zero base) represents an ecologically sustainable development of the site..*

In consideration of the points above, the objective of encouraging ecologically sustainable development is met through adherence to BASIX and landscape enhancements. Accordingly, the proposed breach is consistent with the fourth objective.

The **fifth objective** of Section 4.3C is “*to control site density*”. The written request is as follows:

- *This objective, which is primarily achieved by management of floor space ratio, is not strictly relevant to the landscaped area standard. Under clause 6.12(5) of the LEP, the floor space ratio development standard is not applicable to the subject site.*

In consideration of the points above this statement incorrectly states that Floor Space Ratio is not applicable. As the proposed additional floor area as part of this application is not located fully within the building envelope of the existing area, therefore Clause 6.12 of Inner West LEP 2022 cannot apply. Notwithstanding this, as the proposal does not extend beyond the building footprint of the existing building, and in fact results in a reduction of 26 sqm, and the non-compliance with the Site Coverage standard does not have a direct impact to density. Accordingly, the breach is consistent with the fifth objective.

The **sixth objective** of Section 4.3C is “*to provide for landscaped areas and private open space*”. The written request provides several points for demonstrating how the fifth objective is met notwithstanding the non-compliances. The applicant’s written request is as follows:

- *“As set out above, the proposal incorporates landscaped areas and private open space.”*

In consideration of the points above, the objective of providing landscaped areas and Private Open Space (POS) is met through the provision of modest courtyards sufficient landscaping. The compliant POS ensure that the development provides adequate outdoor space for residents. Accordingly, the breach is consistent with the sixth objective.

As the proposal achieves the objectives of the landscaped area development standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant advances fourteen environmental planning grounds to justify contravening the Site Coverage Area development standard. Each will be dealt with in turn:

Environmental Planning Ground 1 – *To comply with the site coverage standard it would be necessary to demolish more of the building. The proposed site coverage is reasonable as argued above in relation to the objectives of the control. By adaptive reuse of part of the building to provide residential accommodation with a good standard of amenity while maintaining the long-established community arts activity in the front part of the building, the proposal represents proper development and conservation of resources on the site and will enhance social and economic welfare in accordance with s1.3(a) of the EPA Act.*

Comment – This environmental planning ground is accepted because, notwithstanding the non-compliance, given that the existing building form and the front portion of the building is preserved, the proposal is compatible with the existing streetscape and allows additional residential accommodation while maintaining the school use that retains economic activity to this site.

Environmental Planning Ground 2 – *With exceptions that arise from the nature of existing development on the site, the proposed development otherwise complies with the relevant provisions of the applicable environmental planning instruments and development control plan [s4.15(1)(a) of the EPA Act] and represents orderly and economic development of the site in accordance with s1.3(c) of the EPA Act*

Comment – This environmental planning ground is accepted because the proposed building footprint is a reduction compared to the existing footprint of 26 sqm (to create private open space), and subject to conditions, will achieve general compliance with the relevant provisions of IWLEP 2022 and LDCP 2013.

Environmental Planning Ground 3 – *By enabling its longer-term occupation and conservation, the proposal will extend the useful life of the building without material adverse impacts on streetscape, character, amenity or heritage values [s4.15(1)(b) of the EPA Act] and represents sustainable management of built heritage in accordance with s1.3(f) of the EPA Act.*

Comment – This environmental planning ground is accepted because the proposal maintains the visual characteristics of the existing building and aligns with the desired future character of the area, despite non-compliances with the Site Coverage development standard.

Environmental Planning Ground 4 – *The proposal will allow the implementation of alterations that will improve the design and amenity of the building and the health and safety of its occupants in accordance with s1.3(g) and s1.3(h) of the EPA Act*

Comment – This planning ground is accepted as, subject to conditions, there are no significant adverse impacts on neighbouring properties and provides adequate amenity for its future occupants.

Environmental Planning Ground 5 – *Consistent with the LEP provisions for adaptive reuse of non-residential buildings for dwellings, the site is suitable for the proposed development [s4.15(1)(c) of the EPA Act].*

Comment – As the proposal includes elements that extend beyond the existing building enveloped, Clause 6.12(4) of *IWLEP 2022* is not achieved, and therefore, Clause 6.12 does not apply to this proposal and this environmental planning ground is not accepted.

Cumulatively, and while not all the grounds have been adequately made out, the grounds 1-4 are considered sufficient to justify contravening the development standard in question.

For the reasons outlined above, it is recommended that the section 4.6 exception be granted.

Floor Space Ratio Development Standard

The applicant seeks a variation to the above mentioned under section 4.6 of the *IWLEP 2022* by 48.3% or 120sqm. 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(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard.

Whether compliance with the development standard is unreasonable or unnecessary

The **first objective of Section 4.4** is “to establish a maximum floor space ratio to enable appropriate development density”. The written request is as follows:

- *The site has a long history of a wide variety of community arts activities. The proposal involves the continued use of the front parts of the building for these activities and the conversion of the rear part of the building for residential use. The proposed additional floor area will allow conversion of a warehouse-style building into a family dwelling with a satisfactory level of residential amenity. The proposal will result in a population density of one family on the site and represents a reduction in the intensity of community arts land use. It will not materially affect the capacity of existing or planned infrastructure.*

The proposal retains the front portion of the existing building and results in a small reduction in building footprint to create private open space. Despite the additional floor area not being fully located within the existing building envelope, the additional height and bulk is minor, and subject to conditions in relation to privacy, will have acceptable amenity to the adjoining properties. Therefore the proposed density is considered to be appropriate despite the non-compliance. Accordingly, the breach is consistent with the first objective, given the proposed FSR will maintain an appropriate development density having regard to the site and adjoining context.

The **second objective of Section 4.4** is “to ensure development density reflects its locality”. The written request states that:

- *The existing non-residential building is not typical of the surrounding residential neighbourhood, but the LEP makes specific provision for the adaptive reuse of such buildings for residential use. The proposed conversion involves the insertion of an additional level (and hence floor area) within a building of large volume with only minor*

extension of the roof form to provide an acceptable level of residential amenity. Despite the quantum of the proposed FSR, the building envelope will be little altered.

- *As perceived from the street and neighbouring properties, the appearance of the building will be improved. The proposal is consistent with the zone objectives relating to a variety of housing types and densities and maintaining the character of built and natural features in the surrounding area as well as with the relevant elements of desired future character set out in part C2.2.5.1 The Valley Rozelle Distinctive Neighbourhood of Leichhardt Development Control Plan 2013.*

The proposed development is compatible with regard to the development density and building bulk and scale found in this part of Rozelle, where Nelson Street is predominately of two storey presentation to the street. This justification is accepted, given the scale of proposed additions and nearby development. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.4** is “to provide an appropriate transition between development of different densities”. The written request states:

- *The site is almost contiguous with the Rozelle local business centre, which has a maximum FSR of 1:1. Surrounding residential properties are on smaller lots, most subject to FSRs of 0.8 or 0.9:1. The proposal represents an appropriate transition between those areas.*

The existing building is associated with a non-commercial use and the front portion is being retained and the alterations and additions at the rear will still result in a bulk and scale that is similar to the built form currently on the site. As there is no significant or undue increase to the height or bulk and scale of the existing building as a result of the proposal, it is considered to be an appropriate transition in density. Accordingly, the breach is consistent with the third objective.

The **fourth objective of Section 4.4** is “to minimise adverse impacts on local amenity”. The written request states:

- *The proposal is designed to reasonably minimise impacts on neighbouring amenity: it will not materially affect the access to sunlight or views of surrounding properties and, following the concerns expressed in Council’s letter of 15 January 2025, additional viewline analysis drawings and diagrams have been prepared to demonstrate that a satisfactory level of privacy will be maintained in neighbouring properties*

While the solar access impacts are considered to be acceptable, the view line diagrams/perspectives provided do not demonstrate that there are no sightlines into the private open space of No. 51 Nelson Street. As discussed in more detail in a latter section of the report, the proposal is recommended to be conditioned to reduce the size of the proposed first floor balcony. Subject to this condition, reasonable compliance is achieved with solar access, privacy, and views in accordance with LDCP 2013. Accordingly, the breach is consistent with the fourth objective.

The **fifth objective of Section 4.4** is “to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain”. The written request states:

- *The proposal includes removal of concrete paving at the front of the site to provide a garden bed on the eastern side and demolition of part of the building to provide an area of open garden space against the western boundary of the site. Both spaces will be available for residents’ enjoyment and suitable for the planting of one or more small trees to increase the tree canopy. As set out above, the amended proposal will*

reasonably minimise impacts on neighbouring amenity. The works proposed at the front of the site will improve its appearance from the public domain.

No vegetation is proposed to be removed as part of this application and additional tree planting will be provided. Accordingly, the breach is consistent with the fifth objective.

As the proposal achieves the objectives of the FSR standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant advances 5 environmental planning grounds to justify contravening the FSR development standard. Each will be dealt with in turn:

Environmental Planning Ground 1 – *In principle a compliant development could be achieved by deleting the proposed first floor in the rear part of the building (thus limiting the dwelling to a single floor with a very high ceiling) or, more practically, by designing the first floor entirely within the existing building envelope (which would so restrict ceiling heights as to compromise internal amenity). As the minimal extension of the building envelope as proposed in the amended plans will have no material adverse impacts on neighbouring properties or the public domain but will allow a significantly higher level of residential amenity for the occupants, the non-compliance is considered justified. By adaptive reuse of part of the building to provide residential accommodation with a good standard of amenity while maintaining the long-established community arts activity in the front part of the building, the proposal represents proper development and conservation of resources on the site and will enhance social and economic welfare in accordance with s1.3(a) of the EPA Act.*

Comment – This environmental planning ground is accepted because, notwithstanding the non-compliance, given the existing building form and the front portion of the building is preserved, the proposal is compatible with the existing streetscape and allows additional residential accommodation while maintaining the school use that retains economic activity to this site. As discussed in more detail in a latter section of the report, it is recommended that the size of the proposed first floor balcony of the proposed residential dwelling be reduced via condition.

Subject to the proposal being conditioned in accordance with the above (i.e. to reduce the size of the first floor balcony), this environmental planning ground is accepted because the additional FSR does not result in unreasonable density and the proposed dwelling is compatible in height, scale, form, and layout with dwellings within the site's context.

Environmental Planning Ground 2 – *With exceptions that arise from the nature of existing development on the site, the proposed development otherwise complies with the relevant provisions of the applicable environmental planning instruments and development control plan [s4.15(1)(a) of the EPA Act] and represents orderly and economic development of the site in accordance with s1.3(c) of the EPA Act*

Comment – Subject to a condition to reduce the size of the first floor balcony of the proposed dwelling, this environmental planning ground is accepted because as the proposal will generally achieve compliance with the relevant controls in the IWLEP 2022 and LDGP 2013.

This environmental planning ground is accepted because the proposed development maintains consistency with the established building wall height, incorporates design features sympathetic to the area's character, and reduces perceived bulk and scale, ensuring consistency with the existing built form and streetscape character of Nelson Street.

Environmental Planning Ground 3 – *By enabling its longer-term occupation and conservation, the proposal will extend the useful life of the building without material adverse impacts on streetscape, character, amenity or heritage values [s4.15(1)(b) of the EPA Act] and represents sustainable management of built heritage in accordance with s1.3(f) of the EPA Act.*

Comment – This environmental planning ground is accepted because the proposal maintains the visual characteristics of the existing building and aligns with the desired future character of the area, despite non-compliance with the FSR development standard.

Environmental Planning Ground 4 – *The proposal will allow the implementation of alterations that will improve the design and amenity of the building and the health and safety of its occupants in accordance with s1.3(g) and s1.3(h) of the EPA Act.*

Comment – This planning ground is accepted as, subject to conditions, there are no significant adverse impacts on neighbouring properties and provides adequate amenity for its future occupants.

Environmental Planning Ground 5 – *Consistent with the LEP provisions for adaptive reuse of non-residential buildings for dwellings, the site is suitable for the proposed development [s4.15(1)(c) of the EPA Act].*

Comment – As the proposal includes elements that extends beyond the existing building enveloped, Clause 6.12(4) of the *IWLEP 2022* is not achieved, and therefore, Clause 6.12 does not apply to this proposal and this environmental planning ground is not accepted.

For the reasons outlined above, it is recommended the section 4.6 exception be granted.

Part 5 – Miscellaneous Provisions

Section	Compliance	Compliance
Section 5.3 Development Near Zone Boundaries	Not applicable	N/A
Section 5.4 Controls Relating to Miscellaneous Permissible Uses	Not applicable	N/A
Section 5.10 Heritage Conservation	Satisfactory, subject to conditions - see discuss below	Yes, subject to conditions – see below

Section 5.10 - Heritage Conservation

No. 57 Nelson Street, Rozelle is a contributory building located within The Valley Heritage Conservation Area (*IWLEP 2022* - Schedule 5, Part 2, Heritage Conservation Areas, C27, The Valley). The site itself is not heritage listed, however, it is located in the vicinity of the former Primitive Methodist Church on the corner of Darling Street and Nelson Street (now the Senior's Centre), which is listed in the *IWLEP 2022* as a heritage item of local significance.

The proposal is generally acceptable on heritage grounds and has been reduced in scale from the Pre DA proposal. The majority of the works are proposed to the modern factory building to the rear, which is a much later addition to the site, and does not fall within the key date range of the Heritage Conservation Area (HCA).

An additional level is proposed within the existing volume accompanied by a minor change in the roof pitch and the addition of eyelid dormer to the roof. Given the scale of the adjacent buildings, both of which are two storey terraces, this addition is minor and does not have a detrimental heritage impact on the historic front section of the building, the streetscape or the HCA.

A brick colour is proposed for the walls which is acceptable. However, the use of black paint for the existing joinery is not supported. Existing timber joinery should be painted in a more appropriate colour. Olive Green, Dark Brunswick Green, Brown or Dark Indian Red were typically utilised for joinery. This requirement for a colour change will be recommended as a condition of consent.

X. Prior to the issue of a Construction Certificate revised architectural documentation is to be provided that demonstrates

a. The use of a more appropriate colour for the existing timber joinery than Obsidian (Black) such as Olive Green, Deep Brunswick Green, Brown or Deep Indian Red.

In summary, the proposal, as reinforced by condition, will be of a size, form, scale, design and detail that will be compatible with, and / or will not detract from, the existing building, the streetscape and Heritage Conservation Area, nor will it adversely impact on the significance and setting of the nearby heritage item on the corner of Darling and Nelson Street, and will satisfy the relevant streetscape and heritage objectives and controls contained in this part of the LEP.

Part 6 – Additional Local Provisions

Section	Proposed	Compliance
Section 6.1 Acid Sulfate Soils	The site is identified as containing Class 5 Acid Sulfate Soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable.	Yes
Section 6.2 Earthworks	The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.	Yes, subject to conditions
Section 6.3 Stormwater Management	The development maximises the use of permeable surfaces, includes on site retention as an alternative supply, and subject to standard site drainage and stormwater control conditions as recommended, would not result in any significant runoff to adjoining properties or the environment.	Yes, subject to conditions
Section 6.8 Development in areas subject to aircraft noise	The site is located within the ANEF 15-20 contour, and hence, the provisions of this part of the LEP do not apply.	N/A
Section 6.12 Adaptive reuse of Existing Buildings for Dwellings in Residential Zones	Not applicable – see below	N/A – see below

6.12 Adaptive reuse of existing buildings for dwellings in residential zones

The following clauses of this part requires further discussion:

(4) Development consent must not be granted to a change of use to residential accommodation of a building on land to which this clause applies unless the consent authority is satisfied—

(c) any increase in the floor space ratio will be contained in the envelope of the existing building, and

(5) The maximum building height and maximum floor space ratio shown for the land on the Height of Buildings Map or the Floor Space Ratio Map do not apply to a building to which this clause applies

As the proposed alterations and additions at the rear to create the proposed dwelling house is approximately 500mm higher than the existing structures, the proposal does not achieve Clause 4(c) of this part. Therefore, the proposal cannot be considered as an adaptive reuse and Clause 5 cannot apply – i.e. the application will be considered alterations and additions development and the breaches of floor space ratio will be need to be considered.

Leichhardt Development Control Plan 2013 (LDCP 2013)Summary

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

LDCP 2013	Compliance
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.6 Subdivision	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes
C1.12 Landscaping	Yes, as conditioned
C1.14 Tree Management	Yes, as conditioned
Part C: Place – Section 2 Urban Character	
C2.2.5.5 Rozelle Commercial Distinctive Neighbourhood	Yes – see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	Yes
C3.5 Front Gardens and Dwelling Entries	Yes

C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	No – see discussion
C3.12 Acoustic Privacy	Yes
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes – see discussion
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	Yes

Part C1.11 - Parking

As the subject site was originally approved as a school, a mixed use development resulting in the reduction of the area associated with the school use and the introduction of a new dwelling is considered to be a development that would generate less parking demand than what currently exists on site, and therefore, is considered to be satisfactory.

Standard conditions will be recommended to ensure the parking spaces and driveway access and egress complies with the relevant AS2890.1-2004.

Parts C1.12 – Landscaping and C1.14 - Tree Management

Subject to the imposition of conditions as recommended, including tree protection and replacement tree planting conditions, the proposal will satisfy the provisions and objectives of these parts of the DCP – see SEPP (Biodiversity and Conservation) 2021 assessment previously in this report for further details.

Part C3.2 - Site Layout and Building Design*Building Location Zone (BLZ)*

The proposal does not result in any changes to the front and rear alignments at ground floor level, but extends the first floor rear alignment to the rear boundary. However, it is noted that the existing building is already a two storey form that extends to the rear and first floor additions are generally consistent with the existing form with the exception of adding additional height on the eastern elevation.

The rear setbacks on the first floor level of 51 Nelson Street and 59 Nelson Street are 10.4 metres and 13.8 metres respectively, and therefore, the average rear setback is 12.1 metres, and therefore, the proposed nil setback is technically a 12.1 metre variation to BLZ.

Pursuant to Control C6 under this Part of the LDCP 2013, where a proposal seeks a variance to the BLZ, various tests need to be met. These tests are assessed below:

Merit Test	Comment
Amenity (solar access/privacy)	As discussed in later sections below, the solar access impacts to adjoining properties are acceptable but the proposal will have some adverse visual privacy impacts. Therefore, a condition is recommended to reduce the size of the rear first floor balcony to the proposed dwelling house.
Streetscape & scale	The front portion of the existing building is retained and the first floor additions at the rear are generally contained with the existing built form with the exception of the additions on the eastern elevation where the increase in height is a maximum of approximately 740mm. The proposed built form is considered to be compatible to the streetscape and Heritage Conservation Area.
Private open space	The proposed dwelling house will have a compliant amount of private open space located at ground level.
Significant vegetation	There is no significant vegetation currently on site and the proposal will allow for some tree planting.
Visual bulk & height	The first floor additions at the rear are generally contained with the existing built form with the exception of the additions on the eastern elevation where the increase in height is a maximum of approximately 740mm. As the proposed rear additions will be setback approximately 1.3 metres to the eastern boundary, the visual bulk and height impacts, when viewed from the backyard of 51 Nelson Street, are considered to be acceptable.

Accordingly, subject to condition, the variation of the BLZ at first floor level can be supported in this instance.

Side Setbacks

The proposed additions are generally contained with the existing built form with the exception of the additions on the eastern elevation at the rear where the increase in height is a maximum of approximately 740mm, resulting in a wall height of approximately 7.2 metres with a 1.3 metre setback and therefore is non-compliant to the side setback controls as follow:

Wall	Height	Required Setback	Proposed Setback
Eastern	7.2	2.5	1.3

Pursuant to Clause C3.2 of the LDCP 2013, where a proposal seeks a variation of the side setback control graph, various tests need to be met. These tests are assessed below:

Merit Test	Comment
Building typology	The proposed built form is considered to be consistent with the relevant building typology.
Pattern of Development	The existing building, being a non-residential building, is not a typical development in the immediate context. However, the proposed development is considered to be of a form that will be compatible with the pattern of development in the locality.
Bulk and Scale	For reasons discussed in the BLZ assessment above under 'Visual bulk and height', the proposal is considered acceptable with respect to bulk and scale considerations.
Amenity Impacts	Subject to a condition in relation to visual privacy (see discussions above and below), the amenity impacts to adjoining properties are considered to be satisfactory.
Maintenance of adjoining properties	The area where the variation occurs is over an existing roof form and the proposed variation to side setback controls does not result in additional maintenance issues compared to the existing scenario.

Accordingly, subject to a recommended condition, the proposed variation to side setback controls is acceptable.

C3.9 Solar Access

New Dwellings

As the proposal includes a new dwelling house, C2, C4 (Private Open Space) and C9 (Main Living room) of the LDCP 2013 are applicable.

C2 Where site orientation permits, new dwellings must be designed to maximise direct sunlight to the main living room and private open space.

C4 Private open space is to receive a minimum three hours of direct sunlight over 50% of the required private open space between 9am and 3pm at the winter solstice.

C9 New residential dwellings are to obtain a minimum of three (3) hours of direct sunlight to the main living room between 9am and 3pm during the winter solstice.

The information provided with this application indicates that the proposal will receive appropriate solar access into its living room between 12pm and 3pm, and therefore, achieves the 3 hour requirement.

However, the proposed private open space at ground floor level will not receive the required amount of solar access. However, as the existing building is a non-residential building, and the proposed development will in fact reduce the building footprint, it is considered that the ground floor private open space has been sensitively designed and maximises solar access in the summer months and is considered to be acceptable in this instance.

Minimise impact to neighbouring properties – Living areas

Retaining solar access to neighbouring dwellings main living room glazing

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.

Street Address	Orientation	Control
51 and 59 Nelson Street	North/South	3 hours – to north facing glazing serving the main living room

The submitted shadow diagrams indicate the following impact:

- The main living area of 51 Nelson Street is currently located at the front section of the existing dwelling and will not be affected by the proposal. A recent Development Application Approval (DA/2024/0442) at 51 Nelson Street approved a north-facing living room at ground floor level. The amended shadow diagrams indicate the potential impacts to the development approved under DA/2024/0442 and show that the main living room windows will receive solar access between 9am and 12pm.
- The shadow diagrams indicate there will not be any additional overshadowing of 59 Nelson Street.

Minimise impact to neighbouring properties – Private open space

The control seeks to minimise overshadowing to neighbouring properties based on the orientation of the private open space with solar access to 50% of the total area for hours as noted below. The surrounding allotments private open space is orientated as follows:

Street Address	Orientation	Control
51 and 59 Nelson Street	North	3 hours to 50% of total area

Retaining solar access to neighbouring dwellings private open space

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.

An updated set of shadow diagrams have been provided that depict the overshadowing impacts at the winter solstice at hourly intervals for the adjoining properties (including the recently approved development at 51 Nelson Street). The shadow diagrams demonstrate that all proposed shadows will predominately fall within existing shadows or on roof structures, with no additional overshadowing of the Private Open Spaces of No. 59 Nelson Street between 9am and 3pm at winter solstice and minimal overshadowing to the Private Open Space No. 51 Nelson Street at 11am and improvement in solar access between 12pm and 1pm (as outlined in the table below).

Impact to 51 Nelson St

Time	Existing %	Proposed %
9am	9.9 sqm (15%)	9.9 sqm (15%)
10 am	26 sqm (39%)	26 sqm (39%)
11 am	31.6 sqm (47.8%)	31.4 sqm (47.6%)
12 noon	22.9 sqm (34.7%)	23 sqm (34.8%)
1 pm	8 sqm (12.1%)	11.5 sqm (17.4%)
2 pm	1.4 sqm (2.1%)	1.4sqm (2.1%)
3 pm	0 (0%)	0 (0%)

Therefore, the solar access retained to neighbouring properties is satisfactory.

C3.11 Visual Privacy

The following controls are applicable in C3.11 Visual Privacy

- *C1 Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway.*
- *C5 The provision of landscaping may be used to complement other screening methods but cannot be solely relied upon as a privacy measure.*
- *C7 New windows should be located so they are offset from any window (within a distance of 9m and 45 degrees) in surrounding development, so that an adequate level of privacy is obtained/retained where such windows would not be protected by the above controls (i.e. bathrooms, bedrooms).*
- *C9 Balconies at first floor or above at the rear of residential dwellings will have a maximum depth of 1.2m and length of 2m unless it can be demonstrated that due to the location of the balcony there will be no adverse privacy impacts on surrounding residential properties with the provision of a larger balcony.*
- *C10 Living areas are to be provided at ground floor level to minimise opportunities for overlooking of surrounding residential properties.*

The proposed dwelling house includes a first floor balcony that contravenes the size requirements under C9 of C3.11 – Visual Privacy of LDCP 2013 and will have sightlines within 9 metres and 45 degrees to the Private Open Space of No. 51 Nelson Street. The applicant has provided a perspective suggesting that there are no overlooking impacts to 51 Nelson Street:

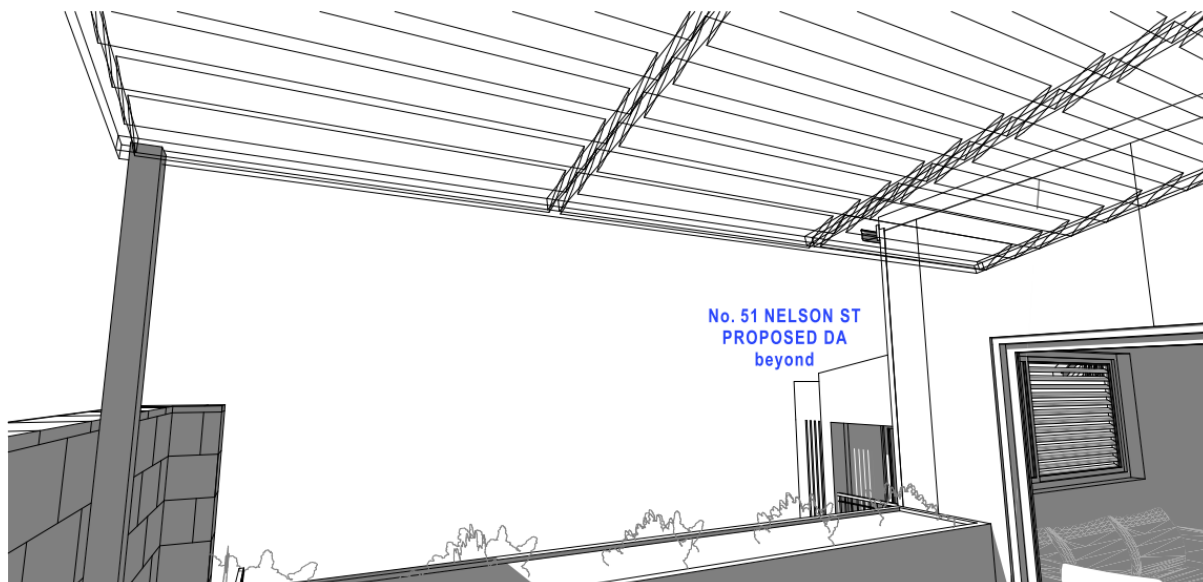


Figure 3: Proposed Perspective from First Floor Balcony

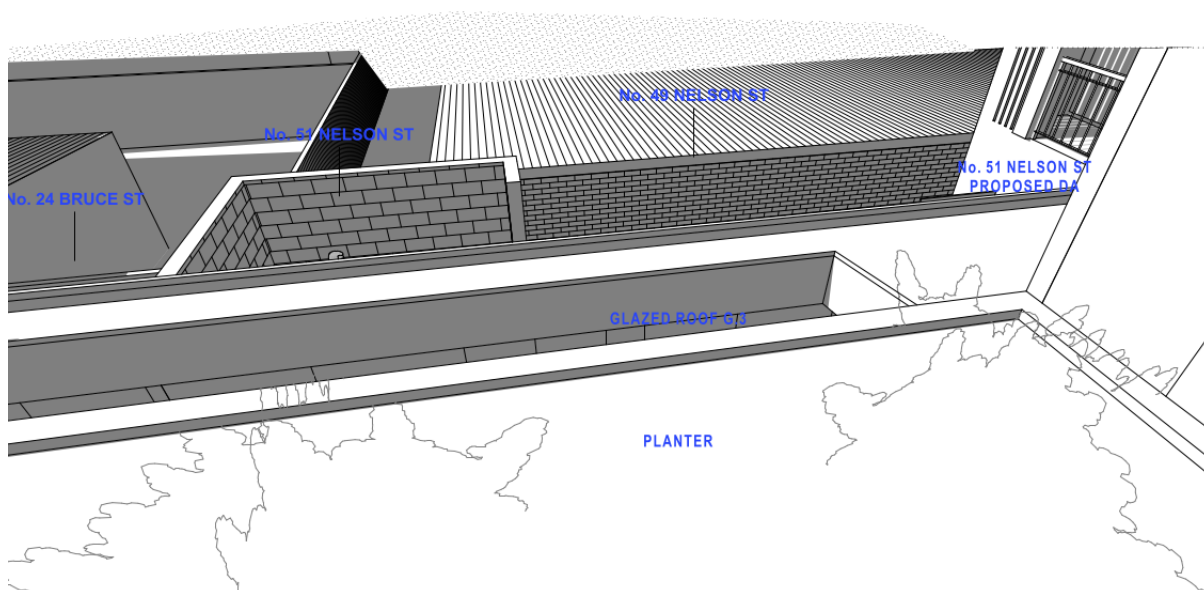


Figure 4: Proposed Perspective from First Floor Balcony Planter Edge Looking Down

Notwithstanding that it is difficult to assess the accuracy of the perspectives provided, Figure 4 suggests that while the sightlines do not reach the ground levels of the rear yard of No. 51 Nelson Street, the balcony does in fact have sightlines into the yard.

As Control C10 of Part C3.11 of the LDCP 2013 requires Private Open Space to be located at ground floor level to reduce overlooking impacts, and the proposed size of the balcony (3.3 metres x 4.3 metres) far exceeds the 1.2 metres x 2 metres requirement stipulated under Control C9 of this part, the balcony in its current form is unable to be supported.

A condition is included in the recommendation requiring the first floor balcony to be reduced to a maximum depth of 1.2 metres and D19 will need to be amended accordingly to provide a single width door to the balcony.

The proposed first floor windows, with the exception of W16 and D19, are not associated with a living room, and therefore, are not required to be relocated or have sightlines restricted as there are no sightlines into any approved windows under the approved development at No. 51 Nelson Street (DA/2024/0442), and therefore, complies with Control C7. The amended proposal includes operable aluminium louvres to W16 restricted to max. 45 degree tilt pitched upwards, and therefore, is considered to be acceptable. As mentioned above, a condition is recommended that requires D19 to be amended to a single width door opening to reduce the first balcony impact.

C4.5 Interface Amenity

Determination No. D.A.3742 dated 5.3.1970 approved the use of the building as a Visual Arts Training School. The original approved use included instruction in ballet, art, video lighting and stage work. This Development Application was modified in 1997 to extend the hours of operation to:

- Monday to Thursday 10 am - 9pm,
- Friday and Saturday 9am - 5pm and
- Sunday 10 am to 8pm.

The modification application to DA3742 outlined the following with regard to use: *“Since 1970 additional uses have been progressively introduced, catering more to the changing needs of the local community than as a School of Visual Arts Centre alone. Examples of additional uses*

include childbirth classes, instruction and practice of martial arts and chess playing..... It is apparent that the current use has evolved from the uses originally sought, however, it is regarded that the use originally remains as a School for Visual Arts with ancillary use."

Therefore, the proposed continuance of dancing class and community arts activities are considered to be consistent with the existing approved use of the site under the modified DA3742. The reduction of the gross floor area associated with the school use is considered to be a development that will have lesser amenity impacts to the adjoining properties and a condition will be recommended in relation to hours of operation that will be consistent with the existing approved hours of operation.

B. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential and commercial surrounding and the proposed mixed use development will be compatible to surrounding uses.

C. Submissions

The application was notified in accordance with Council's Community Engagement Strategy between 07 November 2024 to 05 December 2024.

A total of one (1) submission was received in response.

Issues raised in the submissions received are discussed below:

Concern	Comment
Visual Privacy	Issues in relation to visual privacy is discussed in detail under Part C3.11 – Visual Privacy in an earlier section of this report. Under Part C3.11, only sightlines from living room windows and private open spaces are required to be obstructed. As there are no sightlines from W10, W11 and W17 into any of the approved windows under DA/2024/0442, sightlines from these windows are not required to be mitigated. The amended proposal includes operable aluminium louvres to W16 restricted to max. 45 degree tilt pitched upwards, and therefore, is considered to be acceptable in restricting views to the private open space of No. 51 Nelson Street.
Acoustic privacy	As the proposed first floor living room and private open space are not located adjacent to bedrooms at No. 51 Nelson Street, the proposed acoustic impacts are considered to be acceptable and a condition will be imposed with regard to hours of operation to be consistent with the previously approved hours of operation on site. However, a condition is imposed to reduce the depth of the first floor balcony to 1.2 metres in depth to address potential visual privacy concerns.

D. 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.

This has been achieved in this instance.

6. Section 7.11 / 7.12 Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$16,104 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

A condition requiring that contribution to be paid is included in the recommendation.

7. Housing and Productivity Contributions

The carrying out of the development would result in an increased demand for essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. A contribution of \$10,710.65 would be required for the development under Part 7, Subdivision 4 Housing and Productivity Contributions of the *EP&A Act 1979*.

A housing and productivity contribution is required in addition to any Section 7.11 or 7.12 Contribution. A condition requiring that the housing and productivity contribution is to be paid is included in the recommendation.

8. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Heritage Specialist;
- Development Engineer;
- Urban Forest;
- Waste;
- Environmental Health;
- Building Certification; and
- Street Renumbering.

The following external referrals were made, and their comments have been considered as part of the above assessment:

- Ausgrid.

9. 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 considered to be in the public interest.

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

10. Recommendation

- A. In relation to the proposal in Development Application No. DA/2024/0933 to contravene the Landscaped Area, Site Coverage and FSR development standards in Sections 4.3C and 4.4 of *Inner West Local Environmental Plan 2022*, the Inner West Local Planning Panel is satisfied that the Applicant has demonstrated that:
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (a) there are sufficient environmental planning grounds to justify the contravention of the development standard.
- 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/2024/0933 for alterations and additions to an existing mixed-use building, including partial demolition of existing structures, construction of ground floor and first floor addition and associated works, including remediation of the site at 57 Nelson Street ROZELLE subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

GENERAL CONDITIONS

	Condition			
1.	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 unless levels are otherwise approved by Council via a S138 approval. Reason: To allow for pedestrian and vehicular access.			
2.	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/Received	Prepared by
	2023/19/01.01, Amendment E	PLAN - SITE, ROOF & SITE ANALYSIS	05/02/25	OIKOS Architects
	2023/19/01.02, Amendment E	PLAN - GROUND FLOOR	05/02/25	OIKOS Architects
	2023/19/01.03, Amendment E	PLAN - FIRST FLOOR	05/02/25	OIKOS Architects
	2023/19/03.01, Amendment E	ELEVATION - SOUTH (Nelson St)	05/02/25	OIKOS Architects
	2023/19/03.02, Amendment E	ELEVATION - NORTH	05/02/25	OIKOS Architects
	2023/19/03.03, Amendment E	ELEVATION - EAST	05/02/25	OIKOS Architects
	2023/19/03.04, Amendment D	ELEVATION - WEST	22/10/24	OIKOS Architects
	2023/19/04.01, Amendment D	SECTION AA	22/10/24	OIKOS Architects
	2023/19/04.02, Amendment E	SECTION BB	05/02/25	OIKOS Architects
	2023/19/04.01, Amendment D	SECTION CC	22/10/24	OIKOS Architects

	2023/19/04.01, Amendment D	SECTION DD	22/10/24	OIKOS Architects
	Project No. 2023.19 (Version 1.1)	BCA Capability Report	10th October 2024	OIKOS Architects
	A1767066	BASIX Certificate	02 October 2024	Ray Stevens
	2409 : SW : 1A	STORMWATER DRAINAGE CONCEPT	22/10/2024	RICHARD ROLLO & ASSOCIATES
	DRYU461J_DSI_V1_57 Nelson Street, Rozelle, NSW_20082024	Detailed Site Investigation and Assessment Report	20 August 2024	Dr Upsilon Environments Pty Ltd
	DRYU530J_RAP_V1_57 Nelson Street, Rozelle, NSW_29102024	Remedial Action Plan	29 October 2024	Dr Upsilon Environments Pty Ltd
	As amended by the conditions of consent.			
	Reason: To ensure development is carried out in accordance with the approved documents.			
3.	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: <ul style="list-style-type: none"> • 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; • A concrete pump across the roadway/footpath; • Mobile crane or any standing plant; • Skip Bins; • Scaffolding/Hoardings (fencing on public land); • Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.; • Awning or street veranda over the footpath; • Partial or full road closure; and • 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.			
	Reason: To ensure works are carried out in accordance with the relevant legislation.			

4.	<p>Works Outside the Property Boundary</p> <p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
5.	<p>Insurances</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>
6.	<p>Public Domain and Vehicular Crossings</p> <p>The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for Design of Vehicle Crossing and Public Domain Works – Step 1 form and Construction of Vehicle Crossing and Public Domain Works – Step 2 form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.</p> <p>You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. 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 at no cost to Council</p> <p>Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.</p> <p>Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.</p> <p>No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>
7.	<p>Storage of materials on public property</p> <p>The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.</p> <p>Reason: To protect pedestrian safety.</p>

8.	<p>Other works</p> <p>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 <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
9.	<p>National Construction Code (Building Code of Australia)</p> <p>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.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
10.	<p>Contamination – Remedial Action Plan (No Site Auditor Engaged)</p> <p>The site is to be remediated and validated in accordance with all the recommendations set out in the Remedial Action Plan (prepared by Jeffrey Yu of Dr Upsilon Environments Pty Ltd, dated 29 October 2024, reference 'DRYU530J_RAP_V1_57 Nelson Street, Rozelle, NSW_29102024'), the <i>Contaminated Land Management Act 1997</i> and Chapter 4 - Remediation of Land of the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>.</p> <p>Reason: To protect the amenity of the neighbourhood from contamination and ensure that the development is carried out in accordance with the consent.</p>
11.	<p>Notification of commencement of works</p> <p>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:</p> <ul style="list-style-type: none"> a. In the case of work for which a principal contractor is required to be appointed: <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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. <p>Reason: To ensure compliance with legislative requirements.</p>
12.	<p>Dividing Fences Act</p> <p>The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences.</p> <p>Reason: To ensure compliance with legislative requirements.</p>

13.	<p>Lead-based Paint</p> <p>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.</p> <p>Reason: To protect human health.</p>
14.	<p>Dial Before You Dig</p> <p>Contact "Dial Before You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>
15.	<p>Separation of Commercial and Residential Waste and Recycling</p> <p>The waste and recycling handling and storage systems for residential waste and commercial waste (including waste originating from retail premises) are to be separate and self-contained. Commercial and retail tenants must not be able to access residential waste storage area/s, or any storage containers or chutes used for residential waste and recycling.</p> <p>Reason: Commercial/retail premises and residential properties pay separate charges for waste and recycling collection.</p>
16.	<p>Bin Storage - Residential</p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
17.	<p>Ausgrid Overhead Powerlines are in the vicinity of the development</p> <p>The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site. The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au. It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.</p> <p>Reason: To comply with Ausgrid requirements.</p>

18.	Ausgrid Clearances Proposed driveways shall be located to maintain a minimum clearance of 1.5m from the nearest face of the pole to any part of the driveway, including the layback, this is to allow room for future pole replacements. Ausgrid should be further consulted for any deviation to this distance. Reason: To comply with Ausgrid requirements
19.	New or modified connection To apply to connect or modify a connection for a residential or commercial premises. Ausgrid recommends the proponent to engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details; https://www.ausgrid.com.au/Connections/Get-connected Reason: To comply with Ausgrid requirements

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
20.	Front Boundary Fence Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans that address the design of the front boundary fence, prepared certified as compliant with the terms of this condition by a qualified practicing Civil Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The design and plans must be prepared/ amended to make provision for the following: <ol style="list-style-type: none"> The front boundary fence retaining wall of the site shall be designed such that any necessary sub soil drainage system installed behind the wall discharges to the site stormwater drainage system and all components of the wall are fully within the property boundary. No weep holes are permitted to Council's footpath. Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure. Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years. No adverse impact on surrounding properties including Council's footpath and road. The roller door for the garage and entry door to the site must not encroach into Council's property. Reason: To ensure that the design of the basement is structurally sound and has been appropriately certified.

21.	<p>Security Deposit - Custom</p> <p>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.</p> <table border="1" data-bbox="438 546 1198 624"> <tr> <td>Security Deposit:</td><td>\$9,525.00</td></tr> <tr> <td>Inspection Fee:</td><td>\$389.00</td></tr> </table> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure required security deposits are paid.</p>	Security Deposit:	\$9,525.00	Inspection Fee:	\$389.00
Security Deposit:	\$9,525.00				
Inspection Fee:	\$389.00				
22.	<p>Design Change</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:</p> <ol style="list-style-type: none"> The use of a more appropriate colour for the existing timber joinery than Obsidian (Black) such as Olive Green, Deep Brunswick Green, Brown or Deep Indian Red. The first floor balcony to be reduced to a maximum depth of 1.2 metres and D19 will need to be amended accordingly to provide a single width door to the balcony. <p>Reason: To ensure that the design changes protect the amenity of the neighbourhood.</p>				

23.	<p>Dilapidation Report – Pre-Development – Minor</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>
24.	<p>Stormwater Drainage System – Minor Developments (OSD is not required)</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:</p> <p>1. The design must generally be in accordance with the Stormwater Drainage Concept plan on Drawing No. 2409:SW:1A prepared by RICHARD ROLLO & ASSOCIATES, dated 30 October 2024 and comply with the following requirements:</p> <ul style="list-style-type: none"> a. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road. b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP. c. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tanks. d. The Drainage Plan must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes. e. Only roof water is permitted to be connected to the rainwater tank. The over flow from the storage tank must be connected by gravity to the kerb and gutter of a public road. f. As there is no overland flow/flood path available from the rear and central courtyards to the Nelson Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria: <ul style="list-style-type: none"> i. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe. ii. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building. iii. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. g. A 150mm step up must be provided between the finished surface level of the external area and the finished floor level of the internal room unless a

	<p>reduced step is permitted by Part 3.3.3. of the National Construction Code for Class 1 buildings.</p> <ul style="list-style-type: none"> h. No nuisance or concentration of flows to other properties. i. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system. j. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required. k. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets. l. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site. m. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm. n. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings. o. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated. p. No impact to street tree(s). <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
25.	<p>Long Service Levy</p> <p>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.</p> <p>Reason: To ensure the long service levy is paid.</p>
26.	<p>Public Domain Works – Prior to Construction Certificate</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the Roads Act 1993 incorporating the following requirements:</p> <ul style="list-style-type: none"> a. The construction of light duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site; b. The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template for a B85 vehicle using dynamic

	<p>ground clearance software. A long section, along both sides of the vehicular crossing and ramp, drawn at a 1:20 or 1:25 natural scale, shall be provided for review. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section shall show both existing and proposed surface levels including information including chainages.</p> <p>c. Installation of a stormwater outlet to the kerb and gutter.</p> <p>All works must be completed prior to the issue of an Occupation Certificate.</p> <p>Reason: To ensure public domain works are constructed to Council's standards.</p>
27.	<p>Changes to Levels</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans incorporating the following amendments:</p> <p>A 150mm step down must be provided between the finished floor level of the internal room and the finished surface level of the external area unless a reduced step is permitted by Part 3.3.3. of the National Construction Code</p> <p>Reason: To protect buildings from overland flow.</p>
28.	<p>Structural Certificate for retained elements of the building</p> <p>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.</p> <p>Reason: To ensure the structural adequacy of the works.</p>
29.	<p>Parking Facilities - Domestic</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans and certification by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:</p> <ol style="list-style-type: none"> The garage slab or driveway must then rise within the property to be a minimum of 170mm (as quickly as possible) above the adjacent road gutter level and/or higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B85 vehicle. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the

	<p>lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.</p> <p>d. The garage/carport/parking space must have minimum clear internal dimensions of 11400 mm x 3000 mm (length x width) and a door opening width of 2800 mm at the street frontage. The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.</p> <p>e. The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004 unless otherwise approved.</p> <p>f. The external form and height of the approved structures must not be altered from the approved plans.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's DCP.</p>
30.	<p>Sydney Water – Tap In</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure relevant utility and service provides requirements are provided to the certifier.</p>
31.	<p>Hazardous Materials Survey</p> <p>Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide a hazardous materials survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate hazardous material removal and disposal methods in accordance with the requirements of SafeWork NSW.</p> <p>A copy of any SafeWork NSW approval documents is to be included as part of the documentation.</p> <p>Reason: To ensure compliance with the requirements of SafeWork NSW.</p>
32.	<p>Resource Recovery and Waste Management Plan - Demolition and Construction</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a "Waste and Recycling Waste Management Plan - Demolition and Construction" in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>

33.	<p>Waste Transfer Route</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point has a minimum 1200mm wall-to-wall clearance, is slip-proof with a hard surface, free of obstructions and at no point has a gradient exceeding 1:14 for 240L bins.</p> <p>Reason: To require details of measures that will protect residents and staff or tenants during the operational phase of the development.</p>												
34.	<p>Section 7.11 Contribution</p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:</p> <table border="1" data-bbox="438 689 1145 952"> <thead> <tr> <th>Contribution Category</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Open Space & Recreation</td><td>\$13,176</td></tr> <tr> <td>Community Facilities</td><td>\$2,641</td></tr> <tr> <td>Drainage</td><td>\$242</td></tr> <tr> <td>Plan Administration</td><td>\$44</td></tr> <tr> <td>TOTAL</td><td>\$16104</td></tr> </tbody> </table> <p>At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p> $C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$ <p>Where:</p> <p>C_{payment} = is the contribution at time of payment</p> <p>C_{consent} = is the contribution at the time of consent, as shown above</p> <p>CPI_{consent} = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 139.7 for the January 2025 quarter.</p> <p>CPI_{payment} = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment</p> <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) <u>if the development is for subdivision – prior to the issue of the subdivision certificate</u>, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p>	Contribution Category	Amount	Open Space & Recreation	\$13,176	Community Facilities	\$2,641	Drainage	\$242	Plan Administration	\$44	TOTAL	\$16104
Contribution Category	Amount												
Open Space & Recreation	\$13,176												
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Drainage	\$242												
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TOTAL	\$16104												

	<p><u>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</u></p> <p>Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres at council@innerwest.nsw.gov.au or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution.</p>
35.	<p>Bin Storage Area</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Waste and Recycling Management Plan.</p> <p>The submitted Waste and Recycling Management Plan must demonstrate that the bin storage area will accommodate the number of bins required for all waste and recycling generated by a development of this type and scale. The number of bins required must be calculated based on a fortnightly collection of garbage, a weekly collection of organics which includes food and garden organics (FOGO), and a fortnightly collection of mixed recycling.</p> <p>The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.</p> <p>The bin storage area is to meet the design requirements detailed in the Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected.</p>
36.	<p>Dwelling Access to a Disposal Point for All Waste Streams</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the disposal point will be within 30m of the dwelling access. Any bins stored on residential floors are to have the capacity to store, at minimum, all waste and recycling generated by that floor over a 24-hour period.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>

37.	<p>Street Numbering</p> <p>The site on Lot 1 in DP 1295190, current address 57 Nelson Street ROZELLE NSW 2039, contains a building constructed in three stages: Stage 1, a two-storey late Victorian double-brick industrial building with a gabled roof; Stage 2, a single-storey early twentieth-century addition to the front with a parapet roof; and Stage 3, an extension to the rear, a large open hall of two-storey scale with a single-storey annex along the western boundary built in 1973 of concrete block construction for use by the then recently established Rozelle School of Visual Arts.</p> <p>The DA/2024/0933 proposes to convert the rearmost Stage 3 part of the current building to the residential dwelling with arts workshop with associated alterations, while the front Stage 1 and Stage 2 of the building are proposed to be refurbished for continuing use for the approved purposes being a Rozelle School of Visual Art.</p> <p>For the proposed property development DA/2024/0933 on the Lot 1 DP 1295190 Inner West Council confirms that the addresses for the properties will be:</p> <p>The Stage 1 and Stage 2 part of the existing property that is intended to continue being used as a Rozelle School of Visual Art, will keep the address of 57 Nelson Street ROZELLE NSW 2039.</p> <p>The rearmost Stage 3 part that is proposed to be converted to the residential dwelling with art workshop, will receive an address of 55 Nelson Street ROZELLE NSW 2039.</p> <p>These numbers ensure clarity from the surrounding properties and are allocated in accordance with the NSW Government Address Policy and NSW Addressing User Manual. The new proposed addresses will be valid from the date of the DA and OC approvals.</p> <p>Please display the street numbers on the property frontage and letterboxes.</p> <p>If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to Street Numbering Application</p> <p>Reason: To ensure occupancies are appropriately numbered.</p>
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BEFORE BUILDING WORK COMMENCES

	Condition
38.	<p>Tree Protection</p> <p>Prescribed trees protected by Council's Tree Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent. Any public tree within 5 metres of the development must be protected in accordance with AS4970—<i>Protection of trees on development sites</i> and Council's Development Fact Sheet—Trees on Development Sites.</p> <p>Reason: To ensure that trees to be retained are protected.</p>

39.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>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.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
40.	<p>Erosion and Sediment Control</p> <p>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.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
41.	<p>Dilapidation Report</p> <p>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 all the identified property at 59 Nelson Street 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.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
42.	<p>Construction Fencing</p> <p>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.</p> <p>Reason: To protect the built environment from construction works.</p>

DURING BUILDING WORK

	Condition
43. Tree Protection	<p>Prescribed trees protected by Council's Tree Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent. Any public tree within 5 metres of the development must be protected in accordance with AS4970—<i>Protection of trees on development sites</i> and Council's Development Fact Sheet—Trees on Development Sites.</p> <p>Reason: To ensure that trees to be retained are protected.</p>
44. Advising Neighbours Prior to Excavation	<p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>
45. Contamination – New Evidence	<p>Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.</p> <p>Reason: To protect the amenity of the neighbourhood from contamination.</p>
46. Construction Hours – Class 1 and 10	<p>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.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
47.	<p>Certification of Tree Planting</p> <p>New tree planting is required as part of the development. Prior to the issue of any Occupation Certificate, the Certifying Authority is to be provided with evidence in the form of an image and a purchase invoice to confirm the following.</p> <p>A minimum of 1 x 75 litre size tree, which will attain a minimum mature height of 8 metres and minimum mature canopy spread of 5 metres, has been planted in a suitable location within the property:</p> <ul style="list-style-type: none"> • at least 1 metre from any boundary and 1.5 metres from any structure; • clear of the canopy of existing trees; and • with sufficient above and below ground space to allow for future tree growth. <p>The tree must meet the requirements of AS2303—<i>Tree stock for landscape use</i>. Trees listed as exempt species from Council's Tree Management Development Control Plan and species recognised to have a short life span, will not be accepted. Note - The <i>Buckinghamia celsissima</i> (Ivory Curl Flower) shown in the Landscape Plan would be an appropriate planting to satisfy this condition.</p> <p>Trees required by this condition must be maintained and protected until they reach the dimensions that are subject to Council's Tree Management DCP. Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month.</p> <p>Reason: To ensure appropriate landscaping is undertaken.</p>
48.	<p>Public Domain Works</p> <p>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:</p> <ol style="list-style-type: none"> a. Light 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; <p>All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>

49.	<p>No Encroachments</p> <p>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.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
50.	<p>Protect Sandstone Kerb</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent has been replaced.</p> <p>Reason: To ensure Council assets are protected.</p>
51.	<p>Light Duty Vehicle Crossing</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that a light duty concrete vehicle crossing(s), in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" have been constructed at the vehicular access locations.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>
52.	<p>Redundant Vehicle Crossing</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that all redundant vehicular crossings to the site have been removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominantly stone the replacement kerb must also be in stone.</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>
53.	<p>Parking Signoff – Minor Developments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>
54.	<p>Contamination – Disposal of Soil</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a validation report confirming that all off site disposal of soil has been classified, removed and disposed of in accordance with the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (EPA 2014), Protection of the Environment</p>

	<p>Operations (Waste) Regulation 2014 and the Protection of the Environmental Operations Act 1997.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>
55.	<p>Contamination – Validation (No Site Audit Statement Required)</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier and Council must be provided with a Site Validation Report prepared by a suitably qualified environmental consultant with experience in land contamination.</p> <p>The Validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines Consultants Reporting on Contaminated Sites and must confirm that the site has been remediated in accordance with the Remedial Action Plan and clearly state that the site is suitable for the proposed use.</p> <p>Reason: To protect the amenity of the neighbourhood from contamination.</p>
56.	<p>Notice to Council to deliver Residential Bins</p> <p>Council is to be notified of bin requirements three weeks prior to the occupation of the building to ensure timely delivery.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
57.	<p>Resident Parking Scheme Not Applicable</p> <p>Prior the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that measures have been put in place to advise future owners and occupants or tenants of the proposed building that they are not eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this Development Consent shall advise any purchaser or prospective tenant of this condition. All developments that are excluded from Permit Parking Schemes can be found in Councils Public Domain Parking Policy.</p> <p>Reason: To provide transparency in the application of the Resident Parking Scheme.</p>

OCCUPATION AND ONGOING USE

	Condition								
58.	Hours of Operation								
	a. The hours of operation of the school premises must not exceed the following:								
	<table><tr><th>Day</th><th>Hours</th></tr><tr><td>Monday to Thursday</td><td>10 am - 9pm</td></tr><tr><td>Friday and Saturday</td><td>9am - 5pm</td></tr><tr><td>Sunday</td><td>10 am to 8pm</td></tr></table>	Day	Hours	Monday to Thursday	10 am - 9pm	Friday and Saturday	9am - 5pm	Sunday	10 am to 8pm
	Day	Hours							
	Monday to Thursday	10 am - 9pm							
Friday and Saturday	9am - 5pm								
Sunday	10 am to 8pm								
	Reason: To protect the amenity of the neighbourhood.								

GENERAL LEGEND	
	new FC clad wall w. insulation
	new stud wall w. acoustic insulation
	existing wall
	to be demolished
	site boundary
	overhead lines
	stormwater lines
	existing spot levels
	existing floor spot levels
	proposed finished floor level
	FF - 43 m
	FF - 35 m
	FF - 25 m
	refers to new door number
	refers to new window number
	refers to new glazing number
	refers to new light number
	refers to columns to eng. details
	water tap
	gas meter
	water board
	water meter
	instantaneous hot water service
	gas outlet connection
	new work
	boundary
	bedroom
	living room
	workshop
	Colourbond
	centre of stair
	door
	downpipe
	downspout & sump
	dryer
	ensuite
	fridge
	flexco cement
	floor level
	floor waste
	grated drain
	hot water service
	hot water tank
	landscaped area
	landscaping
	local environment plan
	landscape plan
	main good
	main good
	obscure glass
	operable
	diameter
	pantry
	perimeter board
	powerpole
	rain water head
	refrigerator
	smoke alarm
	smoke alarm
	stair
	top of kerb
	vehicle crossing
	verify on site
	weatherboard
	washing machine



Amend.	#	Change Name	Date
	1	Correct GF&A FSR (ref RF 15/12/25 issue A)	
	2	Review column 4 features & provide landscape concept plan (ref RF 15/12/25 issue B)	
	3	Remove column 4 features & provide landscape concept plan (ref RF 15/12/25 issue B)	
E	4	Additional site access diagrams (ref RF 15/12/25 issue E)	
	5	Additional site access diagrams (ref RF 15/12/25 issue E)	
	6	Correct No. 51 Nelson P.O.S. area (ref demolished)	
	7	Additional context No. 49 Nelson St & No. 22, 24, 26 & 28 Bruce St	
	8	Additional context No. 49 Nelson St & No. 22, 24, 26 & 28 Bruce St	
	9	Additional context No. 49 Nelson St & No. 22, 24, 26 & 28 Bruce St	

Scale:	N.T.S @ A3
Date:	05/02/25
Drawing No:	2023/19/00
Plotted:	05/02/25

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Drawing Title: **COVER**

KC

Client: Justine & Steven Patterson
Project: Alterations & Additions to
57 NELSON ST, ROZELLE



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05/02/25	
22/10/24	
01/10/24	
10/09/24	
30/07/24	
Date	

Amend	Description
A	DA Draft
B	DA Draft
C	DA Draft
D	DA
E	DA Amendment

Document Set ID: 40662968
Version: 1, Version Date: 03/03/2025

Drawing No.	DRAWING INDEX:	Issue	Amd.	Issue
2023/19 00	COVER	DA Amd	E	05/02/25
2023/19 01 01	PLAN - SITE, ROOF & SITE ANALYSIS	DA Amd	E	05/02/25
2023/19 01 02	PLAN - GROUND FLOOR	DA Amd	E	05/02/25
2023/19 01 03	PLAN - FIRST FLOOR	DA Amd	E	05/02/25
2023/19 02 01	SECTION AA (Nelson St)	DA Amd	E	05/02/25
2023/19 03 02	ELEVATION - NORTH	DA Amd	D	05/02/25
2023/19 03 03	ELEVATION - EAST	DA Amd	E	05/02/25
2023/19 03 04	ELEVATION - WEST	DA Amd	E	05/02/25
2023/19 04 01	SECTION AA	DA	DA	22/10/24
2023/19 04 02	SECTION BB	DA Amd	E	05/02/25
2023/19 04 03	SECTION CC	DA	DA	22/10/24
2023/19 04 04	SECTIONS DD & EE	DA	DA	22/10/24
2023/19 06 01	PROPOSED AREA SCHEDULE	DA Amd	E	05/02/25
2023/19 06 02	FURNISHES SCHEDULE	DA Amd	E	05/02/25
2023/19 06 03	FINISHES SCHEDULE	DA Amd	E	05/02/25
2023/19 07 01	SHADOW DIAGRAM & POS SOLAR ACCESS JUNE 21 10am	DA Amd	E	05/02/25
2023/19 07 02	SHADOW DIAGRAM & POS SOLAR ACCESS JUNE 21 11am	DA Amd	E	05/02/25
2023/19 07 03	SHADOW DIAGRAM & POS SOLAR ACCESS JUNE 21 11am	DA Amd	E	05/02/25
2023/19 07 04	SHADOW DIAGRAM & POS SOLAR ACCESS JUNE 21 12pm	DA Amd	E	05/02/25
2023/19 07 05	SHADOW DIAGRAM & POS SOLAR ACCESS JUNE 21 12.30pm	DA Amd	E	05/02/25
2023/19 07 06	SHADOW DIAGRAM & POS SOLAR ACCESS JUNE 21 1pm	DA Amd	E	05/02/25
2023/19 07 07	SHADOW DIAGRAM & POS SOLAR ACCESS JUNE 21 2pm	DA Amd	E	05/02/25
2023/19 07 08	SHADOW DIAGRAM & POS SOLAR ACCESS JUNE 21 3pm	DA Amd	E	05/02/25
2023/19 07 09	SOLAR ACCESS LIVING AREAS & POS SUMMARY	DA Amd	E	05/02/25
2023/19 08 01	PERSPECTIVE G.O.S LIVINGWORKSHOP AREA	DA Amd	E	05/02/25
2023/19 08 02	VIEW & PRIVACY STUDIES	DA Amd	E	05/02/25
2023/19 08 03	EXISTING PLAN - SITE & ROOF	DA Amd	E	05/02/25
2023/19 08 04	EXISTING PLAN - GROUND FLOOR	DA	D	22/10/24
2023/19 08 05	EXISTING PLAN - FIRST FLOOR	DA Amd	E	05/02/25
2023/19 08 06	EXISTING ELEVATION - SOUTH (Nelson St)	DA	D	22/10/24
2023/19 08 07	EXISTING ELEVATION - NORTH	DA Amd	E	05/02/25
2023/19 08 08	EXISTING ELEVATION - EAST	DA	D	22/10/24
2023/19 08 09	EXISTING ELEVATION - WEST	DA	D	22/10/24
2023/19 08 10	EXISTING SECTION AA	DA Amd	E	05/02/25
2023/19 08 11	EXISTING SECTION BB & CC	DA Amd	E	05/02/25
2023/19 08 12	EXISTING SECTION DD	DA Amd	E	05/02/25
2023/19 08 13	EXISTING AREA SCHEDULE	DA	D	22/10/24



1	PLAN - LOCATION
-	N.T.S.

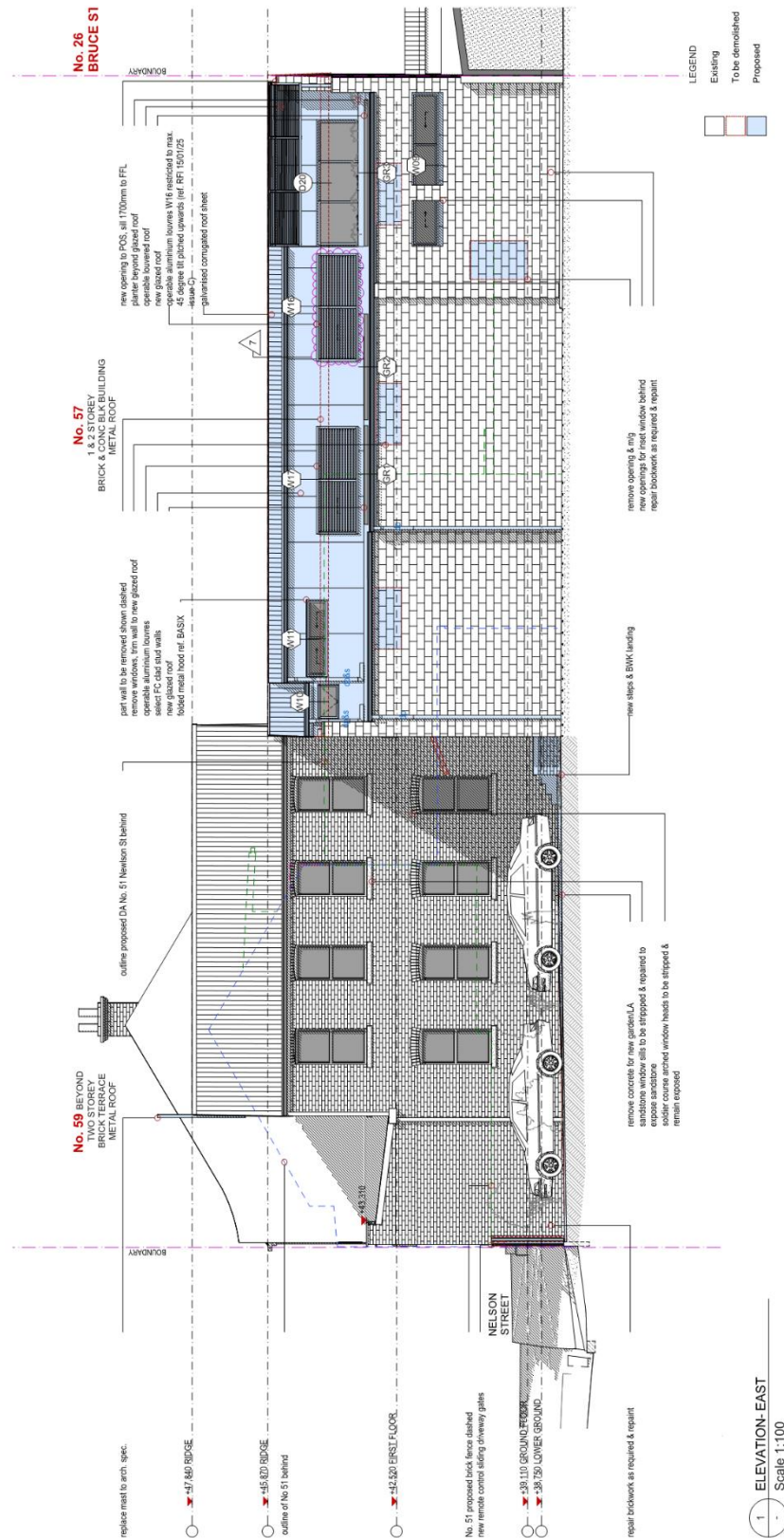












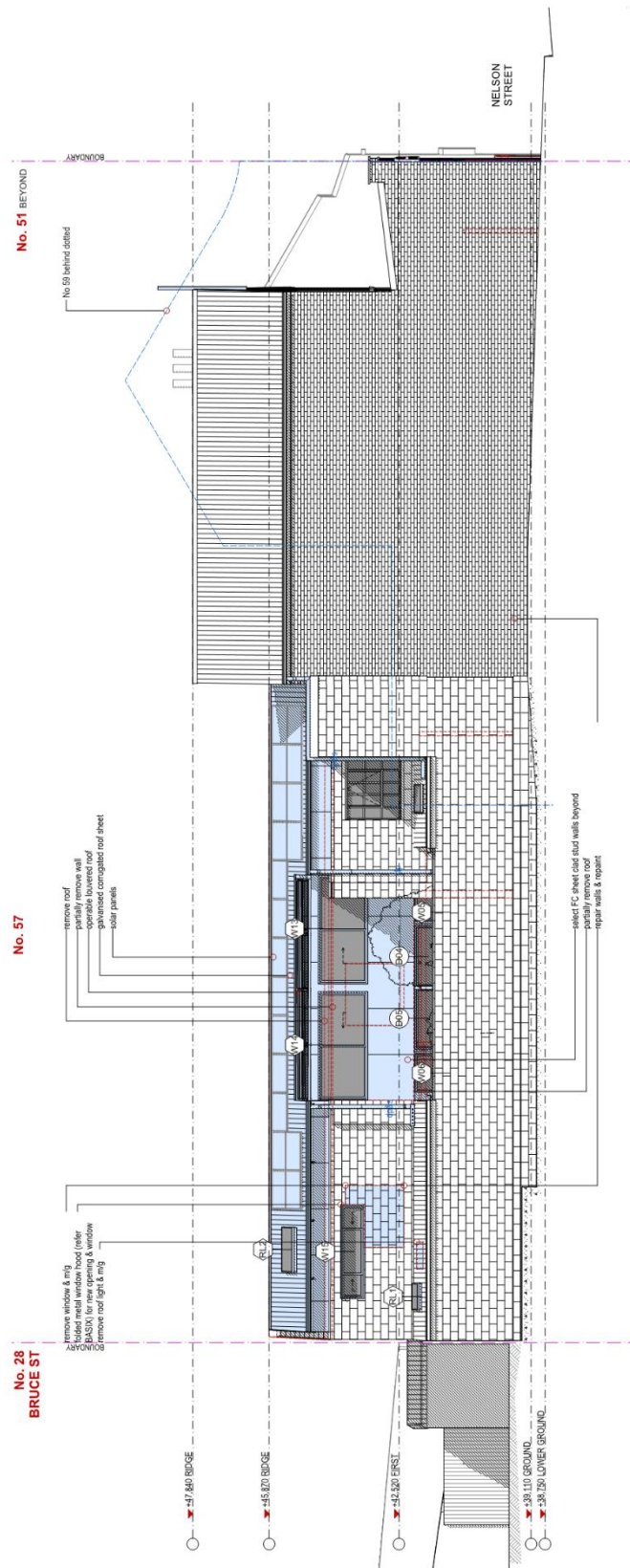
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Date:	05/02/25
Drawing No:	2023/19/03.03
Plotted:	05/02/25

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Client: Justine & Steven Patterson	
Project: Alterations & Additions to 57 NELSON ST, ROZELLE	
Drawing Title: ELEVATION - EAST	

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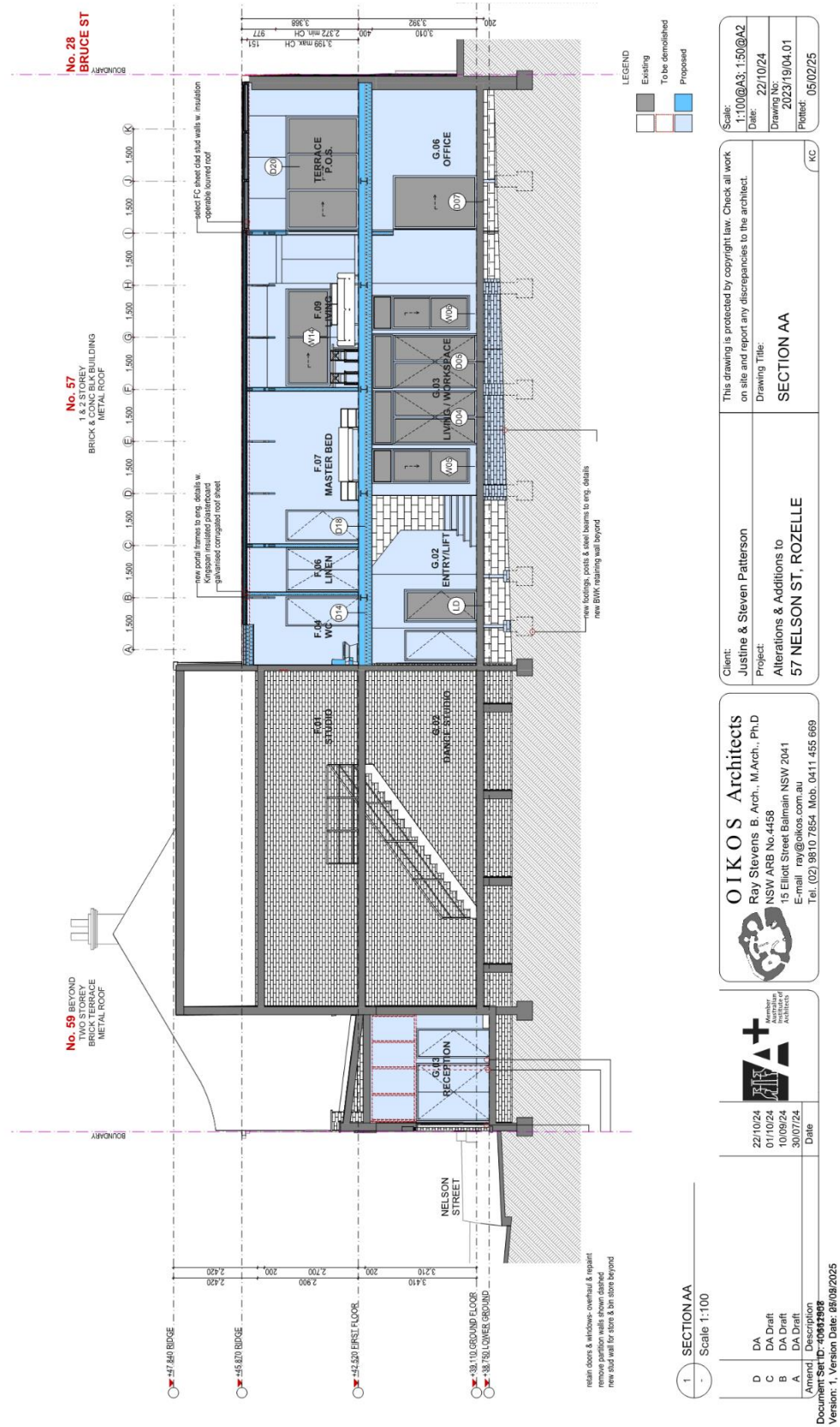
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22/10/24	DA	
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10/09/24	DA Draft	
30/07/24	DA Draft	

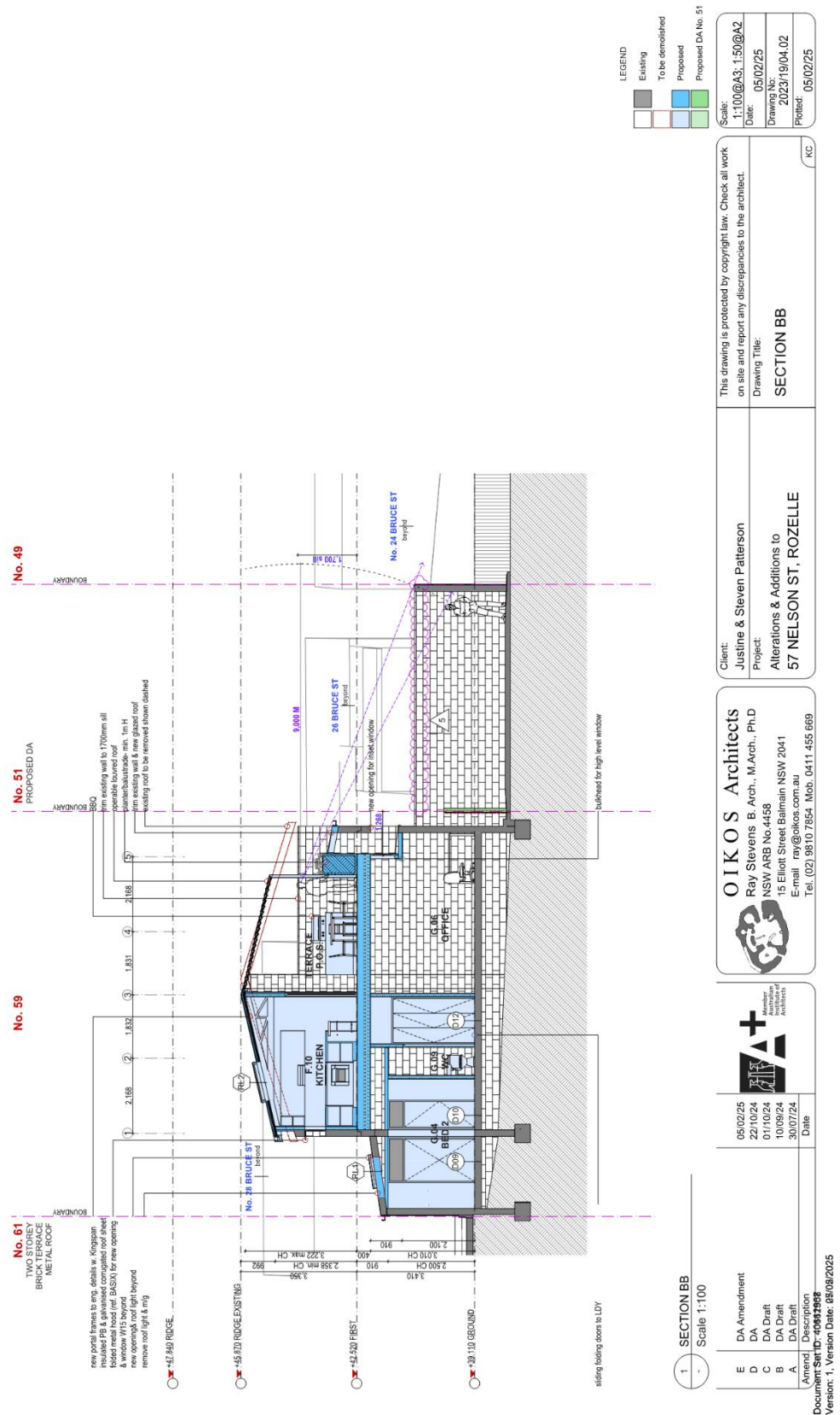
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Version: 1, Version Date: 05/02/2025

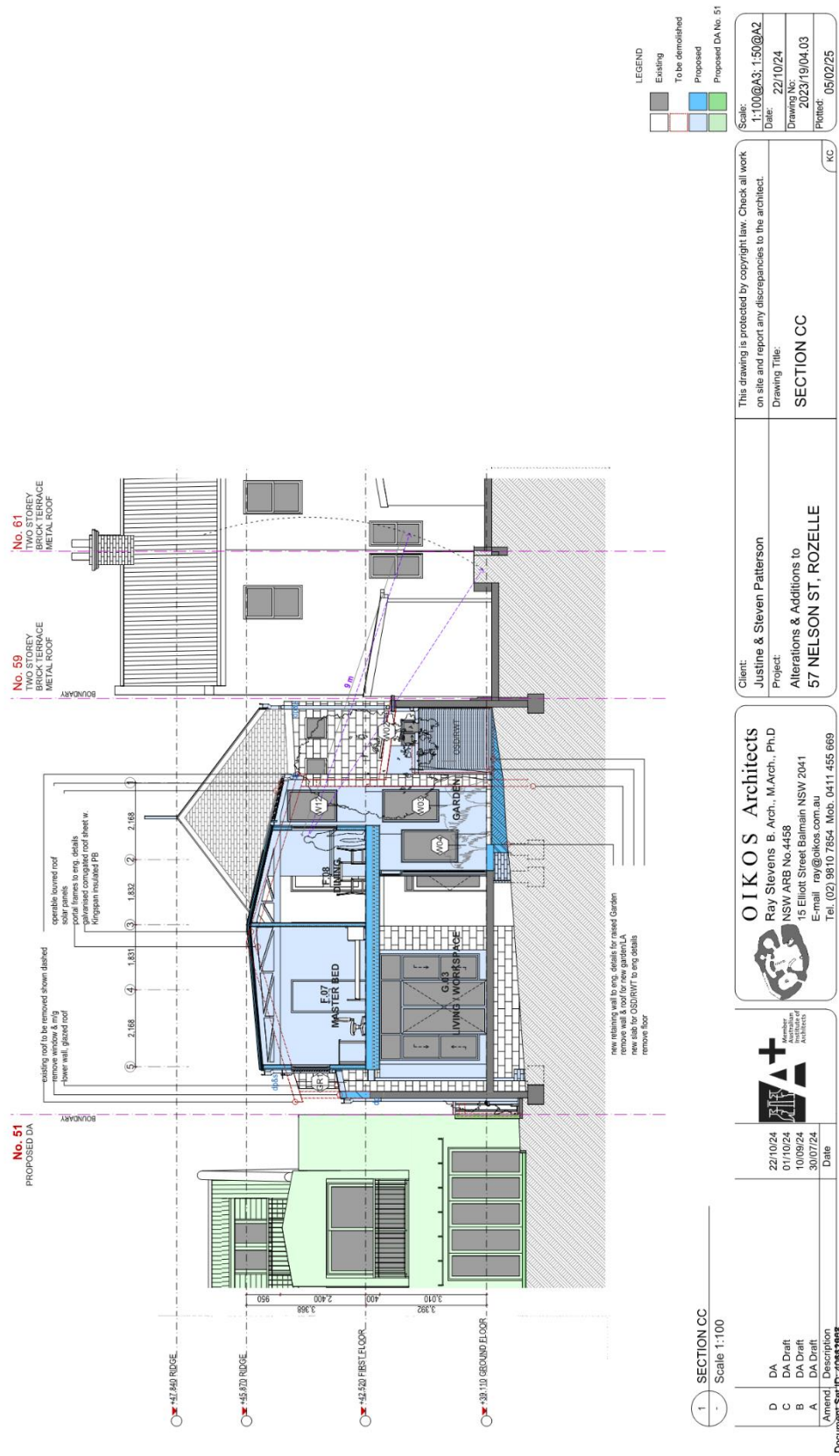


1 ELEVATION - WEST
Scale 1:100

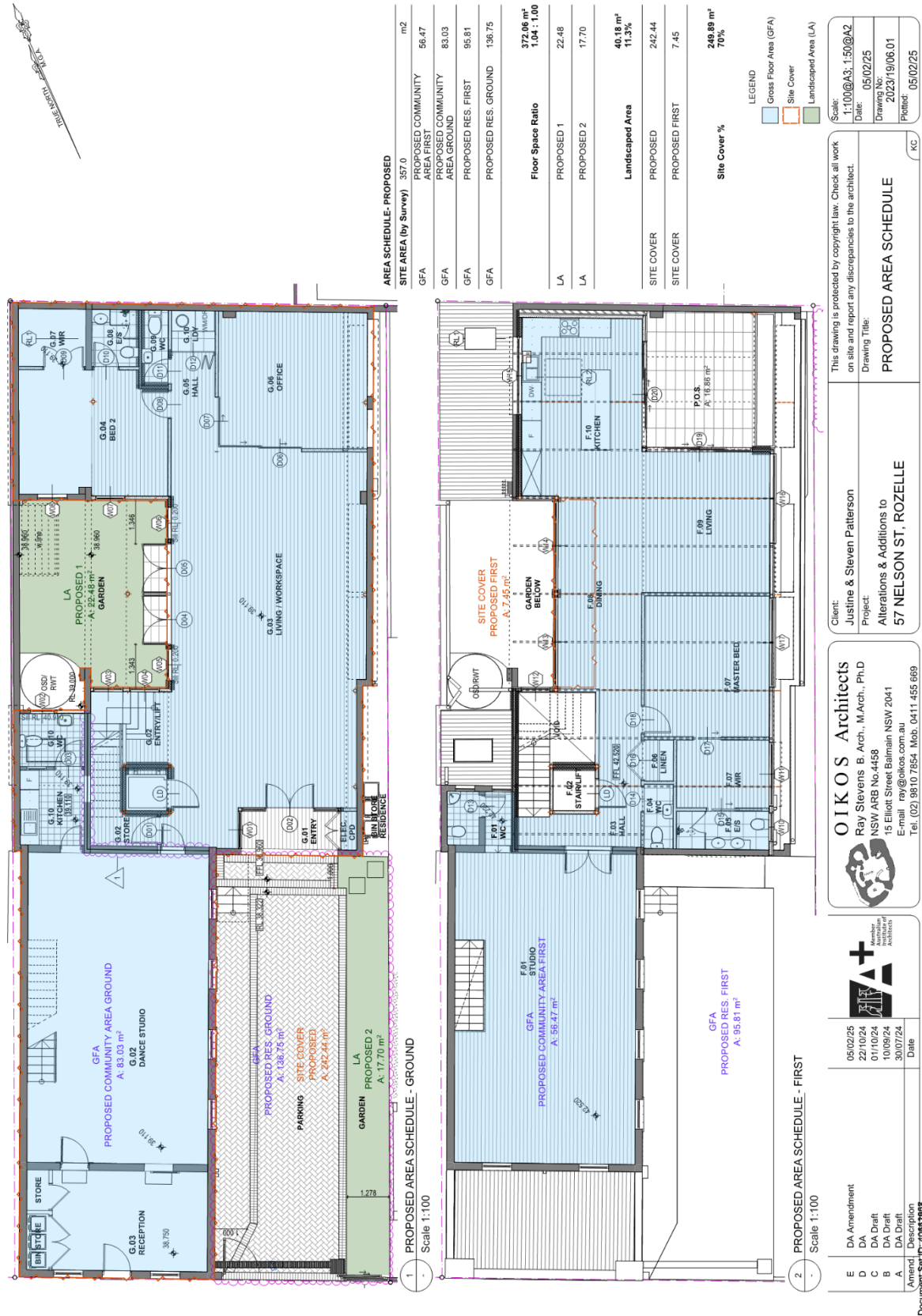
Amend	Description	Date			OIKOS Architects Ray Stevens B. Arch., M. Arch., Ph.D NSW ARB No. 4458 15 Elliott Street Balmmain NSW 2041 E-mail: ray@oikos.com.au Tel. (02) 9810 7854 Mob. 0411 455 669		Client: Justine & Steven Patterson Project: Alterations & Additions to 57 NELSON ST, ROZELLE	This drawing is protected by copyright law. Check all work on site and report any discrepancies to the architect. Drawing Title: ELEVATION - WEST Drawing No: 2023/19/03.04 Plotted: 05/02/25	Scale: 1:100@A3; 1:50@A2 Date: 22/10/24 Drawing No: 2023/19/03.04 Plotted: 05/02/25
			22/10/24						
			01/10/24						
			10/09/24						
A	DA Draft	30/07/24							
B	DA Draft	10/09/24							
C	DA Draft	01/10/24							
D	DA	22/10/24							











GALVANISED CORRUGATED ROOF SHEET



POWDER COATED ALUMINIUM
NEW DOORS & WINDOWS



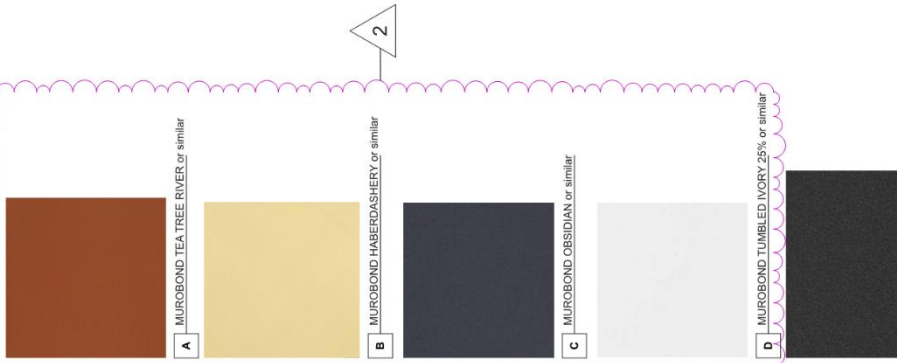
III

SLIDING METAL GATE
In DULUX Natural Grey

Amend.	Description	Date
E	DA Amendment	05/02/25
D	DA	22/10/24
C	DA Draft	01/10/24
B	DA Draft	10/09/24

Amend Description
Document Set ID: 40662988
Version: 1, Version Date: 03/03/2025

COLOUR PALETTE




Natural Grey

F DULUX NATURAL GREY Micaceous Iron Oxide

1 ELEVATION-SOUTH FINISHES
Scale 1:100

sandstone window sills to be stripped & repaired to
expose sandstone
soldier course arched window heads to be stripped &
remain exposed



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NSW ARB No.4458
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E-mail: ray@oikos.com.au
Tel: (02) 9810 7854 Mob: 0411 455 669

Client:
Justine & Steven Patterson

Project:
**Alterations & Additions to
57 NELSON ST, ROZE**

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Drawing Title: FINISHES SCHEDULE

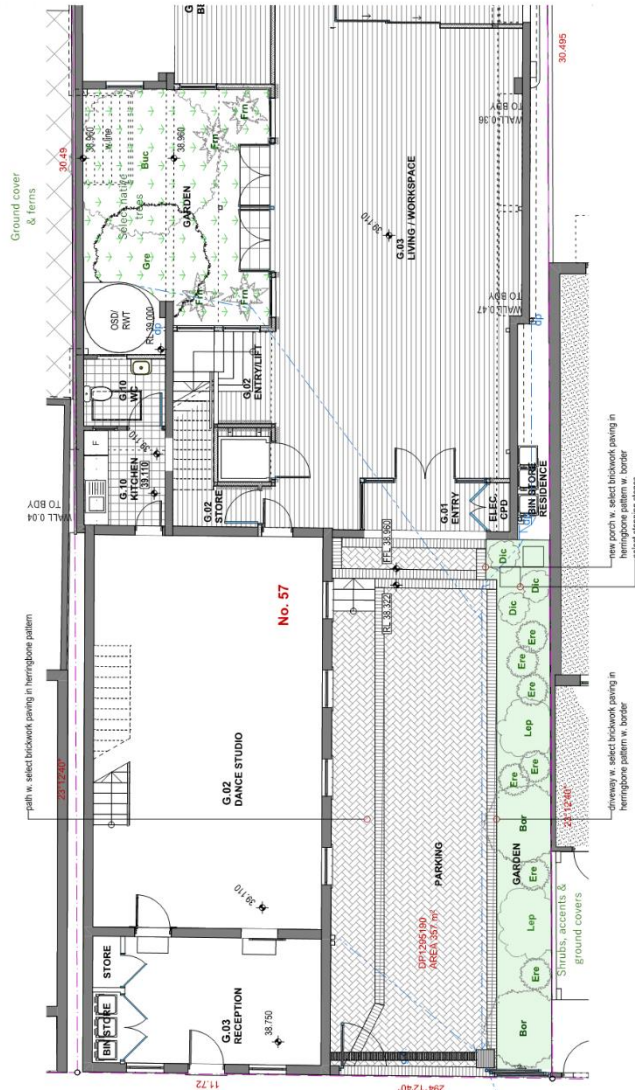
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Date: 05/02/25

Drawing No: 2023/19/06.02

Plotted: 05/02/25

KC



1 LANDSCAPE CONCEPT PLAN
Scale 1:100

Amend	DA Amendment	Description
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05/02/25	Date
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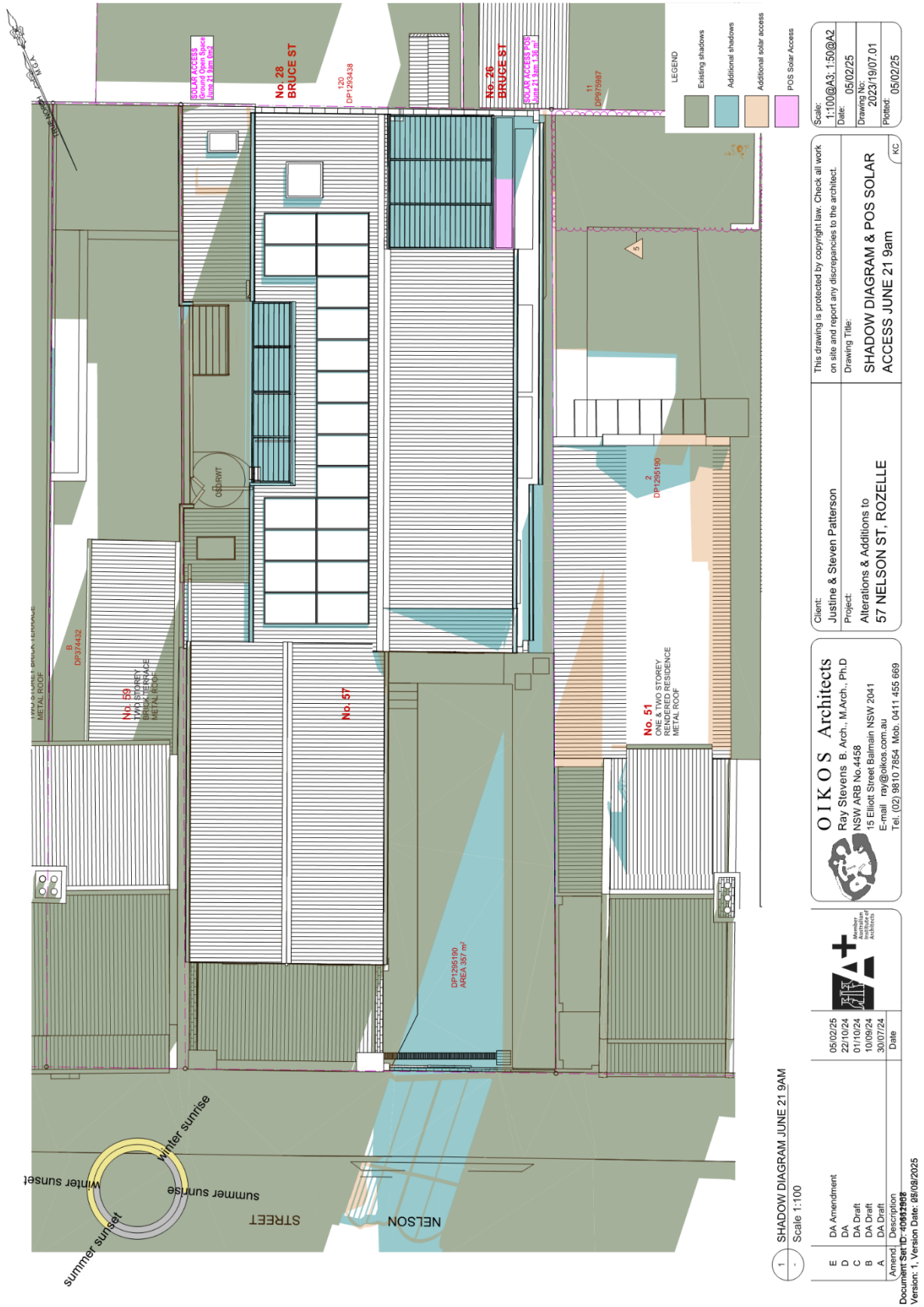


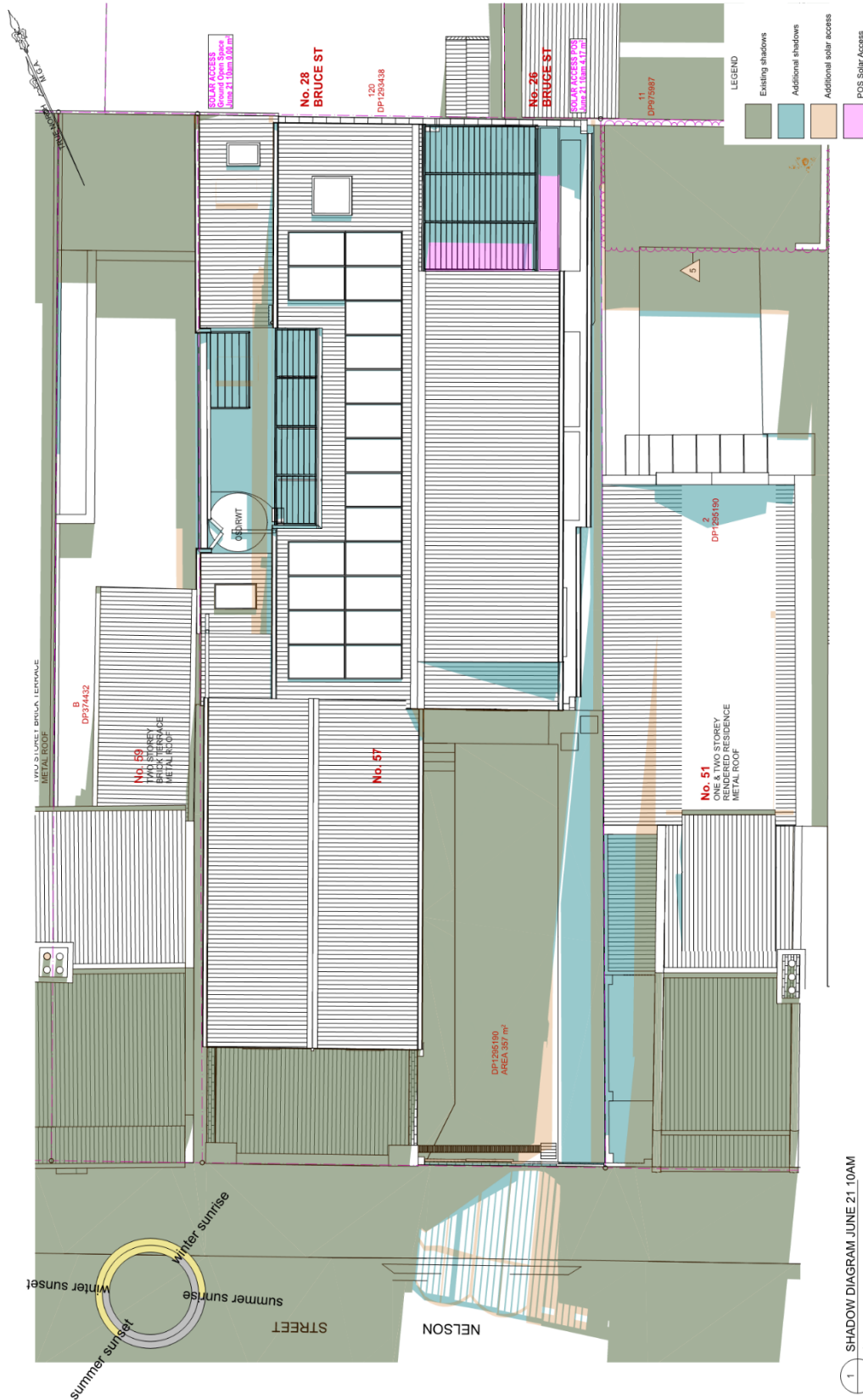
OIKOS Architects
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NSW ARB No.4458
15 Elliott Street Balmain NSW 2041
E-mail ray@oikos.com.au
Tel. (02) 9810 7854 Mob. 0411 455 669

Client: Justine & Steven Patterson
Project: Alterations & Additions to
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Scale:	1:100@A3; 1:50@A2
Date:	05/02/25
Drawing No:	2023/19/06.03
Plotted:	05/02/25





1 SHADOW DIAGRAM JUNE 21 10AM

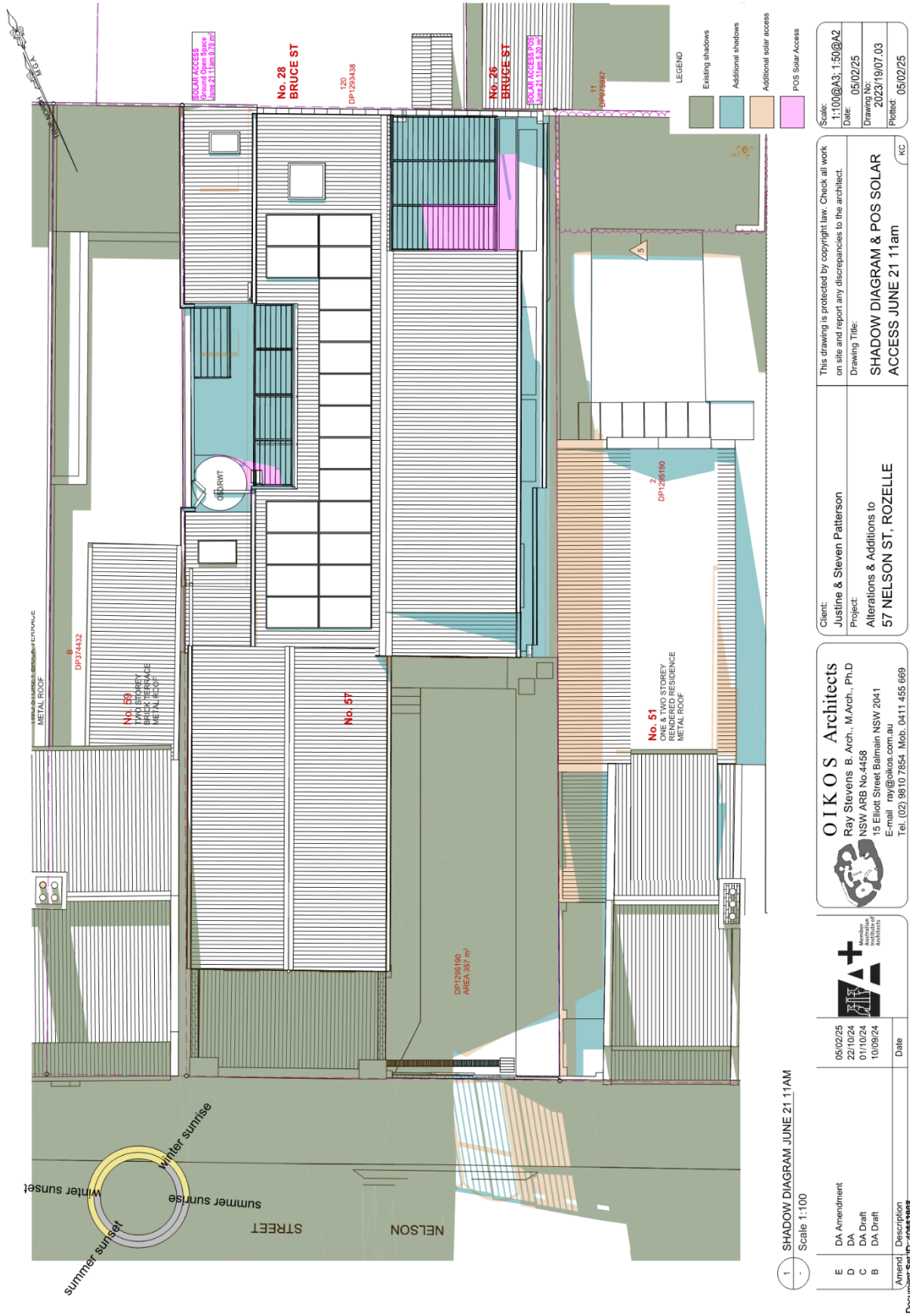
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D	DA	22/10/24
C	DA Draft	01/10/24
B	DA Draft	10/09/24

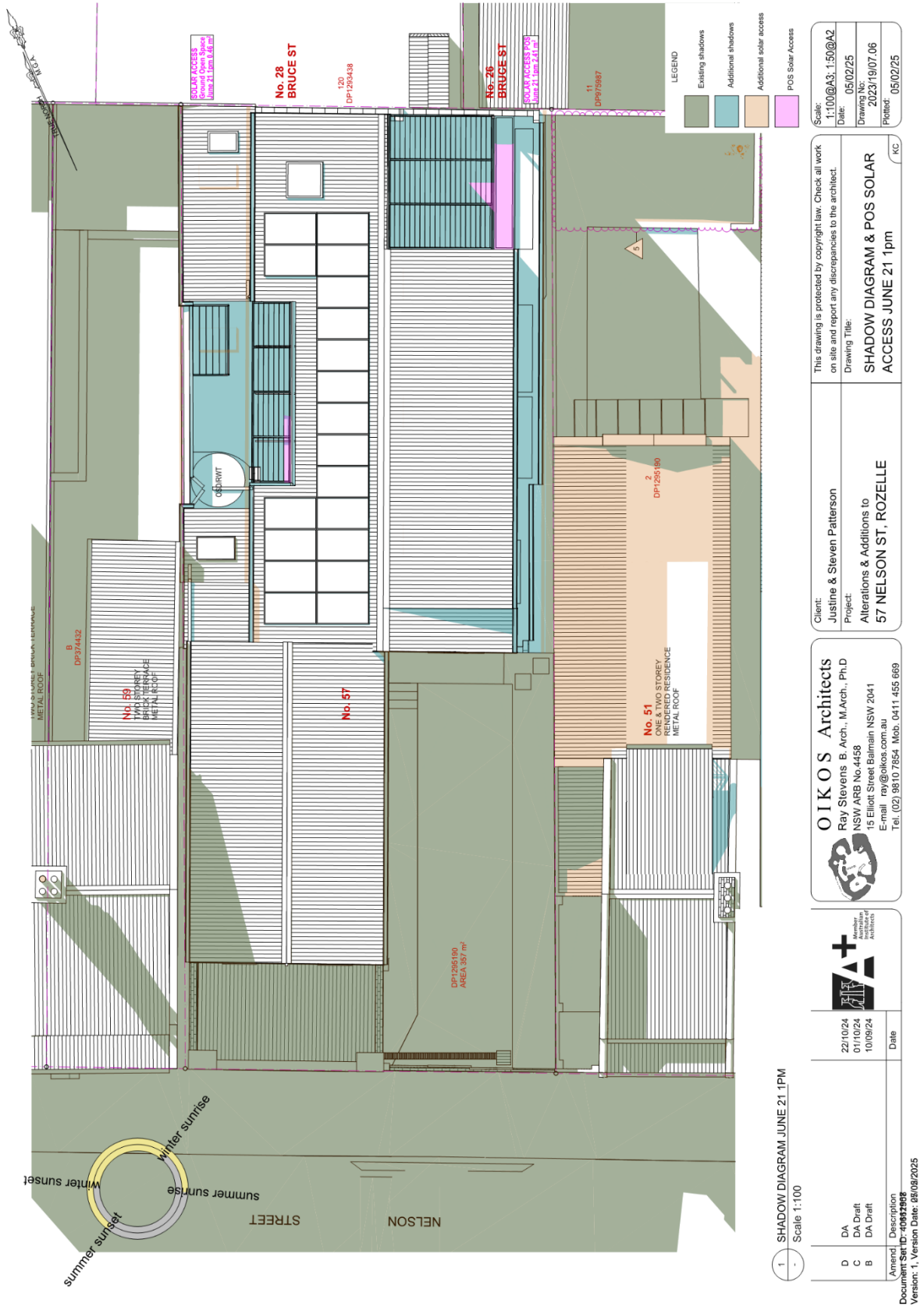
Client:	Justine & Steven Patterson
Project:	Alterations & Additions to 57 NELSON ST, ROZELLE
Scale:	1:100 @ A3, 1:50 @ A2
Date:	05/02/25
Drawing No:	2023/19/07 02
Plotted:	05/02/25

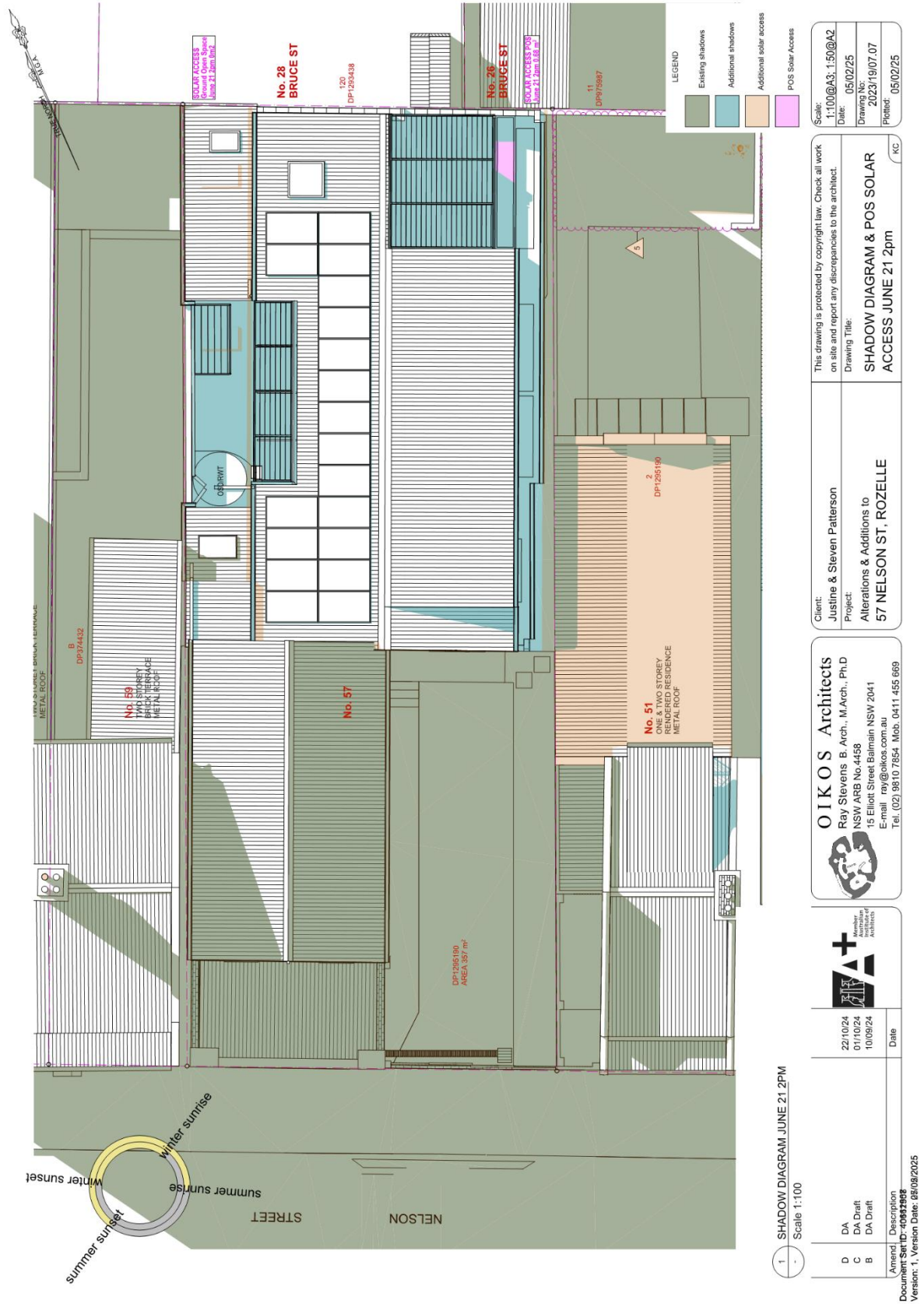
<p>OIKOS Architects Ray Stevens B. Arch., M. Arch., Ph.D NSW ARB No. 4458 15 Elliott Street Balmmain NSW 2041 E-mail ray@oikos.com.au Tel. (02) 9810 7854 Mob. 0411 455 669</p>	<p>This drawing is protected by copyright law. Check all work on site and report any discrepancies to the architect.</p> <p>Drawing Title: SHADOW DIAGRAM & POS SOLAR ACCESS JUNE 21 10am</p>
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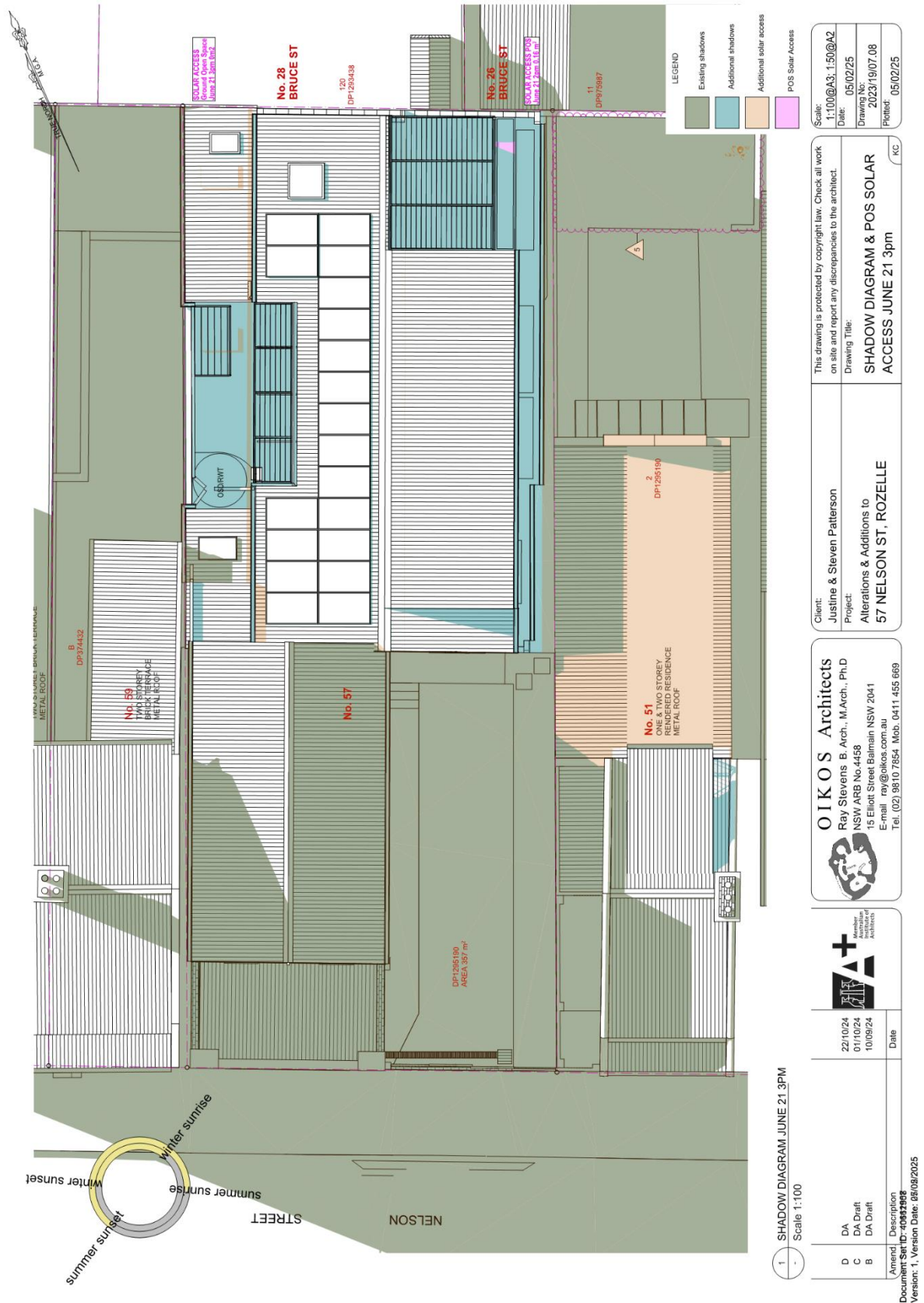
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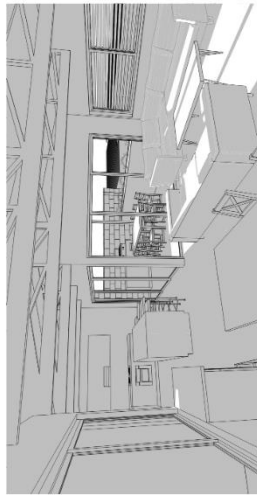








3 - Perspective from Dining 11am June 21
- Not To Scale



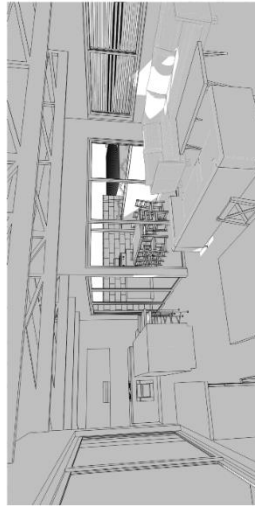
2 - Perspective from Dining 10am June 21
- Not To Scale



1 - Perspective from Dining 9am June 21
- Not To Scale



6 - Perspective from Dining 2pm June 21
- Not To Scale



5 - Perspective from Dining 1pm June 21
- Not To Scale



4 - Perspective from Dining 12pm June 21
- Not To Scale



7 - Perspective from Dining 3pm June 21
- Not To Scale

SOLAR ACCESS LIVING AREAS SUMMARY

New dwelling has the potential to receive solar access to the main living area from 9am to 3pm June 21 meeting the requirement of a minimum of 3 hours on the June solstice.

SOLAR ACCESS PRIVATE OPEN SPACE (POS) SUMMARY


New dwelling receives 2 hours of min. 4m2 solar access to the POS adjacent to the Living Area from 10am - 12pm on the June solstice/June 21. This does not meet the min. 3 hours required.

New dwelling receives 2.5 hours of min. 4m2 solar access to the both Private Open Spaces (adjacent to Living Area plus the Ground Floor open space) from 10am - 12.30pm on the June solstice/June 21. This does not meet the min. 3 hours required.

Scale:	N.T.S @ A3
Date:	22/10/24
Drawing No:	2023/19/07 09
Plotter:	05/02/25

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Client:	Justine & Steven Patterson
Project:	Alterations & Additions to 57 NELSON ST, ROZELLE
Drawing Title:	SOLAR ACCESS LIVING AREAS & POS SUMMARY
KC	

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	22/10/24	Date
	01/10/24	
	10/09/24	
Amend	Description	
D	DA	
C	DA Draft	
B	DA Draft	

Document Set ID: 20032508
Version: 1, Version Date: 08/08/2025



3 SOLAR ACCESS G.02 LIVING-WORKSHOP June 21 11am
Not To Scale



2 SOLAR ACCESS G.02 LIVING-WORKSHOP June 21 10am
Not To Scale



1 SOLAR ACCESS G.02 LIVING-WORKSHOP June 21 9am
Not To Scale



6 SOLAR ACCESS G.02 LIVING-WORKSHOP June 21 2pm
Not To Scale



5 SOLAR ACCESS G.02 LIVING-WORKSHOP June 21 1pm
Not To Scale



4 SOLAR ACCESS G.02 LIVING-WORKSHOP June 21 12pm
Not To Scale



7 SOLAR ACCESS G.02 LIVING-WORKSHOP June 21 3pm
Not To Scale

SOLAR ACCESS G.02 LIVING-WORKSHOP SUMMARY

G.02 LIVING-WORKSHOP area has the potential to receive 4 hours of solar access from 11am to 3pm June 21, that is, more than the minimum 3 hours required on the June solstice.

Scale:	N.T.S @ A3
Date:	05/02/25
Drawing No:	2023/19/07.10
Plotted:	05/02/25

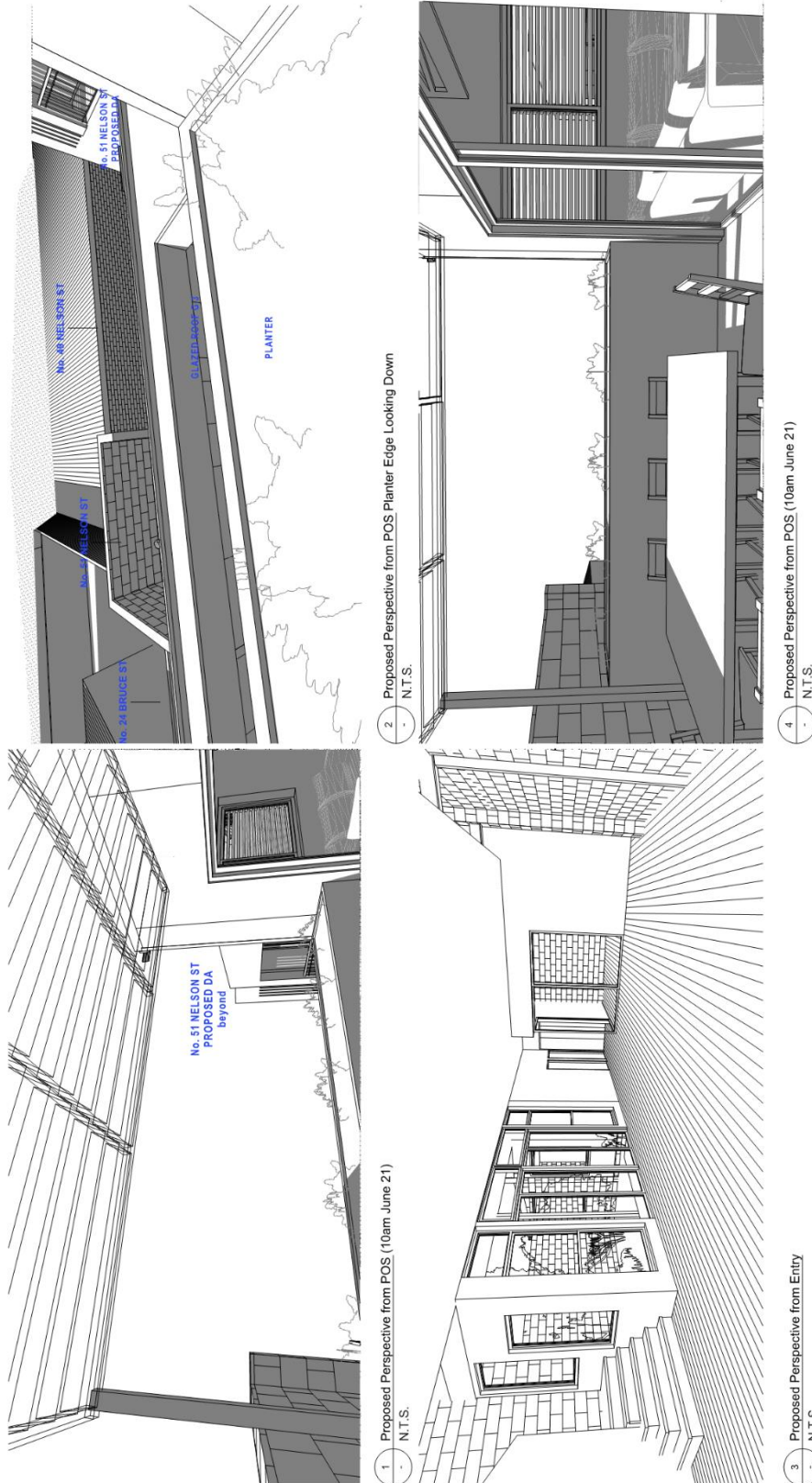
Client:	Justine & Steven Patterson
Project:	Alterations & Additions to 57 NELSON ST, ROZELLE
Drawing Title:	SOLAR ACCESS G.03 LIVING/ WORKSHOP AREA
KC	

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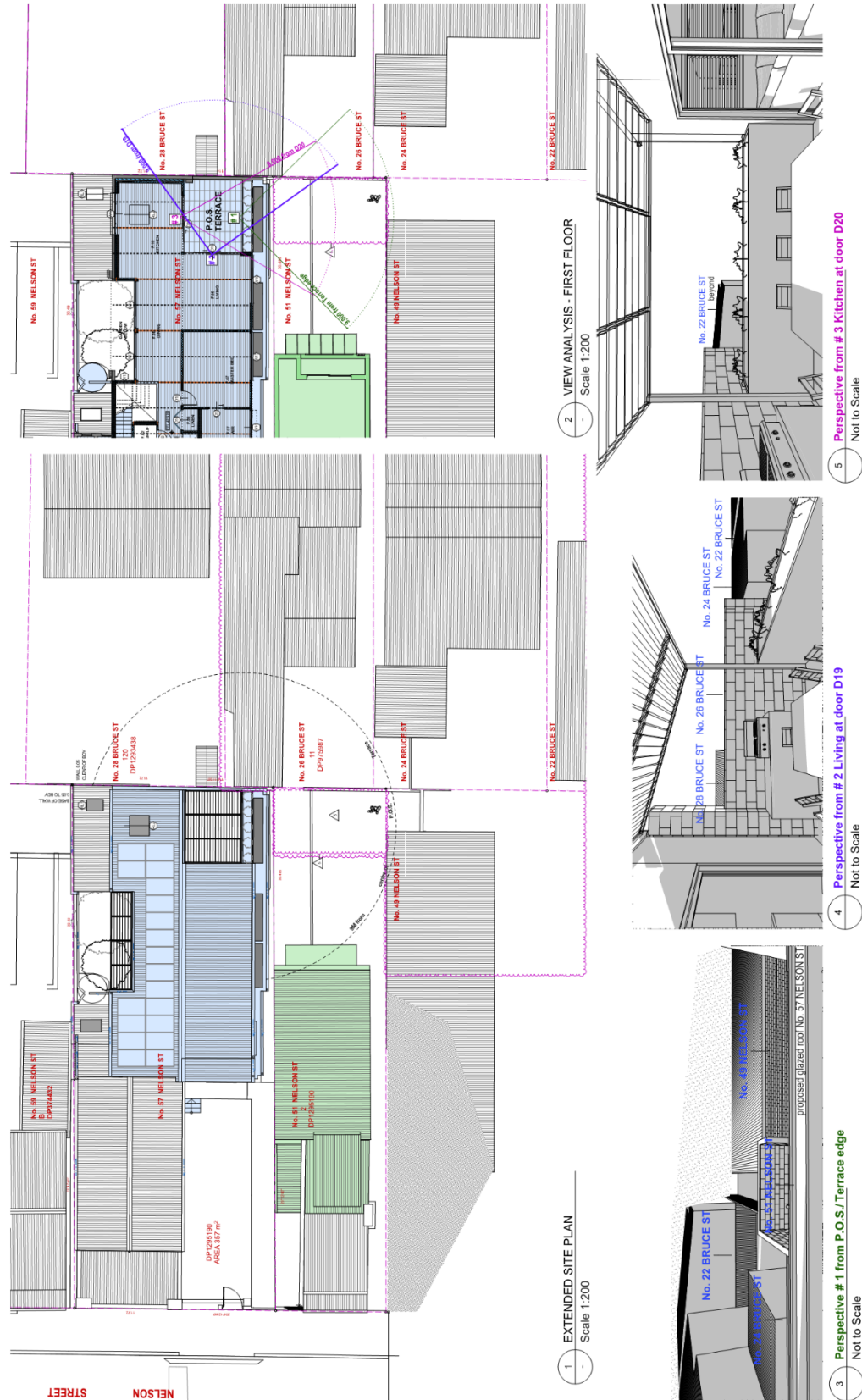
DA Amendment	05/02/25	Date
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Amend	Description
E	DA Amendment

Document Set ID: 60621608
Version: 1, Version Date: 08/08/2025



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	C	DA Draft	01/10/24																		
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<p>Document Set ID: 4003268</p>																					
<p>KC</p>																					




Scale:	N.T.S @ A3
Date:	05/02/25
Drawing No:	2023/19/08.02
Plotter:	05/02/25

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Drawing Title:		
Project:		

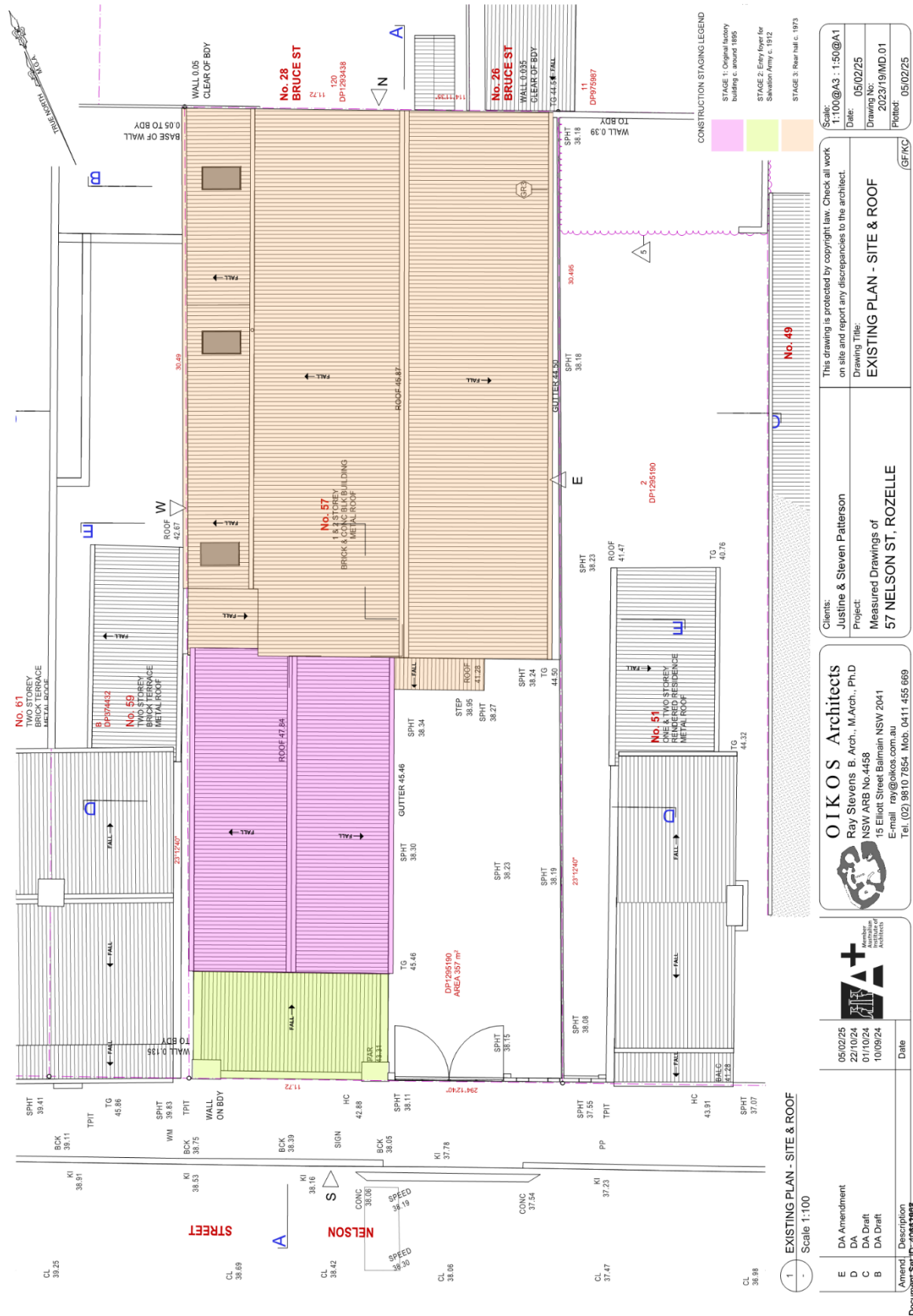
Client:	Justine & Steven Patterson
Project:	Alterations & Additions to 57 NELSON ST, ROZELLE

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Amend	Description	Date
E	DA Amendment	05/02/25

Document Set ID: 2023/19/08.02
Version: 1, Version Date: 05/02/2025









1 EXISTING ELEVATION - SOUTH (Nelson St)	
Scale 1:100	
D	DA
C	DA Draft
B	DA Draft
Amend	Description
Document Set ID: 40032508	Version: 1, Version Date: 08/08/2025

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Scale:
1:100@A3 : 1:50@A1

Date:
22/10/24

Drawing No:
2023/19/MD.04

Plotted:
05/02/25

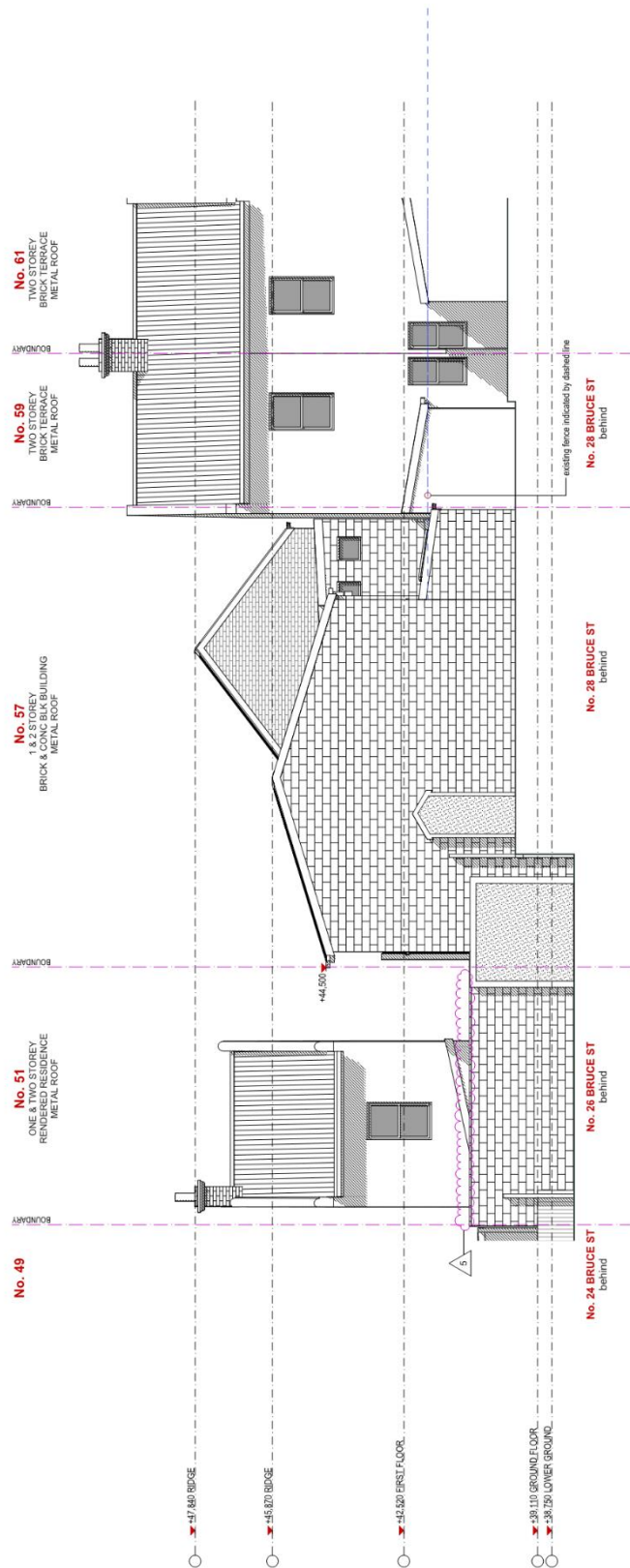
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Clients:
Justine & Steven Patterson

Project:
Measured Drawings of
57 NELSON ST, ROZELLE

Drawing Title:
EXISTING ELEVATION - SOUTH
(Nelson St)

(GFKC)

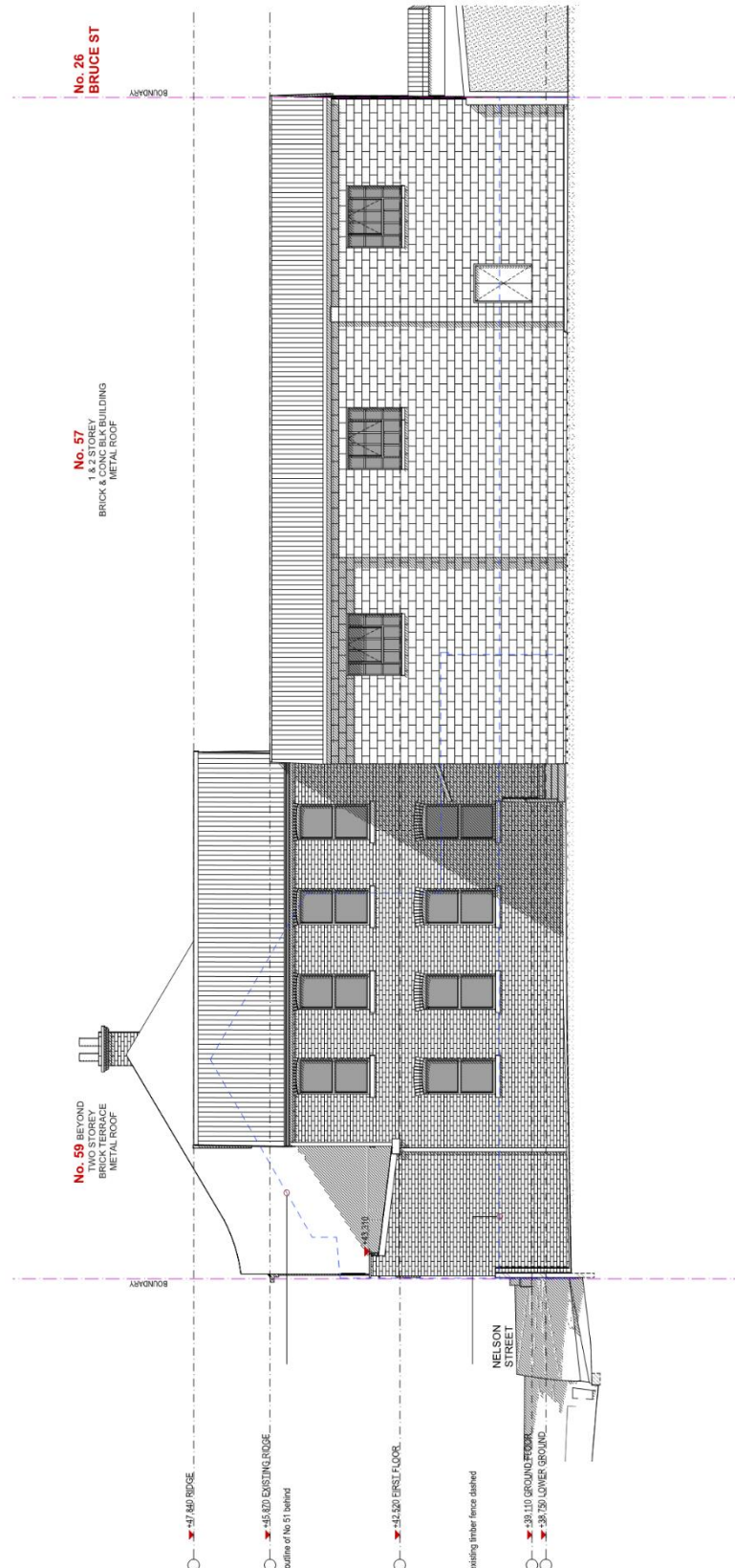


1 EXISTING ELEVATION - NORTH

Scale 1:100

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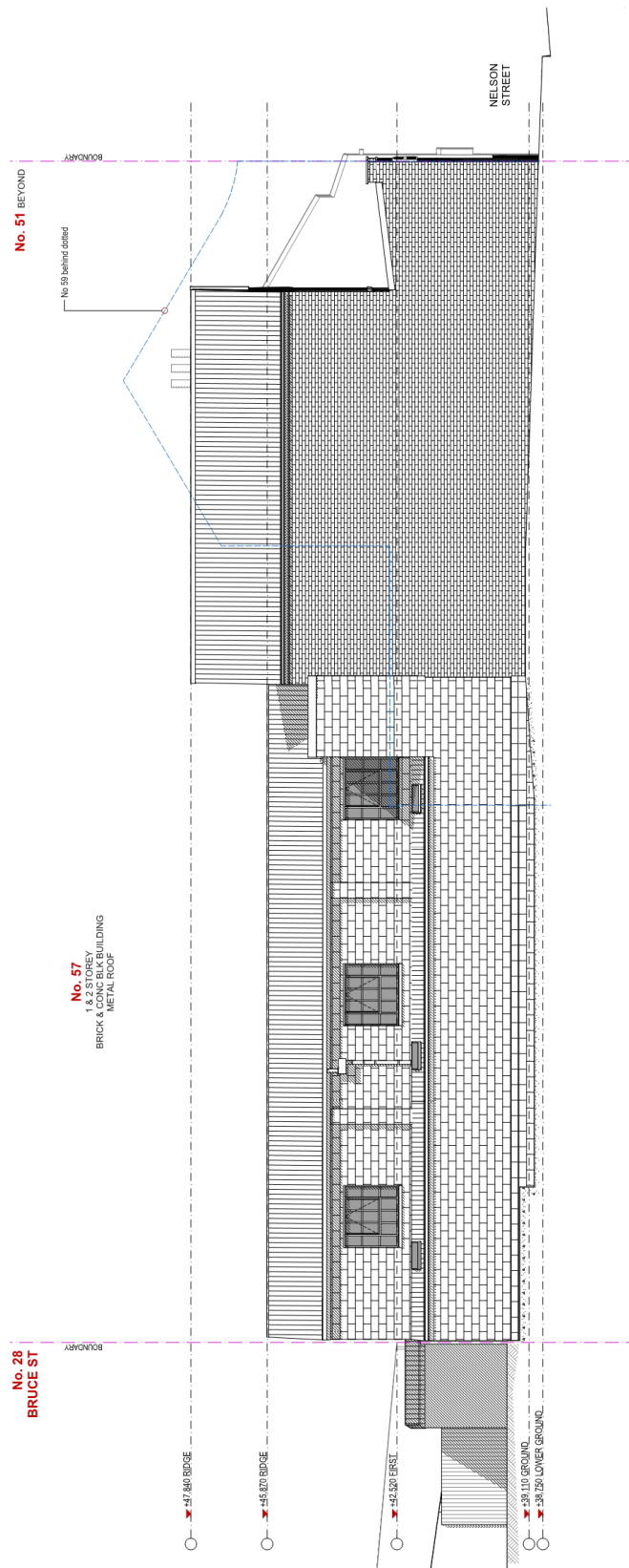
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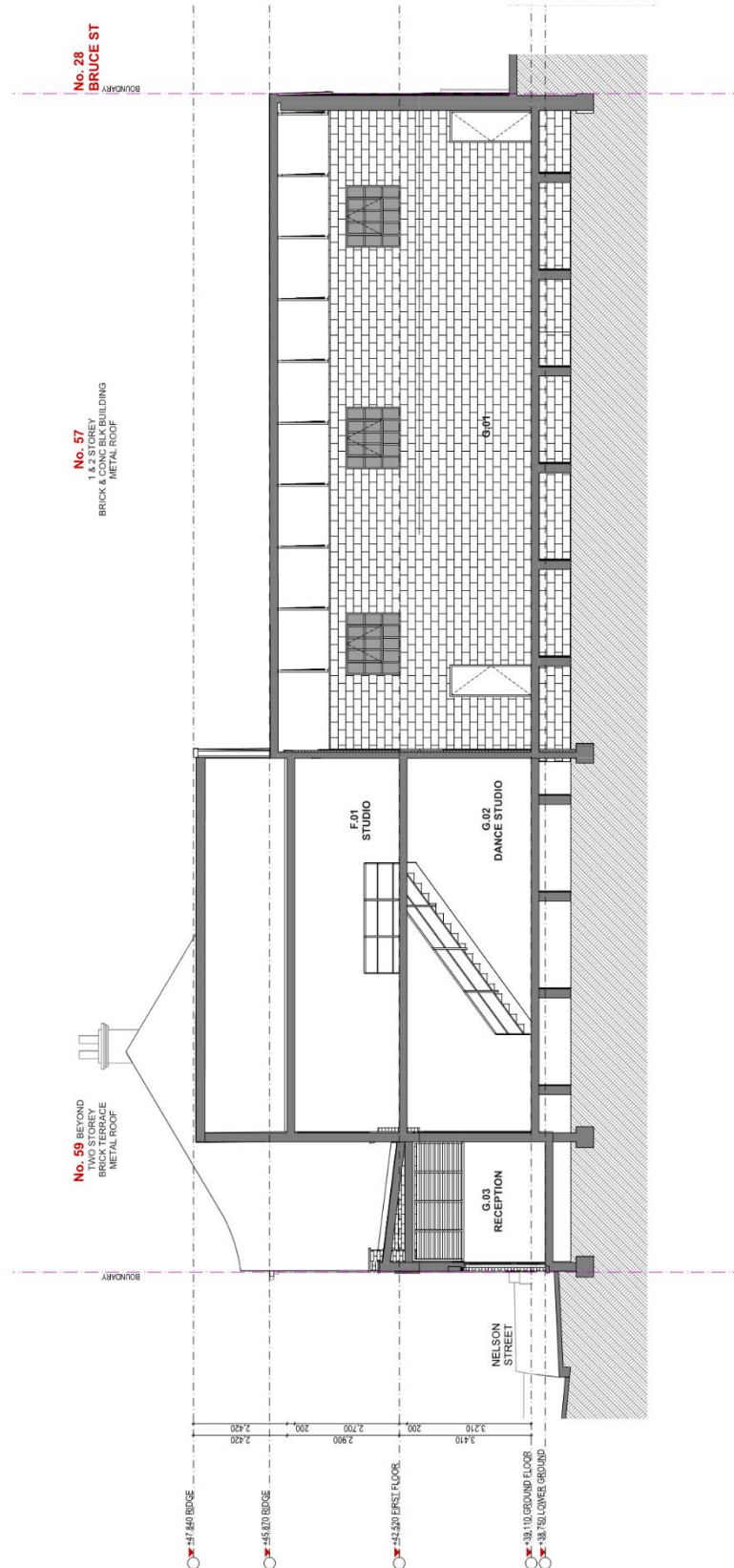
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Clients: Justine & Steven Patterson Project: Measured Drawings of 57 NELSON ST, ROZELLE	This drawing is protected by copyright law. Check all work on site and report any discrepancies to the architect. Drawing Title: EXISTING ELEVATION - EAST	Scale: 1:100 @ A3 : 1:50 @ A1 Date: 23/10/24 Drawing No: 2023/19/MD 06 Plotted: 05/02/25 GF/KC
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Date:	22/10/24
Drawing No:	2023/19/MD.08
Plotted:	05/02/25

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Clients:	Justine & Steven Patterson
Project:	Measured Drawings of 57 NELSON ST, ROZELLE
Drawing Title:	EXISTING SECTION AA
(SFKC)	

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D	DA	22/10/24
C	DA Draft	01/10/24
B	DA Draft	10/09/24

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Attachment C – Section 4.6 Exception to Development Standards

CLAUSE 4.6 SUBMISSION (landscaped area)

for
Proposed adaptive reuse of part of Rozelle School of Arts
at
57 Nelson Street, Rozelle
for use as dwelling

for
Justine and Steven Patterson

prepared by
John Pagan
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October 2024

57 Nelson Street, Rozelle : Clause 4.6 Submission (landscaped area)

1. INTRODUCTION

This submission accompanies a development application for adaptive reuse of part of the Rozelle School of Arts building at 57 Nelson Street, Rozelle, as a dwelling with associated alterations as shown in the drawings numbered 2023/19 DA01.01-01.03, DA03.01-03.04 and DA04.01-04.04 dated 21 October 2024 prepared by Oikos Architects.

As set out in the Statement of Environmental Effects accompanying the application, the landscaped area of the proposed development is below the minimum of 20% of site area required under *Inner West Local Environmental Plan 2022* (the LEP). Because the proposal does not comply with the development standard, this submission under clause 4.6 of the LEP is made seeking an exception to the standard.

2. INNER WEST LOCAL ENVIRONMENTAL PLAN 2022

2.1 Landscaped area

For residential accommodation on a lot more than 235 square metres (m²) in area in the R1 General Residential zone, clause 4.3C(3)(a) requires a minimum landscaped area (with minimum width 1m) of 20%.

For the site area of 357m² the required landscaped area is 71.4m². Currently the unbuilt-upon area of the site is paved and existing landscaped area is nil. The Architect has calculated that the proposal will provide a total of 43.66m² landscaped area, which represents 12.2% of the site and does not comply with the standard. The extent of the non-compliance is 27.7m², which represents a 38.8% variation to the standard.

Because the landscaped area of the proposed development does not comply with the standard, an exception to the standard is sought under clause 4.6 of the LEP.

2.2 Exception to Development Standard (Landscaped area)

As amended with effect from 1 November 2023, clause 4.6 allows consent to be granted for development that would contravene a development standard and relevantly provides:

- (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 landscaped area control contained in clause 4.3C(3)(a) of the LEP is a development standard as defined under the *Environmental Planning and Assessment Act 1979* (the EPA Act) and is not subject to any of the specified exclusions from the operation of clause 4.6 of the LEP.

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1

57 Nelson Street, Rozelle : Clause 4.6 Submission (landscaped area)

In accordance with the guidelines provided by decisions of the Land and Environment Court, the submission in this Statement addresses the requirements of clause 4.6 in turn.

Is compliance with the development standard unreasonable or unnecessary in the circumstances? [clause 4.6(3)(a) of the LEP]

In the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827, Chief Justice Preston outlined the rationale for development standards and the ways by which a standard might be considered unnecessary and/or unreasonable. At paragraph 43 of his decision Preston CJ noted:

The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

The judgment in *Wehbe* identified five ways of establishing under *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) that compliance is unreasonable or unnecessary. Subsequent cases including *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118 have confirmed that these ways are equally applicable under the clause 4.6 regime.

The first and most commonly invoked way to establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard (*Wehbe* at 42 and 43).

The objectives of the landscaped area standard are set out in clause 4.3C(1):

- (a) *to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents*
- (b) *to maintain and encourage a landscaped corridor between adjoining properties*
- (c) *to ensure that development promotes the desired character of the neighbourhood*
- (d) *to encourage ecologically sustainable development*
- (e) *to control site density*
- (f) *to provide for landscaped areas and private open space*

Objective (a)

Provide landscaped areas for substantial tree planting and for the use and enjoyment of residents

The proposal includes removal of concrete paving at the front of the site to provide a garden bed on the eastern side and demolition of part of the building to provide an area of open garden space against the western boundary of the site that exceeds Council's dimensional requirements for private open space. Both spaces will be available *for the use and enjoyment of residents*. Because of the proximity of buildings, however,

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2

57 Nelson Street, Rozelle : Clause 4.6 Submission (landscaped area)

neither space is suitable for *substantial tree planting*. Nevertheless, the proposal will provide two open areas of sufficient dimensions to provide useful residential amenity for the occupants and both spaces would be suitable for the planting of one or more small trees.

Objective (b)

Maintain and encourage a landscaped corridor between adjoining properties

Many nearby back yards are small and/or paved and any *landscaped corridor* is discontinuous, but the proposal will provide two vegetated areas (where there is currently none) that could form part of such a corridor.

Objective (c)

Promote the desired character of the neighbourhood

The existing non-residential building is not typical of the surrounding residential neighbourhood, but the LEP makes specific provision for the adaptive reuse of such buildings for residential use. As one would expect in those circumstances, the proportion of built form to open area will remain greater than is typical in the neighbourhood, but the proposal is consistent with the zone objectives relating to a *variety of housing types and densities and maintain[ing] the character of built and natural features in the surrounding area* as well as with the relevant elements of desired future character set out in part C2.2.5.1 The Valley Rozelle Distinctive Neighbourhood of *Leichhardt Development Control Plan 2013*.

Objective (d)

Encourage ecologically sustainable development

The proposed adaptive reuse of a substantial building with a significant increase in landscaped area (from a zero base) represents an ecologically sustainable development of the site.

Objective (e)

Control site density

This objective, which is primarily achieved by management of floor space ratio, is not strictly relevant to the landscaped area standard. Under clause 6.12(5) of the LEP, the floor space ratio development standard is not applicable to the subject site.

Objective (f)

Provide for landscaped areas and private open space

As set out above, the proposal incorporates landscaped areas and private open space.

The arguments set out above show that in the circumstances compliance with the development standard is unreasonable and unnecessary because the relevant objectives of the development standard will be achieved by the proposed development despite numerical non-compliance.

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3

57 Nelson Street, Rozelle : Clause 4.6 Submission (landscaped area)

Are there sufficient environmental planning grounds to justify the contravention of the development standard? [clause 4.6(3)(b) of the LEP]

In the decision of *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Chief Justice Preston noted in paragraph 23 that:

... The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.

As well as the objects of the EPA Act, grounds relating to the "subject matter, scope and purpose of the EPA Act" would include the matters for consideration in determining a development application under s 4.15(1).

Contravention of the development standard can be justified on the following environmental planning grounds:

- To comply with the landscaped area standard it would be necessary to demolish more of the building and/or further reduce the provision of car parking for the Rozelle School of Visual Arts. The proposed provision of landscaped area is reasonable as argued above in relation to the objectives of the control. By adaptive reuse of part of the building to provide residential accommodation with a good standard of amenity while maintaining the long-established community arts activity in the front part of the building, the proposal represents *proper development and conservation of resources* on the site and will enhance *social and economic welfare* in accordance with s1.3(a) of the EPA Act.
- With exceptions that arise from the nature of existing development on the site, the proposed development otherwise complies with the *relevant provisions* of the applicable *environmental planning instruments* and *development control plan* [s4.15(1)(a) of the EPA Act] and represents *orderly and economic development* of the site in accordance with s1.3(c) of the EPA Act.
- By enabling its longer-term occupation and conservation, the proposal will extend the useful life of the building without material adverse *impacts* on streetscape, character, amenity or heritage values [s4.15(1)(b) of the EPA Act] and represents *sustainable management of built heritage* in accordance with s1.3(f) of the EPA Act.
- The proposal will allow the implementation of alterations that will improve the *design and amenity* of the building and the *health and safety* of its *occupants* in accordance with s1.3(g) and s1.3(h) of the EPA Act.
- Consistent with the LEP provisions for adaptive reuse of non-residential buildings for dwellings, the *site is suitable for the proposed development* [s4.15(1)(c) of the EPA Act].

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4

57 Nelson Street, Rozelle : Clause 4.6 Submission (landscaped area)

3. CONCLUSION

This submission shows that, in the circumstances, compliance with the development standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

John Pagan BTP MPIA
Town Planner
21 October 2024

John Pagan
Town Planning Consultant

5

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CLAUSE 4.6 SUBMISSION
(site coverage)

for
Proposed adaptive reuse of part of Rozelle School of Arts
at
57 Nelson Street, Rozelle
for use as dwelling

for
Justine and Steven Patterson

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February 2025

57 Nelson Street, Rozelle : Clause 4.6 Submission (site coverage)

1. INTRODUCTION

An application for adaptive reuse of part of the Rozelle School of Arts building at 57 Nelson Street, Rozelle, as a dwelling with associated alterations was made in October 2024 and registered by Council as DA/2024/0933. By letter dated 15 January 2025, Council requested additional information and invited amended plans. This submission accompanies amended drawings numbered 2023/19 DA01.01E-01.03E, DA03.02E, DA04.02E, DA06.02E-06.03E, DA07.10E and DA08.01E-08.02E dated 23 January 2025 prepared by Oikos Architects.

In its letter Council has advised that its interpretation of the case law in *Landcorp Australia Pty Ltd v the Council of the City of Sydney* [2020] NSWLEC 174 is that if there are no proposed changes to a non-compliance, a clause 4.6 exception is not required; however, if there are changes to the non-compliance (even if it is an improvement), a clause 4.6 exception is still required. The Architect has calculated that the existing site coverage will be reduced from 76.1% to 70.0%, both of which exceed the maximum of 60% allowed under *Inner West Local Environmental Plan 2022* (the LEP). Because the proposal does not comply with the development standard, this submission under clause 4.6 of the LEP is made seeking an exception to the standard.

2. INNER WEST LOCAL ENVIRONMENTAL PLAN 2022

2.1 Site coverage

For residential accommodation in the R1 General Residential zone, clause 4.3C(3)(b) sets a maximum site coverage of 60%. The site is 357m² in area.

The proposal will have a site coverage of 249.9m² or 70.0% of site area, which does not comply with the standard. The extent of the non-compliance is 35.7m², which represents a 10.0% variation to the standard.

Because the site coverage of the proposed development does not comply with the standard, an exception to the standard is sought under clause 4.6 of the LEP.

2.2 Exception to Development Standard (Site coverage)

Clause 4.6 allows consent to be granted for development that would contravene a development standard and relevantly provides:

- (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.*

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1

57 Nelson Street, Rozelle : Clause 4.6 Submission (site coverage)

The site coverage control contained in clause 4.3C(3)(b) of the LEP is a development standard as defined under the *Environmental Planning and Assessment Act 1979* (the EPA Act) and is not subject to any of the specified exclusions from the operation of clause 4.6 of the LEP.

In accordance with the guidelines provided by decisions of the Land and Environment Court, the submission in this Statement addresses the requirements of clause 4.6 in turn.

Is compliance with the development standard unreasonable or unnecessary in the circumstances? [clause 4.6(3)(a) of the LEP]

In the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827, Chief Justice Preston outlined the rationale for development standards and the ways by which a standard might be considered unnecessary and/or unreasonable. At paragraph 43 of his decision Preston CJ noted:

The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

The judgment in *Wehbe* identified five ways of establishing under *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) that compliance is unreasonable or unnecessary. Subsequent cases including *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118 have confirmed that these ways are equally applicable under the clause 4.6 regime.

The first and most commonly invoked way to establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard (*Wehbe* at 42 and 43).

The objectives of the site coverage standard are set out in clause 4.3C(1):

- (a) *to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents*
- (b) *to maintain and encourage a landscaped corridor between adjoining properties*
- (c) *to ensure that development promotes the desired character of the neighbourhood*
- (d) *to encourage ecologically sustainable development*
- (e) *to control site density*
- (f) *to provide for landscaped areas and private open space*

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2

57 Nelson Street, Rozelle : Clause 4.6 Submission (site coverage)

Objective (a)

Provide landscaped areas for substantial tree planting and for the use and enjoyment of residents

The proposal includes removal of concrete paving at the front of the site to provide a garden bed on the eastern side and demolition of part of the building to provide an area of open garden space against the western boundary of the site that exceeds Council's dimensional requirements for private open space. Both spaces will be available *for the use and enjoyment of residents*. Because of the proximity of buildings, however, neither space is suitable for *substantial tree planting*. Nevertheless, the proposal will provide two open areas of sufficient dimensions to provide useful residential amenity for the occupants and both spaces would be suitable for the planting of one or more small trees.

Objective (b)

Maintain and encourage a landscaped corridor between adjoining properties

Many nearby back yards are small and/or paved and any *landscaped corridor* is discontinuous, but the proposal will provide two vegetated areas (where there is currently none) that could form part of such a corridor.

Objective (c)

Promote the desired character of the neighbourhood

The existing non-residential building is not typical of the surrounding residential neighbourhood, but the LEP makes specific provision for the adaptive reuse of such buildings for residential use. As one would expect in those circumstances, the proportion of built form to open area will remain greater than is typical in the neighbourhood, but the proposal will reduce site coverage to within 10% of the standard and is consistent with the zone objectives relating to *a variety of housing types and densities and maintain[ing] the character of built and natural features in the surrounding area* as well as with the relevant elements of desired future character set out in part C2.2.5.1 The Valley Rozelle Distinctive Neighbourhood of *Leichhardt Development Control Plan 2013*.

Objective (d)

Encourage ecologically sustainable development

The proposed adaptive reuse of a substantial building with a significant reduction in site coverage represents an ecologically sustainable development of the site.

Objective (e)

Control site density

This objective, which is primarily achieved by management of floor space ratio, is not strictly relevant to the site coverage standard. In accordance with Council's advice, the floor space ratio development standard is addressed in a separate submission.

Objective (f)

Provide for landscaped areas and private open space

As set out above, the proposal incorporates landscaped areas and private open space.

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3

57 Nelson Street, Rozelle : Clause 4.6 Submission (site coverage)

The arguments set out above show that in the circumstances compliance with the development standard is unreasonable and unnecessary because the relevant objectives of the development standard will be achieved by the proposed development despite numerical non-compliance.

Are there sufficient environmental planning grounds to justify the contravention of the development standard? [clause 4.6(3)(b) of the LEP]

In the decision of *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Chief Justice Preston noted in paragraph 23 that:

... The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.

As well as the objects of the EPA Act, grounds relating to the “subject matter, scope and purpose of the EPA Act” would include the matters for consideration in determining a development application under s 4.15(1).

Contravention of the development standard can be justified on the following environmental planning grounds:

- To comply with the site coverage standard it would be necessary to demolish more of the building. The proposed site coverage is reasonable as argued above in relation to the objectives of the control. By adaptive reuse of part of the building to provide residential accommodation with a good standard of amenity while maintaining the long-established community arts activity in the front part of the building, the proposal represents *proper development and conservation of resources* on the site and will enhance *social and economic welfare* in accordance with s1.3(a) of the EPA Act.
- With exceptions that arise from the nature of existing development on the site, the proposed development otherwise complies with the *relevant provisions* of the applicable *environmental planning instruments and development control plan* [s4.15(1)(a) of the EPA Act] and represents *orderly and economic development* of the site in accordance with s1.3(c) of the EPA Act.
- By enabling its longer-term occupation and conservation, the proposal will extend the useful life of the building without material adverse *impacts* on streetscape, character, amenity or heritage values [s4.15(1)(b) of the EPA Act] and represents *sustainable management of built heritage* in accordance with s1.3(f) of the EPA Act.
- The proposal will allow the implementation of alterations that will improve the *design and amenity* of the building and the *health and safety* of its *occupants* in accordance with s1.3(g) and s1.3(h) of the EPA Act.
- Consistent with the LEP provisions for adaptive reuse of non-residential buildings for dwellings, the *site is suitable for the proposed development* [s4.15(1)(c) of the EPA Act].

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4

57 Nelson Street, Rozelle : Clause 4.6 Submission (site coverage)

3. CONCLUSION

This submission shows that, in the circumstances, compliance with the development standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

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2 February 2025

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5

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CLAUSE 4.6 SUBMISSION
(floor space ratio)

for
Proposed adaptive reuse of part of Rozelle School of Arts
at
57 Nelson Street, Rozelle
for use as dwelling

for
Justine and Steven Patterson

prepared by
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February 2025

57 Nelson Street, Rozelle : Clause 4.6 Submission (floor space ratio)

1. INTRODUCTION

An application for adaptive reuse of part of the Rozelle School of Arts building at 57 Nelson Street, Rozelle, as a dwelling with associated alterations was made in October 2024 and registered by Council as DA/2024/0933. By letter dated 15 January 2025, Council requested additional information and invited amended plans. This submission accompanies amended drawings numbered 2023/19 DA01.01E-01.03E, DA03.02E, DA04.02E, DA06.02E-06.03E, DA07.10E and DA08.01E-08.02E dated 23 January 2025 prepared by Oikos Architects.

In its letter Council has advised that because the proposal incorporates a minor extension of the roof form of the rear Stage 3 part of the building, which is not contained fully within the existing building envelope, it does not comply with clause 6.12(4)(c) and the exemption from the floor space ratio (FSR) control potentially available under clause 6.12(5) does not apply. Council's Senior Planner has calculated that the proposal will result in an FSR of 1.04:1, which exceeds the maximum allowed under *Inner West Local Environmental Plan 2022* (the LEP). Because the proposal does not comply with the development standard, this submission under clause 4.6 of the LEP is made seeking an exception to the standard.

2. INNER WEST LOCAL ENVIRONMENTAL PLAN 2022

2.1 Floor space ratio

The site is subject to a maximum floor space ratio (FSR) of 0.7:1. The site area of 357.0m² allows a gross floor area (GFA) of 249.9m².

The Architect has calculated that the proposal will increase the GFA from 310.6m² to 369.3m², which respectively represent FSRs of 0.87:1 and 1.03:1. Neither complies with the standard. The extent of the non-compliance is 119.4m², a 47.8% variation to the standard.

Because the proposal does not comply with the development standard for floor space ratio, an exception to the standard is sought under clause 4.6 of the LEP.

2.2 Exception to Development Standard (Floor space ratio)

Clause 4.6 allows consent to be granted for development that would contravene a development standard and relevantly provides:

- (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.*

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57 Nelson Street, Rozelle : Clause 4.6 Submission (floor space ratio)

The FSR control contained in clause 4.4 of the LEP is a development standard as defined under the *Environmental Planning and Assessment Act 1979* (the EPA Act) and is not subject to any of the specified exclusions from the operation of clause 4.6 of the LEP.

In accordance with the guidelines provided by decisions of the Land and Environment Court, the submission in this Statement addresses the requirements of clause 4.6 in turn.

Is compliance with the development standard unreasonable or unnecessary in the circumstances? [clause 4.6(3)(a) of the LEP]

In the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827, Chief Justice Preston outlined the rationale for development standards and the ways by which a standard might be considered unnecessary and/or unreasonable. At paragraph 43 of his decision Preston CJ noted:

The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

The judgment in *Wehbe* identified five ways of establishing under *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) that compliance is unreasonable or unnecessary. Subsequent cases including *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118 have confirmed that these ways are equally applicable under the clause 4.6 regime.

The first and most commonly invoked way to establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard (*Wehbe* at 42 and 43).

The objectives of the floor space ratio standard are set out in clause 4.4(1) of the LEP:

- (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*

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2

57 Nelson Street, Rozelle : Clause 4.6 Submission (floor space ratio)

Objective (a)

Enable appropriate development density

The site has a long history of a wide variety of community arts activities. The proposal involves the continued use of the front parts of the building for these activities and the conversion of the rear part of the building for residential use. The proposed additional floor area will allow conversion of a warehouse-style building into a family dwelling with a satisfactory level of residential amenity. The proposal will result in a population density of one family on the site and represents a reduction in the intensity of community arts land use. It will not materially affect the capacity of existing or planned infrastructure.

Objective (b)

Ensure development density reflects its locality

The existing non-residential building is not typical of the surrounding residential neighbourhood, but the LEP makes specific provision for the adaptive reuse of such buildings for residential use. The proposed conversion involves the insertion of an additional level (and hence floor area) within a building of large volume with only minor extension of the roof form to provide an acceptable level of residential amenity. Despite the quantum of the proposed FSR, the building envelope will be little altered. As perceived from the street and neighbouring properties, the appearance of the building will be improved. The proposal is consistent with the zone objectives relating to a variety of housing types and densities and maintain[ing] the character of built and natural features in the surrounding area as well as with the relevant elements of desired future character set out in part C2.2.5.1 The Valley Rozelle Distinctive Neighbourhood of Leichhardt Development Control Plan 2013.

Objective (c)

Provide an appropriate transition between development of different densities

The site is almost contiguous with the Rozelle local business centre, which has a maximum FSR of 1:1. Surrounding residential properties are on smaller lots, most subject to FSRs of 0.8 or 0.9:1. The proposal represents an appropriate transition between those areas.

Objective (d)

Minimise adverse impacts on local amenity

The proposal is designed to reasonably minimise impacts on neighbouring amenity: it will not materially affect the access to sunlight or views of surrounding properties and, following the concerns expressed in Council's letter of 15 January 2025, additional viewline analysis drawings and diagrams have been prepared to demonstrate that a satisfactory level of privacy will be maintained in neighbouring properties.

57 Nelson Street, Rozelle : Clause 4.6 Submission (floor space ratio)

Objective (e)

Increase the tree canopy and protect the use and enjoyment of private properties and the public domain

The proposal includes removal of concrete paving at the front of the site to provide a garden bed on the eastern side and demolition of part of the building to provide an area of open garden space against the western boundary of the site. Both spaces will be available for residents' *enjoyment* and suitable for the planting of one or more small trees to *increase the tree canopy*. As set out above, the amended proposal will reasonably minimise impacts on neighbouring amenity. The works proposed at the front of the site will improve its appearance from the public domain.

The arguments set out above show that in the circumstances compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard will be achieved by the proposed development despite numerical non-compliance.

Are there sufficient environmental planning grounds to justify the contravention of the development standard? [clause 4.6(3)(b) of the LEP]

In the decision of *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Chief Justice Preston noted in paragraph 23 that:

... The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.

As well as the objects of the EPA Act, grounds relating to the "subject matter, scope and purpose of the EPA Act" would include the matters for consideration in determining a development application under s 4.15(1).

Contravention of the development standard can be justified on the following environmental planning grounds:

- In principle a compliant development could be achieved by deleting the proposed first floor in the rear part of the building (thus limiting the dwelling to a single floor with a very high ceiling) or, more practically, by designing the first floor entirely within the existing building envelope (which would so restrict ceiling heights as to compromise internal amenity). As the minimal extension of the building envelope as proposed in the amended plans will have no material adverse impacts on neighbouring properties or the public domain but will allow a significantly higher level of residential amenity for the occupants, the non-compliance is considered justified. By adaptive reuse of part of the building to provide residential accommodation with a good standard of amenity while maintaining the long-established community arts activity in the front part of the building, the proposal represents *proper development and conservation of resources* on the site and will enhance *social and economic welfare* in accordance with s1.3(a) of the EPA Act.
- With exceptions that arise from the nature of existing development on the site, the proposed development otherwise complies with the *relevant provisions* of the applicable *environmental planning instruments* and *development control plan* [s4.15(1)(a) of the EPA Act] and represents *orderly and economic development* of the site in accordance with s1.3(c) of the EPA Act.

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4

57 Nelson Street, Rozelle : Clause 4.6 Submission (floor space ratio)

- By enabling its longer-term occupation and conservation, the proposal will extend the useful life of the building without material adverse *impacts* on streetscape, character, amenity or heritage values [s4.15(1)(b) of the EPA Act] and represents *sustainable management of built heritage* in accordance with s1.3(f) of the EPA Act.
- The proposal will allow the implementation of alterations that will improve the *design and amenity* of the building and the *health and safety* of its *occupants* in accordance with s1.3(g) and s1.3(h) of the EPA Act.
- Consistent with the LEP provisions for adaptive reuse of non-residential buildings for dwellings, the *site is suitable for the proposed development* [s4.15(1)(c) of the EPA Act].

3. CONCLUSION

This submission shows that, in the circumstances, compliance with the development standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

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2 February 2025

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5

Attachment D – Statement of Heritage Significance

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Area 12 The Valley (Rozelle and Balmain)

Landform

This conservation area comprises a large but tightly formed valley which falls south and east from the Darling Street ridge towards White Bay affording enclosed views to industrial workings of the port city in the bay.

It includes a number of subdivisions/part subdivisions around the highest land in the Leichhardt Municipality on either side of the Darling Street ridge and across Victoria Road. It includes land east of Wellington Street to White Bay. It also includes the civic buildings and the commercial zone of Rozelle on both sides of Victoria Road, the land east of the Darling Street ridge beyond the commercial zone, the civic and commercial buildings of Balmain retail centre, small groups of shops along Darling Street and the former retail area of Evans and Beattie Streets.



Figure 12.1 The Valley Conservation Area Map.

History

When sales of John Gilchrist's Balmain 550-acre grant were resumed in 1852, Surveyor Charles Langley subdivided the remaining acres into 46 (later 47) sections, using existing routes such as Darling Street, and other contour-hugging tracks, such as Beattie Street and Mullens Street to delineate the parcels. The sections were purchased over the next thirty years by wealthy investors, local speculators and builders.

The largest of the estates put together from Langley's subdivisions was the 19 acres of the Merton Estate purchased by piano importers Paling and Starling, druggists George and Frederick Elliott and estate agent Alfred Hancock. It occupied the land between Terry Street and Evans Street. It was subdivided by its owners into 197 allotments generally 30ft x 100ft with 50ft-wide grid

Godden Mackay Logan

pattern of roads, and was auctioned by local agent and developer, Alfred Hancock from 1874.

A miscellaneous collection of service and consumer trades servicing these new dwellings appeared along Evans Street in the 1870s making it the main commercial thoroughfare along the upper reaches of the Balmain peninsula.

By the 1880s the growth of industry, including noxious industry, in White Bay and along Whites Creek, made the south and east-facing slopes of the Darling Street ridge unattractive for a more affluent residential market. Those who could find employment in these industries would seek housing within walking distance, as public transport – then the horse drawn bus or later the steam tram – were too expensive. Canny speculators, such as Hancock (later Mayor of Balmain) sold to small builders who constructed very dense workers' housing for rentees or purchasers on small budgets. By 1891 a large part of this area had been built upon.

The arrival of the government-owned steam tram at the junction of Darling Street and Victoria Road in 1892, provided relatively more affluent residents along its route with transport to the city, and a greater choice of employment away from places within immediate walking distance from home. The advent of the tramway probably explains the major impetus to growth in the area particularly to the west of Evans Street, so that in the 1890s much of Terry, Wellington, Merton and Nelson Streets were built upon with one-storey brick semis, pairs or small groups of terraces (two to an allotment) and double-fronted single-storey houses (one to an allotment). Most of these buildings were constructed by local builders such as Robert Gordon, William Whitehorn and James Gibson, whose small-scale operations are indicated by the small groups of similar houses or terraces.

From the 1850s, Booth's Saw Mill on White Bay provided a cheap source of timber and weatherboards, promoting weatherboard houses as the norm for workers' housing throughout Balmain until brick terrace housing became prevalent in the late nineteenth century.

The extension of the steam tram service along Darling Street by 1900 encouraged shopkeepers to relocate there to catch the passing trade, and Evans Street was superseded as a commercial centre.

The Metropolitan Detail Survey Sydney Water Archive¹ suggests that almost all the land east of Wellington Street was built upon by 1905.

By 1907 the precinct was generally known as Rozelle.

Sources

Solling, M and Reynolds, P 1997, 'Leichhardt: on the margins of the city', *Leichhardt Historical Journal*, Vol. 22, Allen and Unwin.

Further information provided by Max Solling.

Significant Characteristics

- Contour hugging main roads – Evans, Beattie and Reynolds.

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- Outline of subdivisions, size and aspect of allotments, determined by route of main roads.
- Wider residential roads off Darling Street ridge, with grid subdivision pattern, but
- Generally narrow roads between main access roads.
- Narrow, often shallow allotments.
- Back lanes are rare.
- Dense urban environment.
- Continuous lines of buildings create sharply defined lineal spaces.
- Buildings stepped up and down hill, following the topography.
- Houses sited close to road near Darling Street ridge; and sited onto the road alignment nearer to White Bay.
- Small front gardens near Darling Street; there are fewer gardens towards White Bay.
- Tree planting is minimal except where wider main access roads provide enough room – Langley, Roseberry, Llewelyn and Reynolds Street.
- Large stands of trees in parks and open spaces.
- Small range of housing types: single-fronted, single-storey timber terraces, two-storey terraces, free-standing timber or stone single-storey cottages.
- Some larger villas on high land around Smith Street, and more generous terraces in similar locations.
- Scale predominantly limited to one or two storeys.
- Pubs with verandahs act as punctuation marks in the streetscape.
- Corner stores.
- Commercial premises (and former commercial premises) with attached dwellings along Evans and Darling Streets.
- Small industrial/warehouse buildings occur throughout the area.
- Variety of materials – large number of timber, plastered brick, some later (1890s+) face brick and a few stone buildings.
- Roof materials vary – iron is common, terracotta tiles, some slate.
- Stone retaining walls.
- Remnants of iron palisade fences define some street frontages.
- Suspended awnings to commercial facades along Darling and Evans Streets.
- Sandstone kerbs and gutters.

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Statement of Significance or Why the Area is Important

- One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important for illustrating development for workers' and artisan housing particularly from 1871-1891 which forms the major element of its identity. It is significant for its surviving development from that period and the later infill development up to World War II (ie pre-1939).
- Retains evidence of all its layers of growth within that period from the late-1870s.
- Through its important collection of weatherboard buildings, including the now rare timber terraces, it continues to demonstrate the nature of this important/major construction material in the fabric of early Sydney suburbs, and the proximity of Booth's saw mill and timber yards in White Bay.
- Through the mixture of shops, pubs and industrial buildings it demonstrates the nature of a Victorian suburb, and the close physical relationship between industry and housing in nineteenth century cities before the advent of the urban reform movement and the separation of land uses.
- Demonstrates through the irregular pattern of its subdivision the small-scale nature of the spec builders responsible for the construction of the suburb.
- Demonstrates the nature of some private subdivisions before the introduction of the Width of Streets and Lanes Act of 1881 required roads to be at least one chain wide.

Maintenance of Heritage Values

Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

Retain

- Existing width and alignment of streets: avoid chicanes which cut diagonally across the carriageway.
- Existing back lanes.
- All buildings pre-1939 and particularly all timber buildings
- All original plaster finishes to external walls - reconstruct where necessary.
- All original unplastered face brick walls.
- All original external architectural detail, decorative tiles, plaster mouldings, chimneys, roof ridges and finials, commercial signs etc.

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Encourage replacement of lost elements, but only where evidence is available.

- All remaining sandstone kerbs and gutters.
- All corner stores, corner pubs and industrial buildings within the residential areas, and encourage their restoration. Consider small-scale commercial or professional uses for these buildings, if original uses no longer operate, as a reference to their original uses.
- Street and park planting; reinstate where necessary

Avoid

- Amalgamation that might lead to a change in the densely developed streetscape.
- Demolition of any pre-1939 building, particularly those pre-1910.
- Demolition of any remaining timber building.
- Additional storeys above the existing form of the building.
- Posted-verandahs over footpaths to commercial premises where no evidence can be provided to support their reconstruction. Encourage restoration of verandahs where evidence exists.
- Removal of plaster to external walls, where part of the original construction. Removal of original architectural details.
- Additional architectural detail for which there is no evidence.
- Inappropriate fences such as high brick walls, new iron palisades on high brick bases.
- Interruption to the almost continuous kerb and gutter line.

Endnotes

- ¹ Solling & Reynolds, p 81.
-