



STATEMENT OF ENVIRONMENTAL EFFECTS

DEMOLITION OF EXISTING STRUCTURES AND THE CONSTRUCTION OF A TWO STOREY DWELLING HOUSE

72 FRENCHS FOREST ROAD, SEAFORTH

REF: 2361
DATE: 2 JULY 2024
CLIENT: COONEY & BLAYNEY

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1 INTRODUCTION

This Statement of Environmental Effects is to accompany a development application to the Northern Beaches Council seeking consent for the demolition of existing structures and the construction of a two storey dwelling and garage at No. 72 Frenchs Forest Road, Seaforth.

The proposal has been designed by *dlistar design* and is detailed on the accompanying architectural drawings.

This Statement of Environmental Effects is supplemented by the following:

- **Land Survey** – Prepared by T J Surveyors Pty Ltd;
- **Architectural Plans** – Prepared by *dlistar design*;
- **Acoustic Report** – Prepared by Anavs – Acoustic Noise and Vibration Solutions P/L;
- **BASIX Certificate** – Prepared by *Chapman Environmental Services*;
- **Concept Drainage** – Prepared by Greenview Consulting;
- **Landscape Design** – Prepared by Exterior Architecture.

In light of the site context and constraints, the proposal has been designed to comply with the LEP controls and achieve best possible compliance with the DCP controls. In particular, the proposal is consistent with the flexibility embedded in the DCP contemplating the existing approval, and the scale / siting of the dwelling and ancillary structures is appropriate within the setting it is located and consistent with existing built form.

It should also be noted that there is an existing approval for a dwelling house on the site, which was granted via DA2019/0637 on 10 October 2019 with the consent originally scheduled to lapse on 10 October 2024. Under the NSW Government's COVID-19 response and the implementation of changes to support business and landowners, development consents that had not lapsed by 25 March 2020 were granted a 2 year extension to the original lapsing date. As a result, DA2019/0637 remains valid until 10 October 2026.

The remaining parts of this Statement of Environmental Effects evaluates the subject site and its context (Section 2), details the proposed works (Section 3) and provides an assessment of the proposed development with consideration to the relevant statutory planning framework and the impacts of the development on the natural and built environment in accordance with S.4.15 of the Environmental Planning & Assessment Act, 1979 (Section 4).

This Statement concludes that the development is permitted with consent and results in a building form that is reflective of the permitted planning controls. In addition, this statement concludes that the development will have acceptable impacts on the natural and built environment and is worthy of support.

2 SUBJECT SITE AND ADJOINING DEVELOPMENT

2.1 Site Description

The development site is a regular shaped parcel known as No. 72 Frenchs Forest Road, Seaforth and has a legal description of Lot 287 in DP 235073. Frenchs Forest Road is a Classified Road. The location is identified within the site location plan at Figure 1 below.

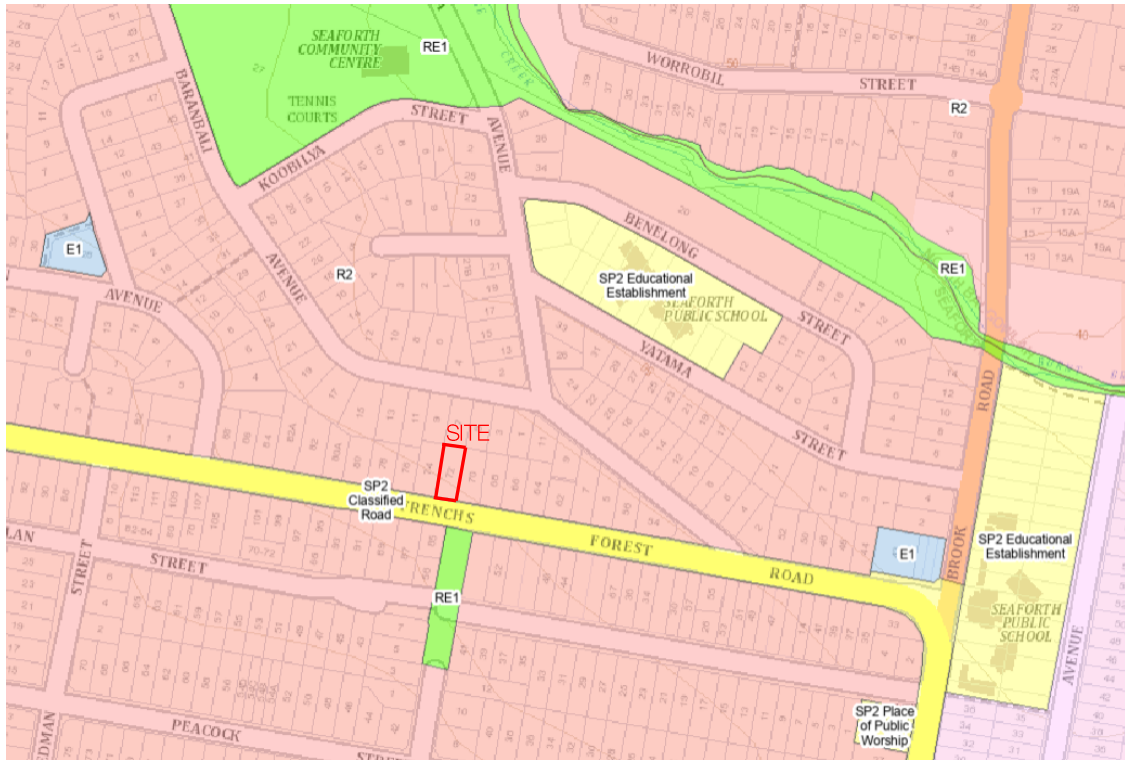


Figure 1: Site Location

The site is regular in shape with a south-eastern frontage length to Frenchs Forest Road of approx. 16.155m, an eastern (side) boundary length of 39.635m, a western (side) boundary length of 39.705m and a northern (rear) boundary length of 15.545m. The site has a total area of 619.7m² and as shown on the submitted Survey Plan, it is not benefited or burdened by any easements.

The site is oriented with along a north-south axis and falls slightly from its Frenchs Forest Road frontage until approximately halfway towards its rear boundary where a rock outcrop creates a significant drop, of approximately 4.5m, before the rear setback continues to fall to the rear boundary representing a total change in level of approximately 8.2m front to back.

The site is occupied by a 1 storey brick dwelling and garage with pitched tile roof. Vehicular access to the site is provided from Frenchs Forest Road via a concrete driveway. The dwelling is setback approximately 11.2m from the front boundary with the front setback containing at-grade parking on the concrete driveway and an adjoining area of gravel. A brick and horizontal panel fence extends along the site frontage, in addition to the parking areas there a hedge and grassed area as shown in Figures 2 and 3 over page.

The site is bounded by lapped and capped timber fences in the upper portion of the site, with open wire and paling fencing in the lower portion of the site. Minimal mature trees are present on site, although neighbouring trees provide significant screening. Adjacent to the

property boundary, a grassed verge with concrete footpath, extends across the site frontage, as shown in Figure 3. To the rear of the existing dwelling are rock outcrops, which provide the building platform for the existing and proposed dwellings (Figure 7). Due to the elevation of the site and dropping topography to the north, views across Burnt Bridge Creek valley and distant ocean views to the north-east (Queenscliff and the Pacific Ocean) are enjoyed, as shown in Figures 4, 5 and 6.



Figure 2: Subject site viewed from within front setback, noting construction underway at No.74



Figure 3: Subject site viewed from Frenchs Forest Road



Figure 4: Rear views to the northeast from existing verandah (realestate.com)



Figure 5: Views to the north from the approximate location of the proposed verandah



Figure 6: Distant ocean views to the north-east



Figure 7: Rear yard of the site and existing rock outcrops (realestate.com)

2.2 Adjoining Properties

An aerial photograph of the site and surrounds is provided below in Figure 8. It demonstrates that the site is immediately adjacent to 3 residential properties, being No. 70 and 74 Frenchs Forest Road, and No. 7 Baranbali Avenue. Similar to the subject site, the adjoining side neighbours enjoy views to the north from elevated habitable rooms and some balconies.



Figure 8: Site location and surrounding development [Source: SixMaps]

The surrounding locality consists of generally one and two storey residential dwellings of varying ages and architectural styles. Although many original dwellings remain in the locality, No. 74 to the west was under construction at the time of site inspection and will contain a two-storey dwelling (Figure 10).

Also evident from Figure 1 and 8 is the subdivision pattern within the immediate area, noting the site and surrounding properties are mostly regular parcels despite the topography of the land, and dwellings set amongst landscaped gardens.

The development site and its immediate neighbours are aligned along a north-south axis, with the directly adjacent parcels also enjoying significant views across Burnt Bridge Creek valley, and beyond to the Pacific Ocean (Figures 4 to 6).

To the east of the site is No. 70 Frenchs Forest Road, which contains a single storey brick dwelling with open car port, and a brick and timber front boundary fence to Frenchs Forest Road. The site contains some large trees, with a large *Melaleuca* spp. located within the front setback and additional significant vegetation along the shared side boundary, visible in Figure 9.



Figure 9: No. 70 Frenchs Forest Road, adjoining site to the east

To the west of the site is No. 74 Frenchs Forest Road (Figure 10), it contains a 2-storey dwelling currently under construction.



Figure 10: No. 74 Frenchs Forest Road under construction, adjoining site to the west

Frenchs Forest Road is a Classified Road and it appears that the historical development pattern has resulted in double driveway crossing servicing both No. 70 and No. 72 Frenchs Forest Road. Figure 11 illustrates the joining of the two driveways at the Frenchs Forest Road kerb and gutter.



Figure 11: No. 70 Frenchs Forest Road front setback and driveway, adjoining site to the east

To the south (directly across Frenchs Forest Road – Figure 12) is No. 85 Frenchs Forest Road. No. 85 Frenchs Forest Road has capitalised on the topography and presents an at-grade garage with elevated dwelling to Frenchs Forest Road.



Figure 12: No. 85 Frenchs Forest Road, elevated and opposite the site to the south

3 PROPOSED DEVELOPMENT

The proposal seeks consent for the demolition of existing structures and the construction of 2 storey dwelling and garage at No. 72 Frenchs Forest Road, Seaforth. The proposed works are identified on the submitted architectural drawings prepared by *dlister design* and associated consultant documentation and is described below.

3.1 Demolition

The proposal involves demolition works to the existing dwelling house and ancillary structures existing at the site. Demolition will be undertaken by a licenced contractor in accordance with AS 2601: 2001 and any relevant conditions of development consent.

3.2 Dwelling Construction

The proposed dwelling is described below with reference to each level.

Ground Floor

The proposal involves the construction of a 131m² Ground Floor with an attached double garage. The Ground Floor is located at RL 75.24 and contains the Entry, stairs to the First Floor, Bed 2 and 3, Bathroom, Laundry and a Rumpus with an extendable space into a 'Flexi' room. A rear facing balcony is accessed from the Rumpus room and is elevated above the rock outcrop and sloping topography below. Stairs from the balcony access the rear yard below.

Private Open Space is provided at the Ground Floor level within the front setback and on the balcony. Additional Private Open Space is provided within the rear setback of the site.

The existing vehicular entry will be utilised for a new driveway and hardstand area within the front setback and will meet the new garage entry (RL 75.14). Internal access to the dwelling is also provided from the Garage. The existing front fence will be refurbished and painted to match the colour and materials palette of the new dwelling. The front setback will also be landscaped to create and integrated landscape setting for the new development.

First Floor

The First Floor level is located at 78.34 and provides for 114m² of accommodation. The First Floor comprises the Master Bedroom, WIR, Ensuite, additional WC, Butler's Pantry, Kitchen, Dining and Living Room. A Balcony and Breezeway extends around the northern and eastern elevations, respectively, and are accessed from the Dining, Living and Master Bedroom. An external staircase provides access to the Ground Floor Balcony and rear yard.

Externally

The new dwelling will be constructed using contemporary materials and colour palette. External walls are proposed as 'Vivid White' James Hardie Scyon weatherboards, PHG 'Tinto Cream' brickwork, and 'shale grey' window and door frames, gutters and down pipes. The tones of the Eco Outdoor Jebel Cobblestone driveway and pale coloured Colorbond roofing also compliment the materials and palette of the dwelling.

New and refurbished landscaping will complement the new construction of the dwelling.

The upper roof ridge of RL 82.34 is located within the centre of the roof form with the roof pitch sloping away toward each side, the front and back of the dwelling at 15°. Above the rear balcony a pergola structure provides shading and architectural interest the north facing elevation, while the vertical architectural screening to the eastern elevation provides privacy screening and an enhanced aesthetic.

3.3 Landscaping / Swimming Pool

Details of the proposed landscaping are provided on the landscape plans prepared by Exterior Architecture. The proposal will retain and protect existing site tree and proposes and edge gardens along part of the front and side property boundaries, feature planting within the site frontage and 2 native canopy trees within the package, and useable turf areas within the back and front yard areas, whilst the existing rock outcrops within the backyard are to be retained as a landscape feature of the site.

The existing masonry fence fronting the site will be retained and compared to the existing site conditions, the proposed landscape scheme will be a substantial improvement to the site's amenity and streetscape contribution.

3.4 Stormwater Design

The stormwater design has been prepared by Greenview Consulting and includes the collection of all roof and surface water to be directed to a 13,000L OSD tank located below the dwelling , with overflow connected to a levels spreader within the backyard of the site as a drainage easement is not available.

4 STATUTORY PLANNING ASSESSMENT

Provided below is a Statutory Planning Assessment of the proposed development in accordance with the matters for consideration under Section 4.15 of the Environmental Planning & Assessment Act, 1979. This includes compliance with the relevant planning controls, impacts of the development on the natural and built environment as well as the suitability of the site and a consideration of the public interest.

4.1 Compliance with Planning Controls (Section 4.15(1)(a))

The following statutory and non-statutory planning policies apply to the assessment of this application under Section 4.15(1)(a) of the EP&A Act, 1979:

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (BASIX) 2004;
- Manly Local Environmental Plan 2013; and
- Manly Development Control Plan 2011.

4.1.1 State Environmental Planning Policy (Resilience and Hazards) 2021

On March 1, 2022 SEPP (Resilience and Hazards) 2021 replaced three former SEPPs including SEPP Coastal Management 2018 and SEPP 55 (Remediation of Land). Chapter 2 of the SEPP relates to Coastal Management, this chapter is not applicable as the site falls outside the land application map.

Chapter 4 (Remediation of Land) of the SEPP applies to the State of NSW and aims to undertake remediation of contaminated land for the purpose of reducing risk of harm to human health or any other aspect of the environment.

Clause 4.6 stipulates that a consent authority must not consent to the carrying out of development on land unless it has considered whether land is contaminated. A review of aerial photographs indicate that this site has been used for residential purposes since it was subdivided and the site has a long standing and established use for residential purposes. As such, there are no reasons to suspect that the site is contaminated and the requirements of Chapter 4 of SEPP (Resilience and Hazards) 2021 are satisfied.

4.1.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

On March 1, 2022 SEPP (Biodiversity and Conservation) 2021 replaced 11 former SEPPs and SREPPs, including SEPP (Vegetation in non-rural areas) 2017 which applies to the subject site and proposed development.

Chapter 2 (Vegetation on non-rural areas) of the SEPP contains provisions from the former Vegetation SEPP relating to the clearing of native vegetation in NSW on land zoned for urban and environmental purposes. This chapter seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation.

The site is not identified on Council's mapping system to contain any species of significance or biodiversity values and is therefore acceptable regarding the SEPP.

4.1.3 SEPP (Transport and Infrastructure) 2021

On March 1, 2022 SEPP (Transport and Infrastructure) 2021 replaced 4 former SEPPs, including SEPP (Infrastructure) 2007 which applies to the proposed development.

Chapter 2 of the SEPP contains those provisions from the former Infrastructure SEPP.

In accordance with Clause 2.119 (Development with frontage to a Classified Road), a Traffic Report is provided for Council's assessment, which considers the design of vehicular access into and out of the subject site. It is noted that the SEPP does not require referral of the subject application to Transport for NSW for comment.

In addition, as the proposal includes residential accommodation and the site is located with fronting to Frenchs Forest Road where the average annual daily traffic volume exceeds 40,000 vehicles, and on this basis, consideration of Clause 2.120 (Impact of road noise or vibration on non-road development) is required.

The dwelling design is focused away from the street and towards the available views to the north. It has a defensive southern elevation (facing Frenchs Forest Road) with no upper floor habitable rooms facing the street. Submitted with application is an Acoustic Report prepared, which identifies various construction recommendations and requirements to ensure that the internal noise levels within the dwelling are consistent with the requirements of the relevant Standards. It is expected that this report will be referenced as a condition of consent.

On this basis, the requirements of the SEPP are satisfied.

4.1.4 SEPP (BASIX) 2004

The proposal is defined as BASIX affected development and under the SEPP a BASIX Certificate is required. A BASIX Certificate has been obtained in relation to this proposal which demonstrates that the operational development will comply with the thermal, water and energy requirements of the SEPP.

4.1.5 Manly Local Environmental Plan 2013

Under the LEP the subject site is located within the *R2 – Low Density Residential* zone. Amongst other things *dwelling houses* are permissible with consent from Council.

The objectives of the R2 – Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal will replace the existing dwelling with a contemporary dwelling that provides much improved residential amenity, and in doing so will continue to provide for housing within a low-density environment to service the needs of the community. The proposal is therefore consistent with the first objective of the zone.

A review of relevant LEP maps indicates that the site is not subject to flooding, bushfire risk, does not contain a heritage item and is not located in a conservation area.

Provided at Table 1 is a consideration of the development standards contained within the LEP that are applicable to the site and the proposed development.

TABLE 1: RELEVANT PROVISIONS OF MANLY LEP 2013		
Provision	Proposal	Complies
4.3 Building Height Maximum 8.5m	The proposal has a minor non-compliance with the 8.5m height limit as indicated on the submitted architectural plans. The 8.5m height limit is exceeded by a maximum of 590mm (a variation of 6.9%) at the upper corner small portion of the rear pergola. This height exceedance is a direct result of the sudden fall in the topography beneath the rear elevated balconies where there is a rock outcrop.	On merit - Refer Clause 4.6 variation.
4.4 Floor Space Ratio Maximum 0.45:1 (278.55m ²)	The proposal will provide a total gross floor area of 245m ² which results in an FSR of 0.4:1.	Yes
4.6 Exception to Development Standards Provides for a test to be satisfied to allow variations to development standards.	The proposal has a minor non-compliance with the height limit.	Refer Clause 4.6 Variation.
5.10 Heritage Conservation (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)— (i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area.	Not applicable – site is not identified as / or adjoining a heritage item.	Yes
6.2 Earthworks (3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters— (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both,	Minimal excavation is required to construct the proposal and will not result in detrimental impacts on drainage patterns or soil stability. The works will not impact the future use or redevelopment of the land.	Yes Yes Yes

TABLE 1: RELEVANT PROVISIONS OF MANLY LEP 2013		
Provision	Proposal	Complies
(d) the effect of the development on the existing and likely amenity of adjoining properties,	No fill to be imported and only natural material is to be disposed of offsite.	Yes
(e) the source of any fill material and the destination of any excavated material,	No impact on the amenity of the adjoining residential properties.	Yes
(f) the likelihood of disturbing relics,	Any materials will be disposed of at the appropriate facility and to be determined as part of the construction process.	Yes
(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,	Low likelihood given the existing disturbed nature of the site.	Yes
(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The site is not in proximity to the waterway and subject to suitable construction management there will be no impacts from general run off as a result of the excavation.	Yes
	Impacts will be minimised by construction methodology and appropriate landscaping as part of the development.	

In light of the above, the proposed alterations and additions and ancillary structures are entirely consistent with the applicable LEP provisions and represent a suitable development at the site.

4.1.6 MANLY DCP 2013

A response to the relevant provisions of the Manly DCP as they apply to the subject site and the proposed development are provided in Table 2 below.

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
General Principles of Development		
3.1.1.1 Complementary design and visual improvement		
(a) Development in the streetscape (including buildings, fences and landscaping) should be designed to:		
(i) complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality;	As identified in the site analysis to this Statement, there are a variety of building forms along Frenchs Forest Road, both new and old. The proposal is contemporary in style and takes cues from new forms of development in the Street.	Yes

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
(ii) ensure the bulk and design of development does not detract from the scenic amenity of the area (see also paragraph 3.4 Amenity) when viewed from surrounding public and private land;	The proposal will not detract from the scenic amenity of the area, when viewed from surrounding public or private land due to its skilful response to its classified road (Frenchs Forest Road) frontage.	Yes
(iii) maintain building heights at a compatible scale with adjacent development particularly at the street frontage and building alignment, whilst also having regard to the LEP height standard and the controls of this plan concerning wall and roof height and the number of storeys;	The design represents a suitable scale of built form at the significantly sloping site and relative to its neighbours, generally retaining setbacks, height, number of storeys and general building bulk. A minor variation to the LEP Height standard is being sought (Refer Clause 4.6 Variation).	On merit - Refer Clause 4.6 variation.
(iv) avoid elevated structures constructed on extended columns that dominate adjoining sites such as elevated open space terraces, pools, driveways and the like.	Due to the significant level change (more than 3m) the proposed balconies on the Ground and First floors will be elevated. Due to the topography and geotechnical conditions of the site the balconies will be supported by 3 columns that will not dominate the adjoining sites to the east or west.	Yes
(v) address and compliment the built form and style any heritage property in the vicinity to preserve the integrity of the item and its setting.	Not applicable.	N/A
(vi) visually improve existing streetscapes through innovative design solutions; and	The proposed development will improve the streetscape presentation through introducing an upgraded, contemporary, high quality design aesthetic to the street (both the dwelling within the site and edge treatment) which will replace an older building and fence that have reached the end of their lifecycle.	Yes
(vii) incorporate building materials and finishes complementing those dominant in the locality. The use of plantation and/or recycled timbers in construction and finishes is encouraged.	The contemporary built form proposed utilises a combination of face brickwork, 'Vivid White' cladding, render brickwork, roofing and framing elements in a colour and materials palette that is entirely compatible with existing development (new and old) within the street and broader locality.	Yes
3.1.1.2 Front Fences and Gates (a) Notwithstanding maximum height provisions for fencing at paragraph 4.1.10; the siting, height and form of boundary fences and walls should reflect the fencing characteristic of the locality,	The proposed edge treatment retains the existing fence, however it will be refurbished and painted to compliment the new construction of the dwelling (Refer Figure 3). As such, the proposed design and form of the front fencing is considered to be entirely	Yes

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
<p>particularly those of adjacent properties. All fencing and wall materials must be compatible with the overall landscape character and the general appearance of the building and the streetscape.</p> <p>(b) Boundary fences or walls must not be erected where they would conflict with the local character.</p> <p>(c) Front fences and gates must be constructed in materials that complement the architectural style and period of the dwelling and improve the streetscape. In particular, fencing adjacent to a public road or place must not be constructed in metal cladding, powder coated or otherwise.</p> <p>(d) Gates must not encroach on public land when opening or closing.</p>	<p>compatible with the nature, location and height of existing fencing within the street.</p> <p>Not applicable.</p> <p>Existing front fence to be retained.</p> <p>Existing sliding gate retained.</p>	<p>N/A</p> <p>-</p> <p>Yes</p>
<p>3.1.1.4 Garages, Carports and hardstand areas</p> <p>(a) Garages, carports and hardstand areas must be designed and sited in a manner that does not to dominate the street frontage by:</p> <p>(i) its roof form, material choice and detailing by being subservient to the associated dwelling; and</p> <p>(ii) being compatible with the streetscape and the location in relation to front setback criteria.</p>	<p>The garage design is integrated into the proposed building design and form through its scale and use of consistent materials and finishes, and will not be visible from within the streetscape.</p> <p>Parking will be accommodated within a new garage located forward proposed dwelling and behind the required front building setback.</p>	<p>Yes</p>
<p>3.1.1.5 Garbage Areas</p> <p>Buildings with more than 1 dwelling require garbage storage enclosures which are:</p> <p>(a) not visible off site;</p> <p>(b) integrated into the building design;</p> <p>(c) unobtrusive and blend in with the design of front fences and walls when forward of the building; and</p> <p>(d) located and designed with consideration given to the amenity of adjoining properties.</p>	<p>Not applicable - 1 dwelling only proposed.</p>	<p>N/A</p>

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
3.3 Landscaping		
3.3.1 Landscape Design		
<p><u>Landscape Character</u></p> <p>(a) The design, quantity and quality of open space should respond to the character of the area. In particular:</p> <p>(i) In low density areas: (including LEP Zones R2 Low Density, E3 Environmental Management and E4 Environmental Living) open space should dominate the site. Setbacks of buildings from open space should also be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshore.</p> <p>(ii) In higher density areas: the provision of adequate private open space and landscaped areas are to maximise residential amenity. Site works must be minimised to protect natural features.</p> <p>(iii) In areas adjacent to native vegetation: the design of development should be sympathetic to the natural environment in order to protect and enhance the area as habitat for native fauna.</p> <p>(iv) In areas of habitat for the long-nosed bandicoot: landscape design must include native plant species</p>	<p>The existing landscape character of the property and its neighbours along this portion of Frenchs Forest Road is characterised by generous side or rear setback vegetation. This is in response to the significant change in level through the rear setback area of the properties nearby.</p> <p>The location of the proposed dwelling is driven by the prevailing site conditions and allows for a compliant front setback to Frenchs Forest Road that provides opportunities for landscaping and vegetation.</p> <p>Due to the level change and presence of significant rock outcrops the proposal respects the existing landscape character and will retain significant rear setback vegetation on the steeply sloping portion of the site. Site works will protect the natural rock outcrops.</p> <p>The overall landscaped area provision at the site will be 335m² (54% of the site area) and the proposal easily exceeds the minimum 18 m² POS requirements within both the front and rear setback areas. The POS will provide landscaping, turf and planting appropriate to facilitate private recreation.</p> <p>Not applicable.</p> <p>The proposal will have no impact on the adjoining mature vegetation to the east of the site.</p> <p>Not applicable</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>N/A</p>

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
to provide new and/or improved low dense clumping habitat to provide for potential foraging and nesting.		
3.4 Amenity (views, overshadowing, overlooking/privacy, noise)		
3.4.4.4 Overshadowing to adjoining open space In relation to sunlight to private open space of adjacent properties: <ul style="list-style-type: none"> (a) New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June); or (b) Where there is no winter sunlight available to open space of adjacent properties from 9am to 3pm, the calculations for the purposes of sunlight will relate to the equinox in March and September from 9am to 3pm. 	Refer to detailed discussion at Part 4.2 of this Statement. Neighbouring properties (living areas and POS) have northern elevation.	Yes Yes
3.4.1.2 Maintaining solar access into living rooms of adjacent properties In relation to sunlight to the windows or glazed doors to living rooms of adjacent properties: <ul style="list-style-type: none"> (a) for adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9am to 3pm on the winter solstice (21 June); (b) for adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 4 hours from 9am to 3pm on the winter solstice (21 June); (c) for all adjacent buildings (with either orientation) no reduction in solar access is permitted to any window where existing windows enjoy less than the 	Not applicable, north-south orientation exists. The proposal represents an increase from single storey to 2 storey development and increase shadowing is expected. The increased overshadowing to No. 70 Frenchs Forest Road (to the east) mostly impacts a carport adjacent to the dwelling in the south-west corner of the site. There will be no overshadowing impacts on the northern façade or primary POS area of either adjoining property. Noted.	N/A Yes -

[illegible]

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
<p>acoustical privacy of neighbours including neighbouring bedrooms and living areas.</p> <p>(c) Council may require a report to be prepared by a Noise Consultant that would assess likely noise and vibration impacts and may include noise and vibration mitigation strategies and measures.</p>	<p>An Acoustic Report is provided that addresses internal noise levels within the proposed dwelling as a result of traffic noise within Frenchs Forest Road.</p>	<p>Yes</p>
3.4.3 Maintenance of views		
<p>(a) The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.</p>	<p>Refer to detailed discussion at Section 4.2 of this Statement. No unreasonable impacts are anticipated.</p>	<p>Yes</p>
<p>(b) Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.</p>	<p>From the elevated position at No. 72 Frenchs Forest Road there are wide spanning district views of the natural landscape and urban environment formed by the Burnt Bridge Creek valley beyond. Due to these views spanning from a north-easterly to north-westerly aspect, the views afforded from the site, and from buildings in the immediate vicinity of the site, are generally maintained by the proposal.</p>	<p>Yes</p>
<p>(c) Templates may be required to indicate the height, bulk and positioning of the proposed development and to assist Council in determining that view sharing is maximised and loss of views is minimised.</p>	<p>The extent of impact is considered at Section 4.2 of this report.</p>	<p>Yes</p>
3.5.1 Solar Access		
<p>3.5.1.1 Building Form, Design and Orientation</p> <p>The building and site layout is to maximise northern orientation to optimise solar access. Achieving passive solar energy efficiency is an important consideration in design, but it must be balanced with responding to desired streetscape character; promoting amenity for both the proposed development and neighbouring properties (including views, overshadowing and noise considerations), retaining trees and responding to topography.</p>	<p>Primary living areas and POS areas are located with northerly orientation to maximise passive solar access.</p>	<p>Yes</p>
<p>3.5.1.2 Solar Shading Devices</p> <p>(a) The design of buildings may reduce summer sun penetration to north, east and</p>	<p>A balcony with pergola will extend along a portion of the northern elevation (First Floor) to provide shade relief to the primary living</p>	<p>Yes</p>

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
<p>west facing walls of buildings incorporated by the use of external solar shading devices, such as; awnings, external venetians, balconies, pergolas, eaves, overhangs, sails and the like.</p> <p>(b) The minimum projection width for north facing overhangs, or shading devices, should be a width equivalent to at least 45 percent of the height of the shaded opening, measured from the bottom of the glass, to be shaded.</p>	<p>areas. Additionally, the breezeway located along the eastern elevation of the First Floor, incorporates vertical architectural shading and privacy screening.</p> <p>Opening height = 2.4m (45% = 1.08m)</p> <p>Pergola width to northern elevation is approximately 2m.</p>	Yes
3.5.3 Ventilation		
<p>3.5.3.1 Building Design and Orientation to prevailing wind</p> <p>(a) Buildings are to be orientated to benefit from cooling summer breezes (generally easterly/north easterly in Manly) where possible.</p> <p>(b) Buildings are to provide for cross ventilation by locating windows and openings in line with both each other and the prevailing breezes.</p>	<p>The building orientation and openings are provided to facilitate good natural cross ventilation.</p>	Yes
<p>3.5.3.2 Location and area of openings</p> <p>(a) The area of unobstructed window opening should be equal to at least 5 percent of the floor area served.</p> <p>(b) Locate windows and openings in line with each other, and with the prevailing breezes to assist ventilation so that air can pass through a building from one side to the other, replacing warm inside air with cooler outside air.</p> <p>(c) Consider the use of solar or naturally activated exhaust fans to ventilate external walls. This also keeps living areas cool in summer and dry in winter.</p>	<p>As above.</p>	Yes
3.5.5 Landscaping		
<p>3.5.5.1 Considerations in Plan Selection and Landscaping Design</p> <p>(a) Matters to consider in selecting trees and vegetation best suited to conserving energy in buildings include:</p>	<p>New planting will be selected with species appropriate to the locality and urban context.</p>	Yes

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
<ul style="list-style-type: none"> (i) adaptability to site conditions i.e. size of block, soils, microclimate (wind, sun and shade pattern, slope, proximity to existing vegetation, building services, water requirements); (ii) canopy density for shading/cooling; (iii) seasonal character i.e. deciduous species; (iv) growth patterns - height and spread of canopy and root spread. Make sure you find out the heights of trees when buying from nurseries and try to choose trees that grow to approximately 6m to 10m in height and that have low maintenance requirements; (v) choosing plant material with low water requirements, and plants that are fire retardant if you live in a fire hazard area; (vi) weed invasion - near bushland can be prevented by choosing plant and landscaping materials carefully; and (vii) the relationship between the building and the garden landscaping needs to be considered at an early stage in the design process. Where possible provide direct access from the principal indoor living areas to those outside. 		
<ul style="list-style-type: none"> (b) Landscaping should generally contribute to energy efficiency by: <ul style="list-style-type: none"> (i) controlling sun to reduce summer heat gain, by shading the house and outdoor spaces, without reducing solar access in winter; (ii) controlling winds to reduce both heat loss, (by providing protection from unfavourable winds) and heat gain (by 	<p>Landscape selection will employ species appropriate to the locality and suitability in contributing to energy efficiency.</p>	Yes

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
funnelling cooling summer breezes); (iii) improving outdoor comfort levels in summer, through shading, absorbing heat and funnelling breezes.		
3.5.7 Building Construction and Design		
Building design is to apply fundamental principles in achieving energy efficiency in terms of the following: <ul style="list-style-type: none"> • environmentally sound building materials; • thermal mass; • glazing; • wall and roof colour; and • insulation. 	Refer to BASIX certificate submitted with application.	Yes
3.5.8 Water Sensitive Urban Design		
3.5.8.1 Principles of Water Sensitive Urban Design Under LEP clause 6.4 Stormwater Management, the principles of Water Sensitive Urban Design to be considered in granting development consent for any development in residential, business and industrial zones are summarised as follows: <ul style="list-style-type: none"> (a) protection and enhancement of natural water systems (including creeks, rivers, lakes, wetlands, estuaries, lagoons, groundwater systems) and riparian land; (b) protection and enhancement of water quality, by improving the quality of stormwater runoff from urban catchments; (c) minimisation of harmful impacts of urban development by mimicking natural water runoff regimes where possible and appropriate; (d) integration of vegetated stormwater treatment and harvesting systems into the landscape in a manner that maximise visual and recreational amenity of urban development and also 	Refer to Stormwater Concept Plan prepared by Greenview Consulting.	Yes

Provision	Proposal	Complies
provides water quality benefits; (e) reduction in potable water demand through water efficiency and rainwater and stormwater harvesting; and (f) location of water quality and stormwater treatment measures outside riparian land.		
3.7 Stormwater Management		
The following consideration and requirements apply to the management of stormwater: (a) In support of the purposes of LEP clause 6.4(3), all developments must comply with the Council's 'Stormwater Control Policy' (see Council Policy Reference S190). (b) Stormwater disposal systems must provide for natural drainage flows to be maintained; (c) Pervious surfaces and paving will be used for driveways, pathways and courtyards where practical; (d) Notwithstanding the prevailing BASIX water conservation targets, the collection of rainwater/run-off for non-potable uses exceeding the target is encouraged; and (e) A qualified drainage/hydraulic engineer will design all stormwater controls, devices and water storage systems.	As above. Refer to accompanying Stormwater Concept Plan. Refer to accompanying Stormwater Concept Plan. The concept stormwater discharge method will be via a spreader in the rear garden. Noted. Noted. Stormwater Concept Plan has been prepared by a qualified drainage engineer.	Yes Yes Yes - Yes
3.8 Waste Management		
3.8.1 Waste and Recycling Storage Areas (a) Garbage storage areas must be of sufficient size to store the number of bins required by Council, being: (i) For single dwellings and duplexes and multi-unit dwelling with individual waste and recycling storage areas: 1 x 80 litre bin for residual waste, 2 x 120 litre bins for paper and co-mingled (container) recycling, 1 x	Sufficient waste storage is available within the proposed garage and/or within the side setback behind the garage building line and will be easily transported to the street for collection.	Yes

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
240 litre bin for vegetation recycling.		
3.8.2 Demolition and Construction Waste Management Requirements for the management of wastes, particularly in relation to the demolition of buildings are as follows: (a) Footpaths, public reserves, street gutters are not used as places to store demolition waste or materials of any kind without Council approval; (b) Any material moved off-site is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1998; (c) Demolition and construction waste dockets demonstrating lawful disposal of waste must be retained onsite and kept readily accessible for inspection by regulatory authorities such as Council, the Environmental Planning Authority or Work Cover NSW; (d) Waste is only to be disposed of at an appropriately licensed facility; (e) Production, storage and disposal of hazardous waste are only conducted in accordance with any applicable Environmental Planning Authority guidelines.	Noted. All measures are achievable and will be included within the Construction and Demolition Management Plan submitted at Construction Certificate stage.	Yes
3.9 Mechanical Plant Equipment		
3.9.3 Noise from Mechanical Plant External mechanical plant systems (for pools, air conditioning and the like) must be acoustically enclosed and located centrally and away from neighbours living areas of neighbouring properties and side and rear boundaries.	Airconditioning plant, as required, will be located a suitable distance from adjoining properties and it is anticipated operation of plant equipment will be subject to maximum noise levels imposed by a condition of consent.	Yes

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
PART 4 DEVELOPMENT CONTROLS AND DEVELOPMENT TYPES		
4.1 Residential Development		
4.1.1.1 Residential Density, Dwelling Size and Subdivision		
Residential density Site within D5 1 dwelling/500m ² site area	There is 1 dwelling existing and 1 proposed.	Yes
Dwelling size 3 bedroom / 2 bathroom – 95m ²	Minimum area (245m ²) is achieved.	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys and Roof Height)		
4.1.2.1 Wall Height		
Maximum wall height determined by slope where less than 1:4 (sliding scale):		
Wall height is required at Maximum 8m for a slope of 1:4+.	Based on a site slope of 1:4+, an 8m wall height is applicable. The proposal provides a maximum wall height of 5.5m.	Yes
4.1.2.2 Number of Storeys		
(a) Buildings must not exceed 2 storeys, except on land in areas 'L' and 'N1' on the LEP Height of Building Map and notwithstanding the wall and roof height controls in this plan.	2 Storeys proposed.	Yes
(b) Buildings on land in areas 'L' and 'N1' on the LEP Height of Building Map Buildings must not exceed 3 storeys notwithstanding the wall and roof height controls in this plan.	Not applicable.	N/A
(c) Variation to the maximum number of storeys may be considered:		
(i) where specific physical site constraints warrant an exception to this requirement. In these circumstances the development must still fully comply with other numeric height controls and development standards; and	Not applicable.	N/A
(ii) to allow an additional understorey where that storey satisfies the meaning of basements in the LEP.	No understorey proposed.	N/A
4.1.2.3 Roof Height		
(a) Pitched roof structures must be no higher than 2.5m above the actual wall height;	The roof ridge (approx. RL 82.34) is located less than 2.5m above the wall height, at approximately 1600mm.	Yes

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
<p>(b) Roof parapets may extend up to 0.6m above the actual wall height where Council considers that a parapet is considered to be appropriate to the design of the development and satisfies the objectives of this DCP and the LEP.</p> <p>Note: As the LEP definition 'Building Height' incorporates plant and lift overruns, these structures must be similarly contained and not protrude above the maximum roof height.</p>	Not applicable	N/A
<p>(c) The maximum roof pitch must be generally no steeper than 35 degrees. A roof with a steeper pitch will be calculated as part of the wall height. In this regard the wall height controls at paragraph 4.1.2.1 of this plan will apply to the combined wall height and the height of the roof steeper than 35 degrees.</p>	A roof pitch of 15 degrees is proposed.	Yes
4.1.4 Setbacks (front, side, rear) and Building Separation		
4.1.4.1 Street Front Setbacks		
<p>(a) Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.</p>	There is no predominant setback in the immediate vicinity with No. 70 (approx. 5.6m), No. 72 (unknown) and No. 76 (approx. 7m), however, a covered carport is located on a nil setback to the Frenchs Forest Road boundary, similar to No. 68.	Yes
<p>(b) Where the street front building lines of neighbouring properties are variable and there is no prevailing building line in the immediate vicinity i.e. where building lines are neither consistent nor established, a minimum 6m front setback generally applies. This street setback may also need to be set further back for all or part of the front building façade to retain significant trees and to maintain and enhance the streetscape.</p>	A setback of 6m is proposed to southern elevation (front property setback) of the proposed garage with the two storey dwelling being setback 12m from the front property boundary.	Yes
<p>(c) ...</p> <p>(d) ...</p>		
4.1.4.2 Side setbacks and secondary street frontages		
<p>(a) Setbacks between any part of a building and the side</p>	The proposed side setbacks are: <u>Ground Floor</u>	Yes

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
boundary must not be less than one third of the height of the adjacent external wall of the proposed building.	Eastern 1500mm (min.900mm required) Western 1200mm (min. 1033mm required) <u>First Floor</u> Eastern 3000mm (min. 1833 required) Western 2500mm (min. 1833 required)	
(b) Projections into the side setback may be accepted for unenclosed balconies, roof eaves, sunhoods, and the like, if it can demonstrate there will be no adverse impact on adjoining properties including loss of privacy from a deck or balcony.	The breezeway on the eastern elevation within the side setback incorporates unenclosed architectural screening / vertical louvres to maximise privacy to the adjoining property. Screening incorporated into the external staircase within the western boundary setback will address potential privacy and overlooking impacts.	Yes
(c) All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;	The First Floor eastern boundary setback, containing habitable rooms with windows setback 3m. The First Floor western boundary setback (2.5m) contains only a bathroom window. Ground Floor windows are located in excess of the minimum setback requirement (as above).	Yes
(d) For secondary street frontages of corner allotments, the side boundary setback control will apply unless a prevailing building line exists. In such cases the prevailing setback of the neighbouring properties must be used. Architecturally the building must address both streets.	Not applicable. Site has single frontage only.	N/A
(e) Side setbacks must provide sufficient access to the side of properties to allow for property maintenance, planting of vegetation and sufficient separation from neighbouring properties.	Access is available along both side boundaries for access and maintenance purposes.	Yes
(f) In relation to the setback at the street corner of a corner allotment the setback must consider the need to facilitate any improved traffic conditions including adequate and safe levels of visibility at the street intersection. In this regard Council may consider the need for building works	Not applicable. Site has single frontage only.	N/A

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
including front fence to be setback at this corner of the site to provide for an unobstructed splay.		
4.1.4.3 Variations to side setback in residential density areas D3 to D9 (a) Council may consider an exception to the side setback control to enable windows at 90 degrees to the boundary to provide some flexibility in the siting and design of buildings which assist in satisfying setback objectives relating to privacy subject to the following: (i) The average distance to the boundary over the length of the wall is to be no less than the required setback control. In relation to the average distance to boundary, the area of building protruding into the minimum setback must be no greater than the area of land at the side boundary that is setback more than what is required by the minimum setback line. (ii) The wall protruding into the minimum setback must not provide windows facing the side boundary. (iii) The subject side elevation must provide a window(s) at some 90 degrees to the boundary. (b) Walls located within 0.9m of any one of the side boundaries may be considered but must: (i) contain no windows; (ii) be constructed to one side boundary only; (iii) limit height to 3m; (iv) limit length to 35 percent of the adjoining site boundary; (v) submit a standard of finish and materials for external surfaces which complement the external	As noted above the minimum setback requirements have been achieved.	N/A

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
<p>architectural finishes of adjacent properties and/or the townscape character;</p> <p>(vi) obtain a right-of-way to provide access for maintenance; and</p> <p>(vii) satisfy the objectives for setback in this plan and the applicant can demonstrate no disadvantage to the adjacent allotment through increased overshadowing, or loss of view and no impediment to property maintenance.</p> <p>Note: Any wall over 3m high must comply with the setback requirements irrespective of whether the wall contains windows or not.</p>		
<p>4.1.4.4 Rear Setbacks</p> <p>(a) The distance between any part of a building and the rear boundary must not be less than 8m.</p> <p>(b) Rear setbacks must allow space for planting of vegetation, including trees, other landscape works and private and/or common open space. The character of existing natural vegetated settings is to be maintained.</p> <p>(c) On sloping sites, particularly where new development is uphill and in sensitive foreshore locations, consideration must be given to the likely impacts of overshadowing, visual privacy and view loss.</p> <p>(d) Rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity to minimise overshadowing, visual privacy and view loss.</p>	<p>The rear setback is achieved at approximately 10.6m to the First Floor balcony and 15m to the dwelling.</p> <p>The site is steeply sloping and characterised by numerous rock outcrops with opportunities for landscaping existing in the lowest portion of the site. The existing significant vegetation within the lower portion of the rear setback will be retained and enhanced.</p> <p>Solar access, overshadowing, privacy and view loss are well resolved and acceptable as discussed elsewhere in this Statement. The proposed setback is consistent with development in the area.</p> <p>As above.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Merit</p>
4.1.5 Open Space and Landscaping		
<p>4.1.5.1 Minimum Residential total open space requirements</p> <p><u>Numeric Controls</u></p> <p>(a) Open Space must be provided on site in accordance with Figure 34 - Numeric Requirements for</p>		

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
<p>Total Open Space, Landscaped Area and Open Space Above Ground.</p> <p>Area OS3 – Total Open space (Min. %) – 55% = 340m² Landscaped Area (Min. % of TOS) – 35% = 216.65m² Open space above ground (max of total open space) – 25%</p> <p>Minimum dimensions and areas for Total Open Space (b) Total Open Space must adhere to the following minimum specifications: (i) horizontal dimension of at least 3m in any direction; and (ii) a minimum unbroken area of 12sqm. (iii) A variation to the minimum specifications in i) and ii) above may only be considered for Above Ground Open Space where it can be demonstrated that lesser dimensions or areas will better serve to minimise amenity impacts on neighbours.</p>	<p>64.6%, 400m²</p> <p>56.3%, 350m²</p> <p>10.5%, 64.8m²</p> <p>The provision of open space meets the minimum requirements. The proposed development is a high-quality built form that has been designed in response to the site constraints and opportunities, and seeks to provide optimal amenity outcomes through quality indoor and outdoor spaces, quality building materials and high level building performance.</p>	<p>Yes</p> <p>Yes</p>
<p>4.1.5.2 Landscaped Area <u>Minimum Dimensions and Areas</u> (b) Minimum dimensions and areas must provide for the following: (i) soil depth of at least 1m for all landscaped areas either in ground or above ground in raised planter beds; (ii) a minimum horizontal dimension of 0.5m measured from the inner side of the planter bed/ box, wall or any other structure which defines the landscaped area and incorporating an appropriate drainage and irrigation regime. See also paragraph 3.3 Landscaping regards requirements for design and planting principles.</p>	<p>All future landscaping to comply.</p>	<p>Yes</p>

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
<p>(c) Minimum Tree Plantings</p> <p>(i) The minimum tree numbers must be in accordance with Figure 37 - Minimum Number of Native Trees Required.</p> <p>(ii) The minimum tree requirement may include either existing established native trees or new native trees planted at a pot/container size to be at least 25 litres capacity and being a species selected in accordance with Schedule 4 Part B - Native Tree Selection.</p> <p>(iii) The required minimum number of native trees required under this paragraph must be planted in a deep soil zone as defined in this plan's Dictionary.</p> <p><u>Landscaping Driveways</u></p> <p>(d) Driveways alongside boundaries will be sufficiently setback to provide a landscaped area at least 0.5m wide between the driveway area and side boundary for the length of the driveway. Any parking hard stand area or carport associated with the driveway should also be similarly setback unless requiring a greater setback elsewhere under this plan.</p>	<p>A minimum of 3 x native trees will be included in the landscape design and planting schedule.</p> <p>Due to the existing driveway entry location from Frenchs Forest Road (a classified road) being combined with access to No. 70 the existing driveway location will be retained along the south-eastern side of the site with a setback achieving 0.5m in part.</p>	<p>Yes</p>
<p>4.1.5.3 Private Open Space</p> <p>Principal Private Open Space</p> <p>(a) Principal private open space is to be provided in accordance with the following minimum specifications:</p> <p>(i) Minimum area of principal private open space for a dwelling house is 18sqm.</p>	<p>Total private open space of 400m² provided within the front and rear setbacks, with a minimum dedicated area of 18m² provided in each setback location.</p> <p>Direct access from the living areas is provided to the First Floor balcony open space. Both areas exceed the minimum POS requirement.</p>	<p>Yes</p>
4.1.6 Parking, Vehicular Access and Loading		
<p>4.1.6.1 Parking Design and the location of garages, carports or hardstand areas</p> <p>(a) The design and location of all garages, carports or hardstand areas must</p>	<p>The location of the proposed garage is compatible within the street. It is well located</p>	<p>Yes</p>

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
<p>minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality.</p> <p>(b) Garage and carport structures forward of the building line must be designed and sited so as not to dominate the street frontage.</p> <p>(c) the maximum width of any garage, carport or hardstand area is not to exceed a width equal to 50 percent of the frontage, up to a maximum width of 6.2m.</p>	<p>and setback behind the minimum required setback.</p> <p>N/A</p> <p>Site frontage is approx. 16m, 50% = 8m. The proposed garage is 7m wide along its southern elevation.</p>	<p>N/A</p> <p>Yes</p>
4.1.6.4 Vehicular Access		
(a) All vehicles should enter and leave the site in a forward direction.	The access / egress arrangement to and from the site will not change. A hardstand / turning area will allow vehicles to exit the site in a forward direction.	Yes
(b) Vehicular access and parking for buildings with more than 1 dwelling is to be consolidated within one location, unless an alternative layout/design would better reflect the streetscape or the building form.	Not applicable. 1 dwelling proposed only.	N/A
(c) Vision of vehicles entering and leaving the site must not be impaired by structures or landscaping.	Not proposed.	Yes
(d) Particular attention should be given to separating pedestrian entries and vehicular crossings for safety.	Clear, separate pedestrian and vehicle access provided.	Yes
4.1.8 Development on Sloping Sites		
(a) The design and development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.	Solar access, overshadowing, privacy and view loss are well resolved and acceptable as discussed elsewhere in this Statement.	Yes
(b) Developments on sloping sites must be designed to:		
(i) generally step with the topography of the site; and	Due to the existing site conditions, constraints and topography of the land the proposed dwelling maintains level floorplates for the Ground and First Floors.	Yes
(ii) avoid large undercroft spaces and minimise undercroft structures by integrating the building into the slope whether to the foreshore or a street.	The undercroft areas, and their structures, are considered reasonable and appropriate given the significant change in level in this area of the site and beyond.	

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
4.1.10 Fencing		
4.1.10.1 Exceptions to maximum height of fences		
(a) In relation to stepped fences or walls on sloping sites (see paragraph 4.1.8), the fence and/or wall height control may be averaged.	Due to the significant level changes from the front of the site to the rear, the side boundary fences will step as the topography changes.	Yes
(b) In relation to open/transparent fences, height may be increased up to 1.5m where at least 30 percent of the fence is open/ transparent for at least that part of the fence higher than 1m.	Due to the change in ground level from the western boundary to the eastern boundary the proposed front fence will increase in maximum height from 1.5m to approx. 1.8m at the eastern boundary and will incorporate an open portion of at least 30%.	On merit
(c) In relation to development along busy roads:	The site, being on the northern side of Frenchs Forest Road is located along a noisy, busy, and classified road.	On merit
(i) where a development will be subjected to significant street noise, Council may consider exceptions to the permitted fence height where the use of double glazing or thicker glazing for the residence is not available.		
(ii) Fences to the southern side of French's Forest Road, Seaforth may achieve a maximum height of 1.5m with 'solid' fencing.		
4.4.5 Earthworks (excavation and filling)		
4.4.5.1 General		
(a) Earthworks must be limited to that part of the site required to accommodate the building and its immediate surrounds to protect significant natural features of the site including vegetation and prominent rock outcrops.	Minimal excavation is proposed and will not impact natural vegetation or prominent rock outcrops.	Yes
(b) Natural and undisturbed ground level must be maintained within 0.9m of side and rear boundaries.	Minimal site modification is not proposed within 0.9m of the side or rear boundaries and ground levels will be maintained.	Yes
(c) On steeply sloping sites, pier and suspended slab or an equivalent non-invasive form of construction technique must be used to minimise earthworks and vegetation loss and retain natural features.	Piers and suspended slab construction is proposed for the portion of site that slopes steeply towards the rear boundary which will retain and protect the existing prominent rock outcrops.	Yes
(d) Excavation under the canopy of any tree (including those on neighbouring properties) will	Not proposed.	N/A

TABLE 2: RELEVANT PROVISIONS OF MANLY DCP 2013		
Provision	Proposal	Complies
only be permitted providing its long-term survival and stability is not jeopardised. Such excavation must be supported by an Arborist report. (e) Approved sediment, siltation and stormwater control devices must be in place (and maintained) prior to and during the carrying out of any earthworks and other works on the site.	This will be detailed within the Construction Management Plan (CMP) at CC stage.	By condition
4.4.5.2 Excavation (a) Excavation is generally limited to 1m below natural ground level with the exception of basement parking areas (which will be contained within the footprint of the building) and swimming pools; (b) A dilapidation survey report and geotechnical assessment may be required for excavation works exceeding 1m.	Minimal excavation is proposed for the development of the proposal. Noted.	Yes -

In light of the above, the proposal has been demonstrated to achieve an acceptable level of compliance with the applicable DCP controls, results in a development form that is reasonably expected at the site and responsive to the site size.

Other relevant matters are referred to in detailed discussion at Section 4.2 of this Statement. It has been demonstrated that the proposal represents a reasonable alternative to strict compliance, as mandated by Section 4.15(3a) of the EP&A Act, 1979.

4.2 Impacts on Natural & Built Environment (Section 4.15(1)(b))

Natural Environment

The proposal seeks to carry out the demolition of an existing dwelling and the construction of a new 2 storey dwelling and will incorporate appropriate construction methodology to minimise runoff and siltation.

The site is not mapped as containing any significant ecological features and the historically developed nature of the site indicates that there are no existing significant trees on the site, although the existing rock outcrops will be preserved and protected. The development will provide new vegetation which will serve to secure a long-term landscaped improvement for the site and streetscape.

In light of the above, the proposal will not give rise to significant impacts on the natural environment and will provide a net improvement to the natural features of the site.

Built Environment

The proposal does not give rise to any material impacts on the built environment as detailed below in relation to discussion on privacy, overshadowing, views as well as social and economic impacts.

Views

There are wide sweeping elevated views of natural landscapes afforded from the site or from buildings in the immediate vicinity of the site. The proposal is of a scale and form reasonably expected at the site and will not result in any significant or unreasonable loss of view or reduction of outlook.



Figure 13: Elevated views available due to the topography (realestate.com)

Based upon the above and the images provided in the architectural drawings, the extent of view loss impact is considered to be negligible to minor, depending on the vantage point from where the view is obtained;

- The properties at No. 70 and No. 74 will unlikely be significantly impacted, if at all, by the proposed development. The property to the south at No. 85 (opposite side of Frenchs Forest Road) in part looks over the subject site to captures views/outlook, which would be enjoyed from a sitting and a standing portion. The extent of existing views/outlook is shown in Figures 4-6 and 13.
- The proposal will reduce the extent of the existing views for No. 85, although it will maintain views either side of the subject site and the proposed dwelling. When compared to the existing approved development for the subject site, the extent of impact will be similar, including the form/envelope, approved wall heights and approved ridge heights.
- Based upon Figures 14 to 16 and the extent of view/outlook that will remain for No. 85, the extent of impact is categorised as 'minor'.



Figure 14: Existing view/outlook from No. 85 Frenchs Forest Road (realestate.com.au)



Figure 15: Existing approval for the site (DA2019/0637)

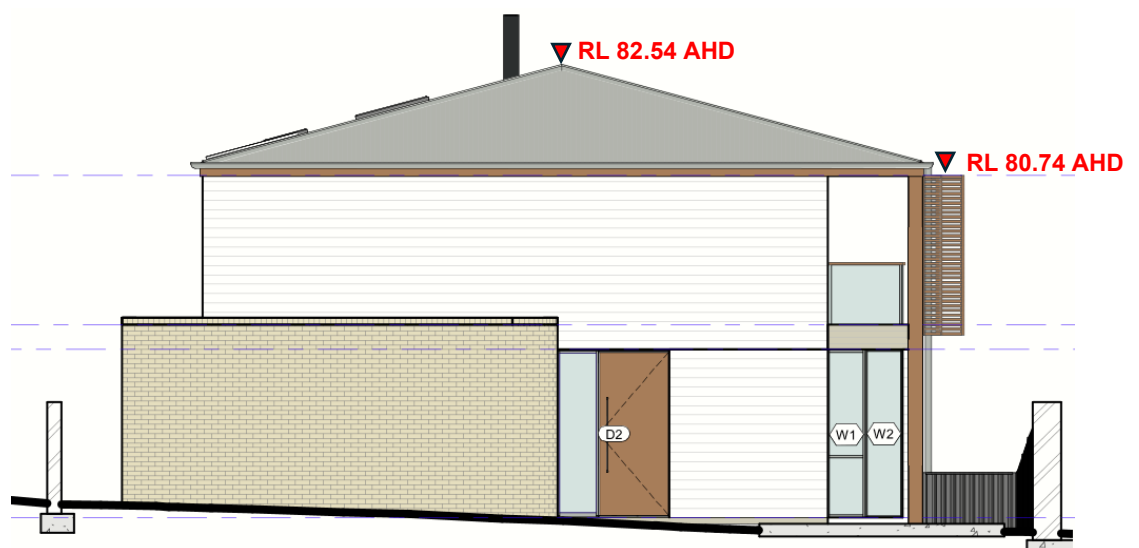


Figure 16: Proposed development (street (south) elevation)

- Although it is desirable to retain existing views/outlook as far as practical, it is not always possible particularly when a proposed built form achieves a high level of compliance with the controls, as does the subject proposal. Importantly, the proposed minor height variations are on the northern side of the proposed dwelling will be not impact on views/outlook from No. 85;
- It is noted that's the view loss principles established in Tenacity seek to achieve view sharing as opposed to view protection, which sometimes can be a claim that is made but is not reasonable or within the spirit of the view loss principles; and
- The proposal has been skilfully designed based on the large number of planning controls that apply and in consideration of the site context and its constraints, including the proposed modest ceiling heights (2.4m at the upper level), overall building height, setbacks, landscaped area and FSR controls.

On this basis, the proposal is considered reasonable regarding impacts and amenity relationship with the adjoining properties. Any view impacts are incidental to a compliant building form and are acceptable with regard to the view sharing principles established in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.

Aural and Visual Privacy

The proposed dwelling has been designed with particular regard to maintaining an appropriate level of privacy to the surrounding neighbours as well as safeguarding the privacy of the future residents of the development. It should also be noted that the proposed design has addressed potential privacy impacts that may have arisen from the construction of a previously approved DA (DA2019/00637) that included a First Floor balcony orientated towards the rear setback of No. 70 Frenchs Forest Road.

In particular, the proposed dwelling incorporates the following:

- Primary living areas are orientated towards the north and rear setback of the property;
- The new proposal locates the primary outdoor private open space on the First Floor balcony towards the western boundary, away from No. 70 to the east;
- Privacy concerns relating to No. 70 have also been addressed through architectural screening along the First Floor eastern elevation;
- Although the primary private open space areas associated with the dwelling are located on balconies on the Ground and First Floor levels, accessible via an external staircase, privacy to the western neighbour (No. 74) will be achieved through suitable architectural screening.
- By comparison to the existing active development consent, the proposed development will result in no greater impact upon both adjoining neighbours through its sensitive and skilful architectural design, siting of private outdoor spaces and utilisation of architectural screening devices.

In light of the above, the proposal has been designed to respond to the site context and provide appropriate privacy and amenity to the proposed dwelling as well as to safeguard the privacy of the adjoining properties.

Overshadowing

The shadow diagrams submitted with the application detail the extent of shadow cast by the proposed works. The DCP contains prescriptive requirements relating to solar access to determine acceptable levels of overshadowing.

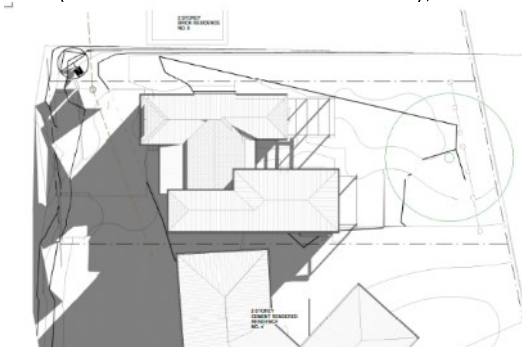
Specifically, the DCP under Part 3.4.1.1 - Overshadowing to adjoining open space of the DCP requires that:

- (a) *New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June); or*
- (b) *Where there is no winter sunlight available to open space of adjacent properties from 9am to 3pm, the calculations for the purposes of sunlight will relate to the equinox in March and September from 9am to 3pm.*

Under Part 3.4.1.2 – Maintaining solar access into living rooms of adjacent properties, the DCP requires:

- (c) *for adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9am to 3pm on the winter solstice (21 June);*
- (d) *for adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 4 hours from 9am to 3pm on the winter solstice (21 June);*
- (e) *for all adjacent buildings (with either orientation) no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours specified above.*

The submitted shadow diagrams detail proposed shadows cast at mid-winter between 9am, 12 noon and 3pm (Figure 17). Given the site has a north – south orientation, impacts are limited to the sites adjoining the property to the east (No. 70 Frenchs Forest Road) and west (No. 74 Frenchs Forest Road), and are shared over the morning or afternoon periods.



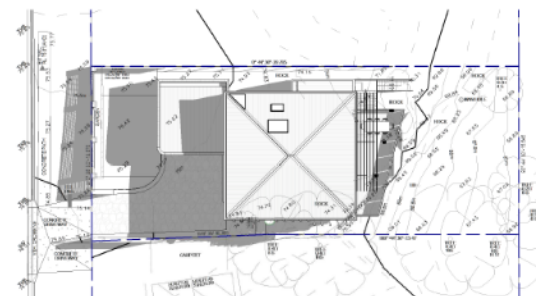
① SHADOW DIAGRAM 21 JUNE 9AM EXISTING
1:200



June 21 - 0900
1:300



② SHADOW DIAGRAM 21 JUNE 12 MIDDAY EXISTING
1:200



June 21 - 1200
1:300

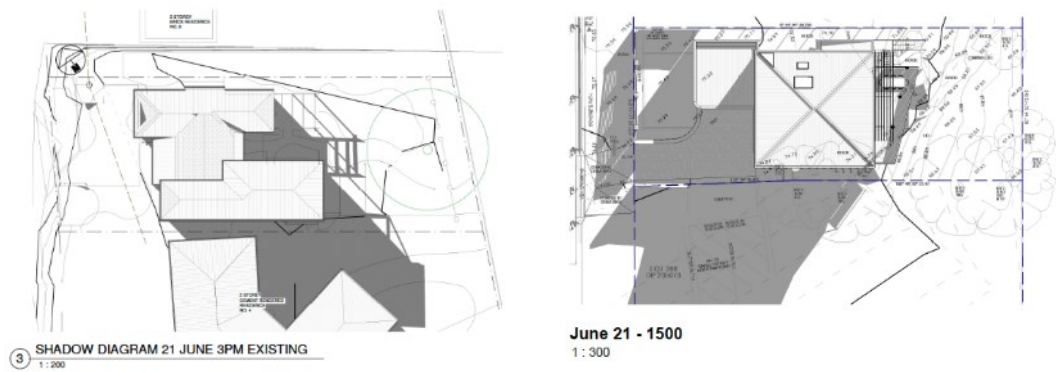


Figure 17: Shadowing impacts (Mid-winter 9am, 12noon, 3pm)

The proposed two-storey dwelling is setback over 12m from the Frenchs Forest Road boundary and achieves compliant side boundary setbacks. As such, additional shadow impacts to both neighbouring properties (No. 70 and No. 74 Frenchs Forest Road) are to the front and side setback areas of each property.

Given its location to the east, resultant impacts in mid-winter to No. 70 Frenchs Forest Road are, as follows:

- At 9am, no additional shadows will fall internal to the site;
- At 12 noon, minor additional shadows will fall internal to the site within the side setback area;
- At 3pm, additional shadows will fall internal to the site within the northern and western elevations of the dwelling and the carport and front setback area.

Given its location to the west, resultant impacts in mid-winter to No. 74 Frenchs Forest Road are, as follows:

- At 9am, additional shadows will fall internal to the site within the northern and eastern elevations of the dwelling and front setback area;
- At 12 noon, no additional shadows will fall internal to the site;
- At 3pm, no additional shadows will fall internal to the site.

In terms additional impacts to No. 70 located directly east of the development site, it is important to note that portion of the site and dwelling impacted at 3pm midwinter will already be in heavy shade from the existing vegetation located along its western boundary.

Whilst No. 70 Frenchs Forest Road will experience some additional overshadowing at mid-winter, the resultant impact is acceptable and justified as:

- The eastern side setback is compliant;
- The maximum building ridgeline height RL 82.54 is lower than the maximum permissible building height.
- The proposed pergola and First Floor balcony that represent a minor height non-compliance do not contribute significantly to overshadowing;
- Significantly, the extent of shadowing cast by the proposal is comparable to the shadow cast by the existing approved development application (DA2019/0637); and

- The primary private open space to No. 70 is within the rear setback and solar access will continue to be available to the rear yard throughout the day.

In conclusion, increased shadow impacts are minimal and given compliance with the prescriptive DCP requirements relating to solar access, the shadow impacts cast by the proposal are acceptable.

External Appearance

The proposed development reflects a high quality, contemporary 2 storey dwelling and a vastly improved presentation and contribution to Frenchs Forest Road, compared to existing. The form has integrated several design elements to provide an interesting, varied and well-articulated facade addressing the street and neighbouring dwellings. The design includes varied treatment to the front alignment including a cream face-brick garage and entry porch within the clean lines of the new front façade.

The colour palette includes a variety of light tones, contemporary and natural materials incorporating 'Vivid White' external cladding, timber, face brick garage and subtle grey contrasting aluminium for the windows and door frames, gutters and down pipes. These colours and finishes are compatible with both older and newer development within the street. As such, the proposed contemporary development will reflect that of residential developments in the locality and is therefore compatible with the streetscape character of the area.

Photomontages of the proposal are provided at Figures 18 and 19.



Figure 18: Street presentation of the proposed development



Figure 19: 3D interior view of the proposed development viewed looking east

Social and Economic Impacts

The proposal includes the construction of a new dwelling house and associated landscaping that will improve the amenity for future occupants within an appropriate built form outcome.

In the absence of impacts on the natural or built environment and maintaining the residential use at the site, the proposal will result in no adverse social impacts. In addition, the nature of the proposal will have a neutral impact on the economy.

4.3 The Suitability of the Site (Section 4.15(1)(C))

The proposal is permissible with consent in the *R2 – Low Density Residential* zone that applies the site and is consistent with the intention of the zone. In the absence of any natural or built environmental impacts as detailed above, the development is suitable at the site.

4.4 The Public Interest (Section 4.15(1)(e))

The proposed development is permissible with development consent, is consistent with zone objectives and complies largely with the LEP and DCP unless identified and appropriate justification has been provided. Accordingly, the proposed development is in the public interest and worthy of Council's support.

5 CONCLUSION

This Statement of Environmental Effects has detailed the specifics of the site and its context and outlines the proposal construct a dwelling at the subject site.

The application has been considered in accordance with the matters for consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979. The proposal is permissible with consent from Council and complies with all relevant LEP provisions.

In addition, the proposal has been assessed with regard to the relevant SEPPs and DCP provisions applying to the site and proposed development. The proposal will result in acceptable development that will have no significant adverse environmental impact on the street and locality.

When assessed against the requirements of the Manly DCP 2013, the proposal achieves a high level of compliance with acceptable, merit justified variations proposed which are responsive to the intention of the controls and immediate built form context.

As detailed in this Statement, the proposed development will not give rise to any unacceptable impacts on the natural and built environment and will in fact improve the streetscape appearance of Frenchs Forest Road. The proposal will also have acceptable impacts in term of privacy and overshadowing in relation to the surrounding properties.

The proposal is therefore suitable for the site and in the interest of the public and it is requested that Council determine the application favourably.

ANNEXURES

A Clause 4.6 Variation - Height of Buildings

CLAUSE 4.6 VARIATION – HEIGHT OF BUILDING

1. Introduction

This Clause 4.6 Variation Request is to accompany a development application to Northern Beaches Council seeking consent for *demolition of an existing dwelling and construction of a dwelling house over basement parking with associated fencing and landscaping* at No. 72 Frenchs Forest Road, Seaforth.

The proposal seeks variation to the 8.5m Height of Building (HOB) development standard pursuant to Clause 4.3 of Manly Local Environmental Plan 2013 (MLEP 2013). The maximum extent of variation is 2.19m (25.76%), resulting in a maximum HOB of 10.69m. The variation predominately relates to the northern edge of the proposed balcony pergola structure where the site topography falls steeply.

The remaining parts of this variation request details the departure and responds to the statutory requirements of Clause 4.6 of MLEP 2013 informing that the application of flexibility to the development standard in this instance appropriate.

2. What is the name of the environmental planning instrument that applies to the land?

Manly Local Environmental Plan 2013.

3. What is the zoning of the land and what are the objectives of the zone?

Objectives of R2 – Low Density Residential

- *To provide for the housing needs of the community within a low density environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

4. Identify the Development Standard to which this Clause 4.6 Variation applies?

This variation request relates to Clause 4.3 of Manly LEP 2013 – Height of Buildings.

5. Is the standard expressly excluded from operation of Clause 4.6?

Clause 4.3 is not identified as being expressly excluded from operation of 4.6 as it is not identified at Clause 4.6(6) or (8) of the LEP.

6. What are the objectives of the Development Standard?

The objectives of this clause are as follows—

- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- (b) to control the bulk and scale of buildings,*
- (c) to minimise disruption to the following—*
 - (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
 - (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*

- (iii) views between public spaces (including the harbour and foreshores),
- (d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,
- (e) to ensure the height and bulk of any proposed building or structure in a recreation or conservation zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

What is the numeric value of the development standard in the environmental planning instrument?

Clause 4.3(2) of the LEP permits a maximum Height of Building of 8.5m.

The maximum of Height of Buildings is defined by the numerical standard shown on the relevant MLEP 2013 Height of Buildings Map applicable to the land.

7. **How do the existing and proposed numeric values relate to the development standard? What is the percentage variation (between your proposal and the environmental planning instrument)?**

As noted above, the proposal seeks variation to the 8.5m Height of Building (HOB) development standard pursuant to Clause 4.3 of Manly Local Environmental Plan 2013 (MLEP 2013). The maximum extent of variation is 2.19m (25.76%), resulting in a maximum HOB of 10.69m. The variation predominately relates to the northern edge of the proposed balcony pergola structure where the site topography falls steeply.

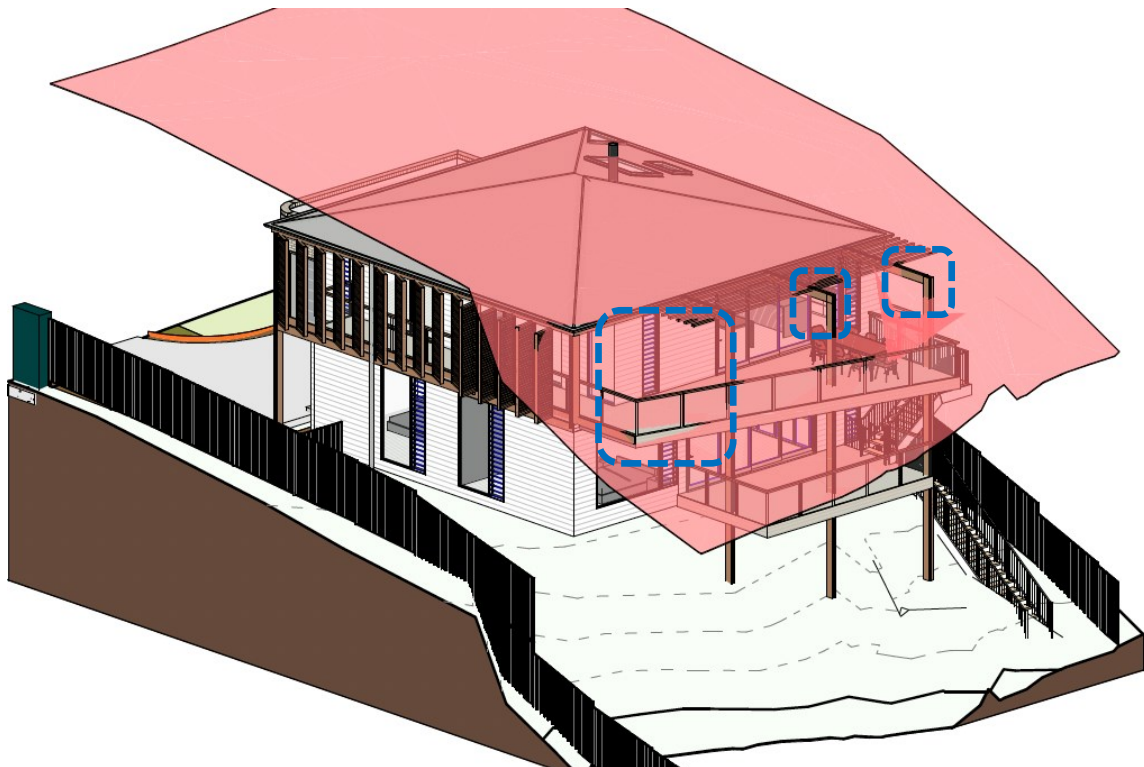


Figure 1: 3D Model illustrating height plane, dwelling and topography

The proposed two-storey dwelling is height compliant when measured across most of the building footprint. The minor non-compliances illustrated (Figure 1) are for elements of the pergola and north-eastern corner of the First Floor balcony that arise due to the sudden change in levels associated with an existing natural rock outcrop.

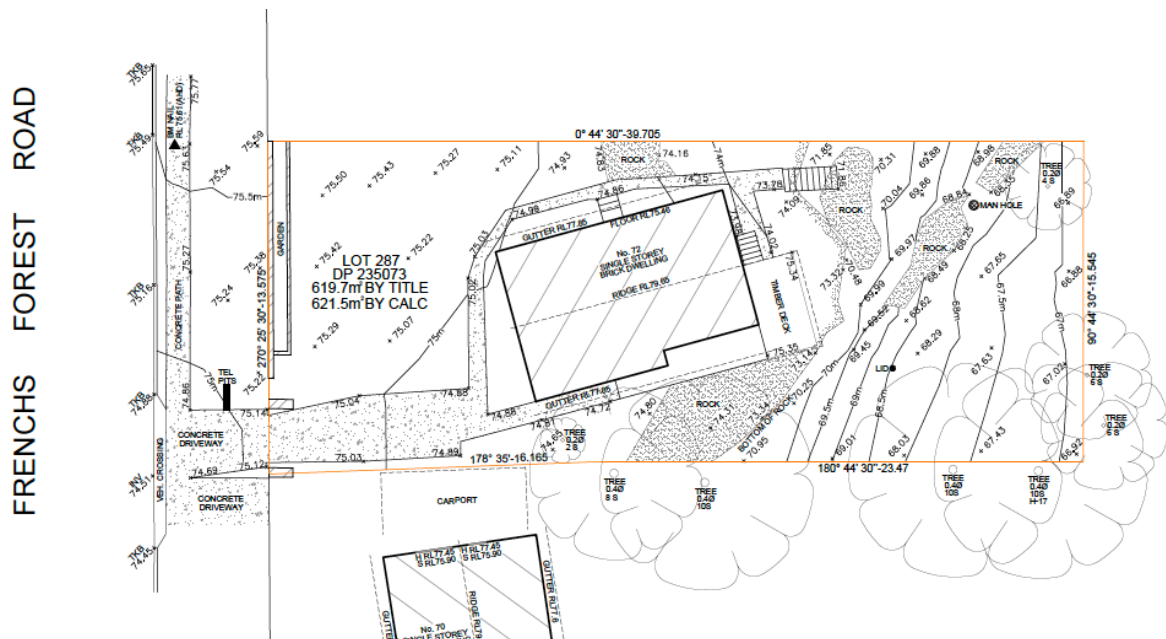


Figure 2: No. 72 Frenchs Forest Road, Seaforth - Site Survey

The rock outcrop, located directly beneath the proposed balconies, results in a change of level of over 4.5m across 6m of the site. Maintaining a compliant HOB, when taking into consider the rapid change in ground levels would be unreasonable and unnecessary.

8. How is compliance with the Development Standard unreasonable or unnecessary in in the circumstances of this particular case?

The Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 provides the five-part test to determine if compliance with a development standard is unreasonable or unnecessary with only one test needing to be satisfied.

Note: These five tests are not exhaustive of the ways in which you might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. You do not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, you can demonstrate that compliance is unreasonable or unnecessary in more than one way.

Test 1: In our view, the proposal satisfies the first test in *Wehbe v Pittwater Council* [2007] NSWLEC 827 as the objectives of the standard are achieved notwithstanding non-compliance with the standard. Refer to discussion below relating to compliance with the objectives of the development standard.

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

In considering whether there are sufficient environmental planning grounds to support the building height non-compliance, the following principles are relied on.

In the recent Court decision Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ further clarified the correct approach in the consideration of clause 4.6 requests. This advice further confirms that the clause does not require that a development that

contravenes a development standard must have a neutral or better environmental planning outcome than one that does not.

As held in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [39], Preston CJ confirmed (at [25]) that the test in 4.6 (4)(a)(i) does not require the consent authority to directly form the opinion of satisfaction regarding the matters specified. Rather, it needs to do so only indirectly in forming its opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated.

By contrast, the test in cl4.6(4)(a)(ii) requires that the consent authority must be directly satisfied about the matter in that clause (at[26]); namely that the development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

With regard to the above, it is considered that there are sufficient environmental planning grounds to support the proposed non-compliance for the following reasons:

- a. The proposed variation relates to a portion of the site that has a sudden drop in topography which is associated with an existing rock outcrop. The variation is therefore unique to the site topography.
- b. The non-compliant parts of the building could be reduced or removed altogether, however, this would have no benefits to neighbour amenity or appearance of the dwelling, but would unreasonably impact on the future amenity of the building occupants by either a reduced building form or elimination of a redeeming visual feature of the building.
- c. The extent of variation relates to structural elements of the building and will therefore not in of themselves have any impact on neighbour amenity. As detailed in the attached Statement of Environmental Effects, there will be no impact on existing views/outlook associated with the variation.
- d. The proposed development meets the objectives of the development standard and meets the objectives of the R2 General Residential zone;
- e. The scale and form of the development is well resolved and compatible with the existing varied typologies, age and form of development in the immediate locality.
- f. The accompanying SEE details that the proposal will not give rise to any adverse impacts on the amenity of the adjoining neighbours in terms of privacy, overshadowing or view loss.
- g. The subject proposal represents a reasonable approach to development of the site based on specific site and locality factors and the large number of controls that apply. Insistence on compliance would not create any measurable, material benefits.
- h. The proposed development achieves the objects in Section 1.3 of the Environmental Planning & Assessment Act, 1979, specifically:
 - a. The proposal promotes the orderly and economic use and development of land through the redevelopment of the site to provide a dwelling that facilitates current and desired living standards (objective 1.3c);

- b. The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context and will improve the amenity for future residents whilst respecting the local built form character (objective 1.3(g)).

In addition to the above, the proposal is in the public interest because it is consistent with the objectives of the standard and the zone in which the development is carried out. Provided below is an assessment of the proposal with respect to the objectives of the building height development standard and the R2 – Low Density Residential Zone.

The proposal is consistent with the objectives of Clause 4.3 Height of Buildings and as detailed below.

***Objective (a)** to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality*

***Objective (b)** to control the bulk and scale of buildings,*

Response: The proposal is for a 2 dwelling and this is entirely consistent with the character of the locality as outlined above. The proposed height variation relates to small/isolated parts of the dwelling that create no change to compatibility of the development with local character. Externally, the proposal will appear to be height compliant the sudden fall created by the rock outcrop will not be externally visible.

The proposal will improve the visual aesthetic of the site compared to existing and results in a building form that is reasonably expected at the site and within the wider locality. Visual impacts of the development have been minimised through the majority compliant form, with the extent of variation being so minor that it has no bearing on building appearance when viewed from the meaningful or adverse public domain or a neighbouring property.

The dwelling will be consistent with the surrounding built form context and entirely consistent with the character of the area. There will be no adverse impacts created on a public space.

The proposal is therefore consistent with the intended character and scale of development for the locality.

***Objective (c)** to minimise disruption to the following—*

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
- (iii) views between public spaces (including the harbour and foreshores),*

Response: View loss is addressed in the attached Statement of Environmental Effects, with no measurable or meaningful change created by the height variation. There will be no impact on views enjoyed from a public space.

***Objective (d)** to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

Response: As detailed in the accompanying SEE, the subject site and neighbouring properties have a northerly aspect and the existing/proposed dwellings are located high on each property in order to capture the available views/outlook. As a result of the site orientation and prevailing topography, the dwelling will only create shadowing impacts on each neighbouring during the morning or afternoon periods (not both onto one property), however, the extent impact will not be materially impacted by the small height variations proposed. High levels of solar access will remain for the neighbouring properties and the street, which will largely be created by height compliant form.

Objective (e) to ensure the height and bulk of any proposed building or structure in a recreation or conservation zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Response: N/A

In addition to the above, proposal is consistent with the objectives of the R2 – Low Density Residential Zone, as it will provide housing within a low density residential environment. The extent of proposed variation is minor and will not impact on the ability of the development to achieve consistency with the relevant zone objective, which is *to provide for the housing needs of the community within a low density residential environment*.

10. Matters of significance for State or Regional Environmental Planning.

The proposed variation to the building height development standard does not raise any matter of significance for State or regional environmental planning.

11. The public benefit of maintaining compliance with the Development Standard

This variation request demonstrates that the proposed variation is consistent with the relevant zone and standard objectives, and that insistence on strict compliance is unreasonable unnecessary in the circumstances. As also demonstrated in this variation request, there are no unreasonable impacts that will result from the contravention to the maximum building height standard.

On this basis, there is no public benefit in maintaining strict compliance with the development standard. The proposal's consistency with the relevant zone objectives and development standard objectives deems that the subject application is in the public interest.

12. Conclusion

Notwithstanding numerical non-compliance, the form of the proposed building is well resolved and presents appropriate scale and bulk through a modulated form and visually interesting form. The building height variation is considered to be acceptable, without material adverse impact, and the dwelling is demonstrated to fit comfortably within the local context, which is characterised by a variety of dwelling typologies, ages and form within a low density residential setting.

Compliance with the development standard is unreasonable and unnecessary in the circumstances and there are sufficient environmental planning grounds to justify the proposed variation. Despite the proposed building height exceedance, the development is in

the public interest as it remains consistent with the development standard and the zone within which it is being carried out.

In satisfaction of the statutory tests of Clause 4.6 of MLEP 2013, it is requested that Council support the variation as proposed.