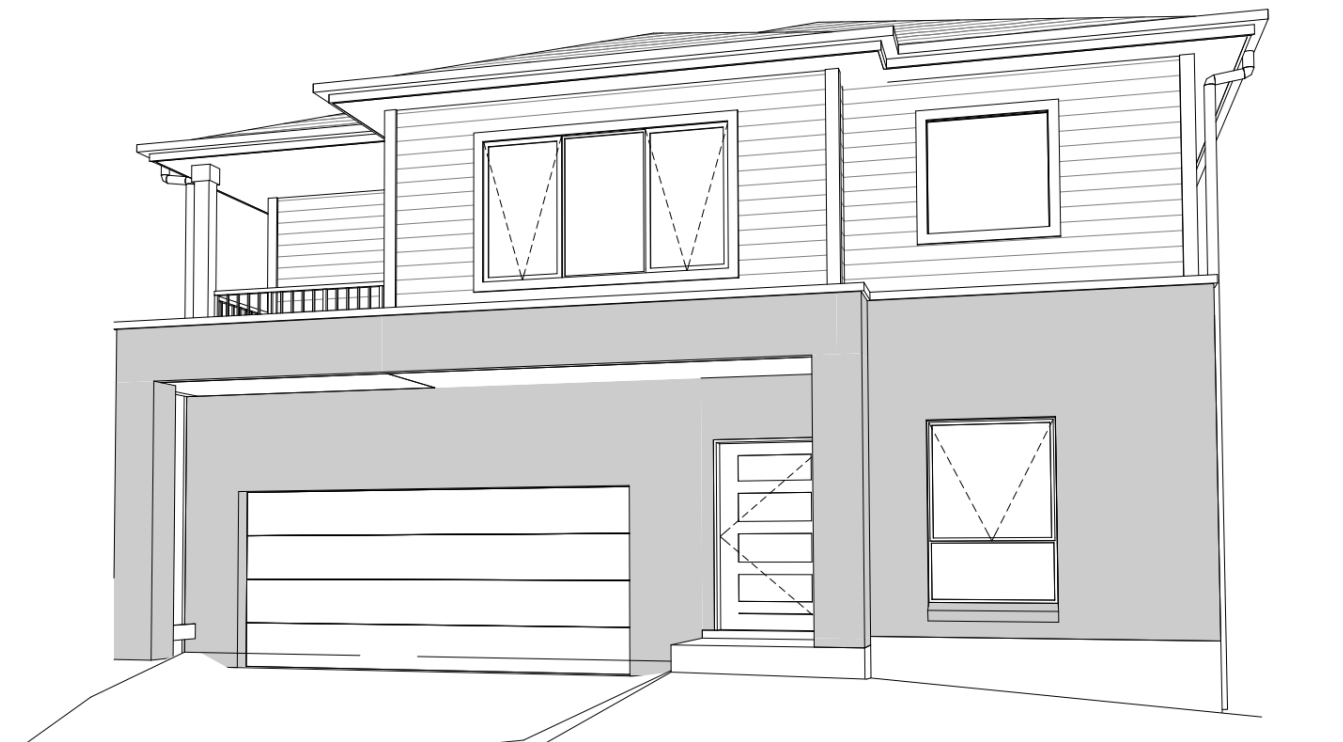


DEVELOPMENT APPLICATION:
**Demolition of Existing Dwelling & Construction of a
Dwelling**

**Lot 1 in DP 1125216,
No 107 Frenchs Forest Road, SEAFORTH**



Prepared For:



January 2021

Preparation, Review and Authorisation

Revision No.	Date	Prepared By:	Reviewed By:	Approved for issue by:
1	06/12/20	MB	MB	MB
2	20/01/21	MB	MB	MB

Document Certification

This report has been developed based on agreed requirements as understood by Michael Brown Planning Strategies Pty Ltd at the time of investigation. It applies only to a specific task on the lands nominated. Other interpretations should not be made, including changes in scale or application to other projects.

Any recommendations contained in this report are based on an honest appraisal of the opportunities and constraints that existed at the site at the time of investigation, subject to the limited scope and resources available. Within the confines of the above statements and to the best of my knowledge, this report does not contain any incomplete or misleading information.

SIGNED:



Position: Town Planner

Date: 20/01/21

Michael Brown Planning Strategies Pty Ltd

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- A: Architectural Plans – Accurate Design & Drafting
- B: Survey Plan – Donovan Associates
- C: Clause 4.6 Request for Variation – Michael Brown Planning Strategies

Executive Summary

This document forms a component of a development application that proposes to demolish the existing dwelling, the construction of a new two storey dwelling at 107 Frenchs Forest Road, SEAFORTH. The proposal has a number of non-compliances, in respect of side & rear setbacks, which will require a variation to the Development Control Plan (DCP) 2013. Trees on the property have been removed under separate approval, as shown on the survey plan at **Annexure B**.

The main area of non-compliance is the floor space ratio (FSR) under Clause 4.4 of Local Environmental Plan (LEP) 2013. The FSR is non-compliant with the 0.45:1 ratio and requires a Clause 4.6 variation (**Annexure C**). It should be noted that Clause 4.1.3 of DCP 2013 allows variations to the FSR controls for lots less than the minimum lot size map.

Whilst the DCP control does not overcome Clause 4.4 FSR control, it does recognise that there are lots that technically cannot comply with the clause due to existing circumstances. The amount of non-compliance is greater than the 10% that Council officers can consider and will need to be considered by the Local Planning Panel (LPP) or the Council.

This Statement of Environmental Effects (SoEE) has been prepared on behalf of Icon Homes. Michael Brown Planning Strategies Pty Ltd has prepared this report and should be read in conjunction with development plans prepared by **Accurate Design and Drafting** and supporting documentation (refer to **Table 1**).

The SoEE evaluates the proposed development for its compliance with the statutory controls embodied in various statutory planning instruments. This Statement demonstrates that the development is consistent with the aims and objectives of these instruments. In preparation of this document, consideration has been given to the following:

- The Environmental Planning and Assessment Act, 1979, as amended;
- The Environmental Planning and Assessment Regulation;
- Manly Local Environmental Plan 2013;
- Manly Development Control Plan 2013; and
- Various State Environmental Planning Policies.

It would be noted that Manly Council has amalgamated with Warringah & Pittwater Councils and is now known as Northern Beaches Council. As this amalgamation has occurred, the provisions of Manly LEP 2013 and DCP 2013 are the current planning instruments for assessing applications. These local planning provisions are addressed in Sections 4.5 and 4.6 of this report.

As stated above, there are non-compliances with the LEP and DCP controls and variations have been sought to these controls, with justifications provided as to why Council should vary the controls having regard to the circumstances of the subject development.

This report clearly and comprehensively addresses the statutory regime applicable to the application and demonstrates that the proposed development is complimentary and compatible with the area.

This Statement of Environmental Effects (SoEE) provides a description of the subject site and surrounds, an identification of the development proposed by this application and an assessment of the perceived impacts of this proposal for the matters contained within Section 4.15 of the Environmental Planning & Assessment Act, 1979, as amended.

In light of the above planning merits of the proposed development, the proposal succeeds when assessed against the Heads of Consideration pursuant under Section 4.15, and we recommend that Council grant consent to the development, subject to appropriate conditions, including the requested variations.

1 Introduction

1.1 GENERAL

This Planning Report has been prepared to accompany the submission of a Development Application which seeks approval to demolish the existing dwelling, construct a new two storey dwelling, as described in Section 3 of this SoEE. Reduced plans prepared by **Accurate Design and Drafting** are attached as **Annexure A**.

As addressed in the “Executive Summary” above, the proposal has a number of non-compliances, in respect of rear setback and the amount of private open space, which will require a variation to the Development Control Plan (DCP) 2013.

The main area of non-compliance is the floor space ratio (FSR) under Clause 4.4 of Local Environmental Plan (LEP) 2013. The FSR is non-compliant with the 0.45:1 ratio and requires a Clause 4.6 variation (**Annexure C**). It should be noted that Clause 4.1.3 of DCP 2013 allows variations to the FSR controls for lots less than the minimum lot size map. Whilst the DCP control does not overcome Clause 4.4 FSR control, it does recognise that there are lots that technically cannot comply with the clause due to existing circumstances. The amount of non-compliance is greater than the 10% that Council officers can consider and will need to be considered by the Local Planning Panel (LPP) or the Council.

1.2 SCOPE OF REPORT

This document has been prepared pursuant to the *Environmental Planning and Assessment Act, 1979 (EP and A Act 1979)*, and the *Environmental Planning and Assessment Regulation 2000*, and reviews the applicable environmental planning instruments and development control plans that apply to the subject property as well as the natural and built environmental impacts of the proposal with particular reference to the relevant heads of consideration listed under s4.15 of the *Environmental Planning and Assessment Act, 1979 (EP and A Act 1979)*.

The Report describes the nature of the site and its immediate context. It proceeds to document the proposal and concludes with an assessment against the prevailing planning regulations and a request for approval of the application subject to conditions.

1.3 PROJECT TEAM

Michael Brown Planning Strategies Pty Ltd, in preparing this SoEE has relied on relevant inputs from the following as detailed in **Table 1** below:

TABLE 1 – PROJECT TEAM

The Project Team	
Architectural Plans	Accurate Design and Drafting – (Annexure A)
Survey Plan	Donovan Associates – (Annexure B)
Clause 4.6 Request for Variation	Michael Brown Planning Strategies – (Annexure C)

1.4 REPORT STRUCTURE

This SoEE is structured in the following manner:

Section 2 – Describes the Site and provides a detailed description of the site and the nature of surrounding development.

Section 3 – Details the Proposed Development and other relevant information.

Section 4 – Details the Statutory Controls that apply to the Development Site.

Section 5 – Details the Environmental Assessment of the proposed Development.

Section 6 – Provides a Conclusion.

The following commentary and assessment is provided in respect of the above.

2 The Site and Context

The subject property is known as Lot 1 in DP 1125216, 107 Frenchs Forest Road, SEAFORTH (refer to aerial photograph below at **Figure 1**, which shows the context of the immediate area). The subject property is occupied by a dwelling. The property has an area of 362.59m² and is generally regular in shape. The property and adjoining properties were the subject of road widening, which reduced the size of the property to less than the minimum lot size of the LEP.

FIGURE 1 – AERIAL



The subject locality is made up of mainly single and two storey dwellings on various sized lots at different elevations. The subject property is located on the southern side of Frenchs Forest Road opposite Montauban Avenue. It should be noted that the property at No 109 Frenchs Forest Road has since had additions approved by Council and the additions are shown in **Plate 1**; whilst **Figure 1** is out of date.

The dwellings on these lots are substantial having regard to the area generally. There is no particular architectural style and it could be said that the dwellings are an eclectic mix. Most dwellings have pitched roofs, but a number have flat roofs. As such not one architectural style dominates the area. A street view is provided on **Plate 1** below.

PLATE 1 – STREET VIEW



3 The Development Proposal

3.1 DEVELOPMENT DETAILS

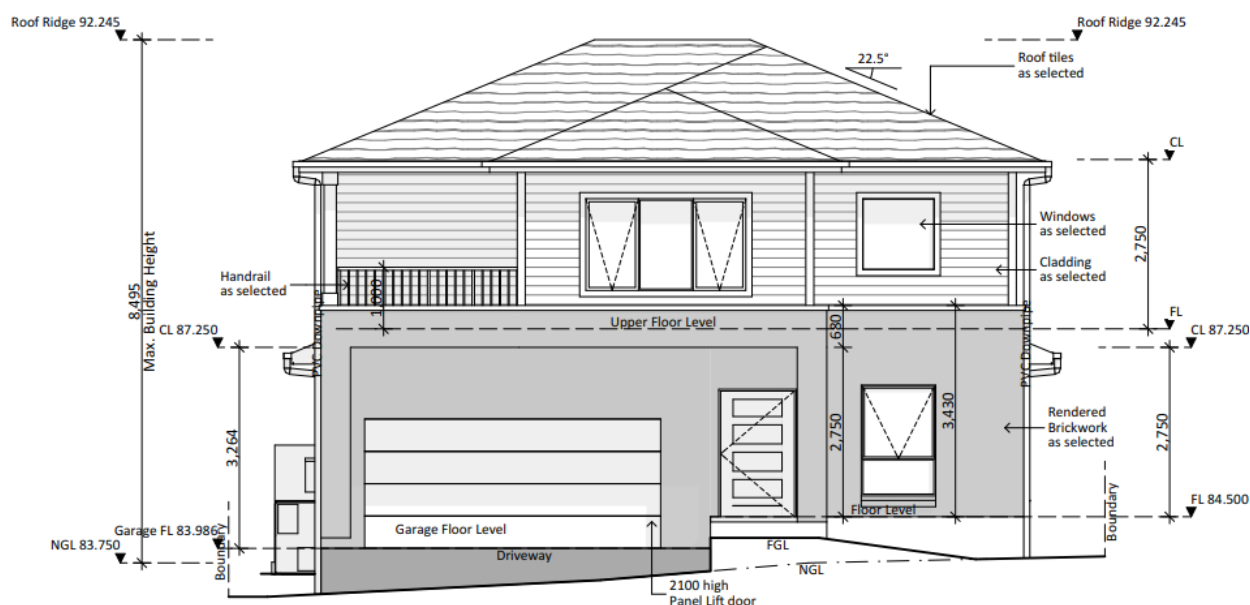
The development proposal is as generally shown on the submitted plans. The proposal involves the demolition of the existing dwelling and structures and the construction of a new two storey, with details provided below in **Table 2**. As shown on the plans, including survey plan, the existing dwelling is setback 2.3m from the rear boundary, with minimal private open space. The front of the property is dominated by two sheds within the front setback area and large areas of concrete.

TABLE 2 – DEVELOPMENT DETAILS

Details	Floor Area M ²	POS M ²
Family, dining, kitchen, and media (ground floor) and four (4) bedrooms and sitting on first floor (refer to Sheets 3 & 4 of Annexure A for details of floor areas highlighted in light green).	193.33	61.49 (hard and soft areas)

Total floor space ratio of dwelling is 0.53:32:1. Private open space (POS) provision is 61.49m² or 16.95%. Landscaped area is 142.16m² (39.21%) and open space is 191.49m² (52.81%). The proposed dwelling provides a palette of materials to provide variety and interest, as shown on the attached plans, which provides for cement rendered brickwork, selected cladding and selected roof tile (refer to **Figure 2** below).

FIGURE 2 – BUILT FORM



3.1 ACCOMPANYING PLANS AND DOCUMENTS

The proposed development is as generally shown on the submitted plans referred to in **Table 3**.

TABLE 3 – SUBMITTED PLANS AND REPORTS

Plan No	Sheet	Issue	Plan title	Prepared by
20225	1	I	Perspective View	Accurate Design and Drafting
20225	2	I	Cover Page	Accurate Design and Drafting
20225	3	I	Ground Floor Plan	Accurate Design and Drafting
20225	4	I	Upper Floor Plan	Accurate Design and Drafting
20225	5	I	Elevations	Accurate Design and Drafting
20225	6	I	Elevations	Accurate Design and Drafting

Plan No	Sheet	Issue	Plan title	Prepared by
20225	7	I	Elevation, Section & Details	Accurate Design and Drafting
20225	8	I	Existing & Demolition Site Plans	Accurate Design and Drafting
20225	9	I	Proposed Site Plan	Accurate Design and Drafting
20225	10	I	Landscape Plan & Drainage Diagram	Accurate Design and Drafting
20225	11	I	Slab Detail	Accurate Design and Drafting
20225	12	I	Electrical Plans	Accurate Design and Drafting
20225	13	I	Blank Electrical Plans	Accurate Design and Drafting
20225	14	I	Shadow Diagrams	Accurate Design and Drafting
1666/31815 4	1	A	Contour Plan	Donovan Associates

3.2 AVAILABILITY OF SERVICES

The site is within a developed urban area surrounded by existing dwellings (refer to **Figure 1** above). As such all urban utility infrastructure to the area is provided.

3.3 TOPOGRAPHY AND LANDFORM

The subject land falls from the rear at RL 84.88 towards Frenchs Forest Road RL 83.53 (refer to survey plan at **Annexure B**).

3.4 SETBACKS AND BUILDING SEPARATION

The building setbacks is 6m to the street and 7.037m to the garage. The ground floor is setback on the western side 1.319m and the eastern side is 1.500m and the first floor is western side 1.469m and the eastern side is 1.650m, respectively, as shown on **Figure 3** below. As such, the dwelling is offset to the adjoining boundaries to reduce any impact, as shown on **Sheet 9** of **Annexure A**. However, the side boundary setbacks are non-compliant with the controls in the DCP and a request for variation is provided below in Section 4.6.3.1. It would appear that a number of dwellings do not comply with the setback controls and in particular the recent development at No 109 Frenchs Forest Road.

The development has been designed to take into consideration providing reasonable separation with adjoining dwellings, ensuring visual and acoustic privacy.

FIGURE 3 – BUILDING SEPARATION

3.5 BUILDING DESIGN

The dwelling is contemporary in design with a tiled roof, which is in keeping with the streetscape. The dwelling has a mixture of materials and the colour scheme that provides individuality. The dwelling will be constructed of cement rendered brickwork, selected cladding and selected roof tiles.

Stormwater from the development can be drained to the existing system, see **Sheet 10 Annexure A**.

3.7 DEMOLITION MANAGEMENT CONTROLS

Development consent has been sought to the demolition of the buildings. The demolition will be in accordance with the requirements as set out under the Australia Standard AS260 – 2001: The Demolition of Structures – which is incorporated into the Work Health and Safety Act 2011 administered by WorkCover NSW. Demolition will include:

- The removal of all demolished material and where appropriate materials will be recycled;
- All brickwork, concrete and other hard surfaces will be recycled where possible; and
- Breaking up and removing hard surface areas.

Where appropriate, waste material will be removed by recyclers for reuse. Barriers will be erected around the work areas to protect the public (refer to demolition plan **Sheet 8** at **Annexure A**). The demolition process will be controlled by specific guidelines including the Work Health and Safety Regulation 2011 and all WorkSafe requirements. An erosion and sediment control plan will be prepared for each stage of demolition and construction to control run off during these processes.

The following is provided in relation to these issues:

3.7.1 DUST

During the site works, the following methods should be employed to control any dust:

- hessian should be located along any section of the site fence located in the vicinity of demolition areas;
- cleaning of hardstand areas if necessary; and
- undertaking the loading or unloading of materials as close as possible to the skip bins to prevent the spread of loose material around the site.

Dust is also produced during the transfer of materials to and from the site, thus all material will be required to be covered while being transported and will be properly disposed of on delivery. No material is to be left in an exposed, unmonitored condition. All plant, including trucks transporting material, should be brushed before leaving the site to prevent dust and sediment movement offsite.

3.7.2 NOISE CONTROL

Noise producing machinery and equipment should only be operated between the hours of 7.00 am and 6.00 pm Monday to Friday and 7.00am to 4.00pm Saturdays, unless requested otherwise by Council.

Various Australian standards outline guidelines for the minimisation of noise on construction and demolition sites. These include:

- Australian Standard AS2460 AS 2012.1-1990: *Acoustics - Measurement of airborne noise emitted by earth-moving machinery and agricultural tractors - Stationary test condition - Determination of compliance with limits for exterior noise*;
- AS/NZS 1269.1:2005 *Occupational noise management-Measurement and assessment of noise emission and exposure*;
- AS/NZS 1269.2:2005 *Occupational noise management-Noise control management*; and
- AS/NZS 1269.3:2005 *Occupational noise management-Hearing protector program*.

3.7.3 WORK HEALTH AND SAFETY

Prior to the commencement of works the principal contractor should prepare and maintain a site specific Work Health and Safety, and Protection of the Environment Plan (WHS&E plan) which complies with the requirements of clause 226 of the Regulations.

3.7.4 WASTE MINIMISATION AND MANAGEMENT

The proposed development has embraced the principles of waste minimisation and management from the earliest days of visioning/design work. In a like manner, the demolition and construction phases have been the subject of significant waste minimisation and resource recovery thinking.

A Waste Management Plan (WMP) accompanies this application and addresses waste generated during demolition and during construction. Ongoing waste will be collected by Council on collection day.

3.8 CONSTRUCTION

The construction will be in accordance with the requirements as set out under the Australia Standard.

3.8.1 SEDIMENT AND EROSION CONTROL

Sediment and erosion control measures should be more fully developed in consultation with the contractor and incorporated into a Soil and Water Management Plan in accordance with NSW Department of Housing (1998) *Managing urban stormwater: soils and construction*. The controls outlined in the plan should be put in place prior to any works commencing (**Sheet 9 of Annexure A**).

3.8.2 NOISE CONTROL

Noise producing machinery and equipment should only be operated between the hours of 7.00 am and 5.00 pm Monday to Friday and 7.00am to 4.00pm on Saturdays, unless requested otherwise by Council.

No work will be undertaken on Sundays or public holidays. If it is necessary to work outside these hours, special permission must be obtained from Council and local residents should be notified.

3.8.3 WORKPLACE HEALTH AND SAFETY

Prior to the commencement of works the principal contractor should prepare and maintain a site-specific Workplace Health and Safety, and Protection of the Environment Plan (WHS&E plan) which complies with the requirements of clause 226 of the Regulations.

4 Assessment of Relevant Controls and Policies

4.1 APPLICABLE PLANNING INSTRUMENTS, CONTROLS AND POLICIES

The following documents are relevant to the proposed development:

- State Environmental Planning Policy BASIX;
- State Environmental Planning Policy 55 – Remediation of Land;
- State Environmental Planning Policy (Infrastructure) 2007;
- Manly Local Environmental Plan 2013 (MLEP); and
- Manly Development Control Plan, 2013, amendment 16 (MDCP).

4.2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT SECTION 4.15 (1) – MATTERS FOR CONSIDERATION

Under the provisions of Section 4.15 (1) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act), in determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development subject of the development application.

- (a) *the provisions of:*
 - (i) *any environmental planning instrument, and*
 - (ii) *any draft environmental planning instrument that is or had been placed on public exhibition and details of which have been notified, and*
 - (iii) *any development control plan, and*
 - (iv) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (v) *any matters prescribed by the regulations that applied to the land to which the development relates, and*
 - (vi) *any coastal zone management plan (within the meaning of the Coastal Protection Act 1979.*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

The assessment of the application is undertaken in the following sections.

4.3 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

BASIX is the Building Sustainability Index, the State Government's web-based planning tool designed to assess the potential performance homes against a range of sustainability indices. The BASIX assessment accompanies this application.

4.4 STATE ENVIRONMENTAL PLANNING POLICY 55 – REMEDIATION OF LAND

The proposed development is subject to the provisions of State Environmental Planning Policy 55 – Remediation of Land (SEPP 55). This SEPP aims to provide a State-wide planning approach to the remediation of contaminated land, and promotes the remediation of contaminated land for the purpose of reducing risk of harm to human health or the environment.

Depending on the level of contamination, remediation may be required with the consent (Category 1) or without the consent (Category 2) of the consent authority. The State Government publication *Managing Land Contamination: Planning Guidelines* sets out the process for consideration of land contamination.

Based on an initial consideration of known historical land uses, the guidelines may require, in certain circumstances, one or more of the following steps:

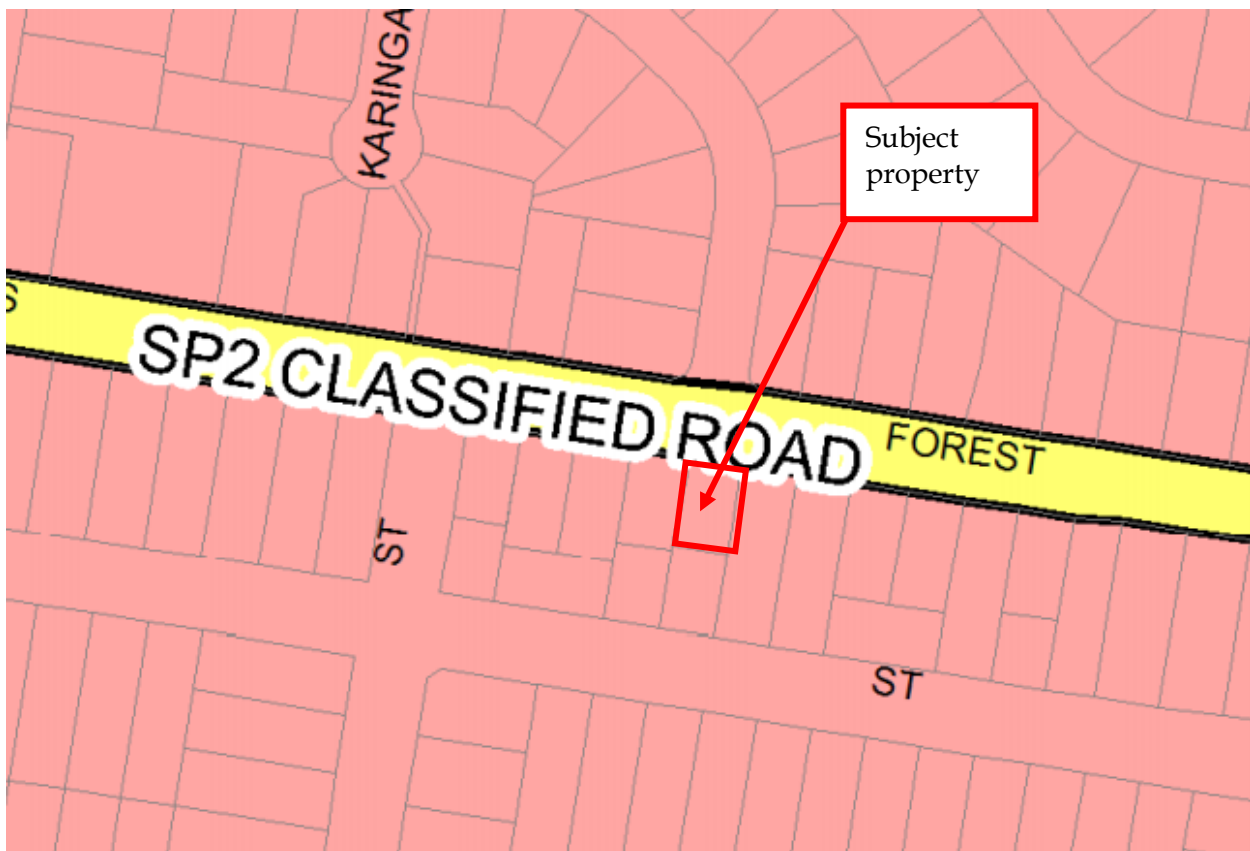
- A Preliminary Investigation – where contamination is likely to be an issue;
- A Detailed investigation – where a Preliminary Investigation highlights the need for further detailed investigations or where it is known that the land is likely to be contaminated and/or that the proposed use would increase the risk of contamination;
- A Remedial Action Plan (RAP) – to set the objectives and process for remediation;
- Validation and Monitoring – to demonstrate that the objectives of the RAP and any conditions of development consent have been met.

The land has been used for residential purposes for a number of years and there is no evidence of filling on the land, as the land is either covered by structures or hardstand areas. As such it is considered that a Phase 1 assessment is not justified in these circumstances.

4.5 MANLY LOCAL ENVIRONMENTAL PLAN 2013

The LEP provides a number of generic objectives which apply to development generally but has more specific objectives applying to the zone. The subject property is zoned R2 – Low Density Residential under the provisions of Manly Local Environmental Plan 2013 according to the Section 10.7 Planning Certificate ePLC2020/5361. (refer to **Figure 4** below).

FIGURE 4 – ZONE MAP



The zone and the controls will be addressed below. Clause 2.3 provides the zonal objectives. The objectives are:

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

The objectives allow residential landuses provided such landuses are consistent with these objectives. It is considered that proposed development on the subject site would be able to meet the first objective, which provides for the housing needs of the community. The second objective is not applicable and the proposed development. It would be noted that the application replaces an existing dwelling with a new dwelling.

The following landuses are permissible:

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Child care centres; Community facilities; Dual occupancies; **Dwelling houses**; Emergency services facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Respite day care centres; Roads; Semi-detached dwellings; Shop top housing; Signage; Water recreation structures; Water recycling facilities; Water supply systems*

The proposal is defined as a dwelling house and is permissible under the zone. The proposed dwelling meets the objectives of the zone and is not listed in the prohibited use column and is therefore permissible with consent.

The LEP is set out in a number of parts dealing with certain aspects to achieve development outcomes. The relevant matters are addressed in the following sections.

4.5.1 CLAUSE 2.7 – DEMOLITION

Clause 2.7 requires development consent for the demolition of buildings. This application seeks development consent to demolish the existing dwelling.

4.5.2 CLAUSE 4.1 – MINIMUM LOT SIZE

Clauses 4.1(2) & (3) provide:

- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

The minimum lot size map provides that each lot to be created must be 500m². As noted above in Section 2, the subject lot has an area of 362.59m² and is therefore 137.41m² less than the minimum lot size. Also refer to comments in **Table 4** below. It is noted that Frenchs Forest Road is a classified road under the control of the RMS (now TfNSW) and road widening occurred to the subject property, which reduced the lot size. Notwithstanding, it is not proposed to subdivide the property.

4.5.3 CLAUSE 4.3 – HEIGHTS OF BUILDINGS

Clause 4.3 sets maximum height requirements for dwellings. The Height of Buildings Map as shown below in **Figure 5** provides a maximum height of 8.5m. The proposed dwelling is 8.495m high to top of ridge above natural ground level at highest point (refer to survey plan at **Annexure B** for level details across the subject property) and therefore compliant with Clause 4.3.

FIGURE 5 – HEIGHTS OF BUILDING MAP



4.5.4 CLAUSE 4.4 – FLOOR SPACE RATIO

Clause 4.4 of the LEP provides a floor space ratio (FSR) for development (refer to **Figure 6**). The subject property is within C and the FSR is 0.45:1. The definition of floor space ratio is the ratio of the gross floor area of all buildings within the site area. The gross floor area is defined as:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting,

and

- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

The gross floor area is 193.33m², with a floor space ratio of 0.53:32:1 and therefore non-compliant. In this regard, a Clause 4.6 variation to the development standard (FSR) is provided at **Annexure C**. It is noted that the adjoining property at No 109 Frenchs Forest Road also did not comply with the FSR control and requested a variation based on the lot size being reduced.

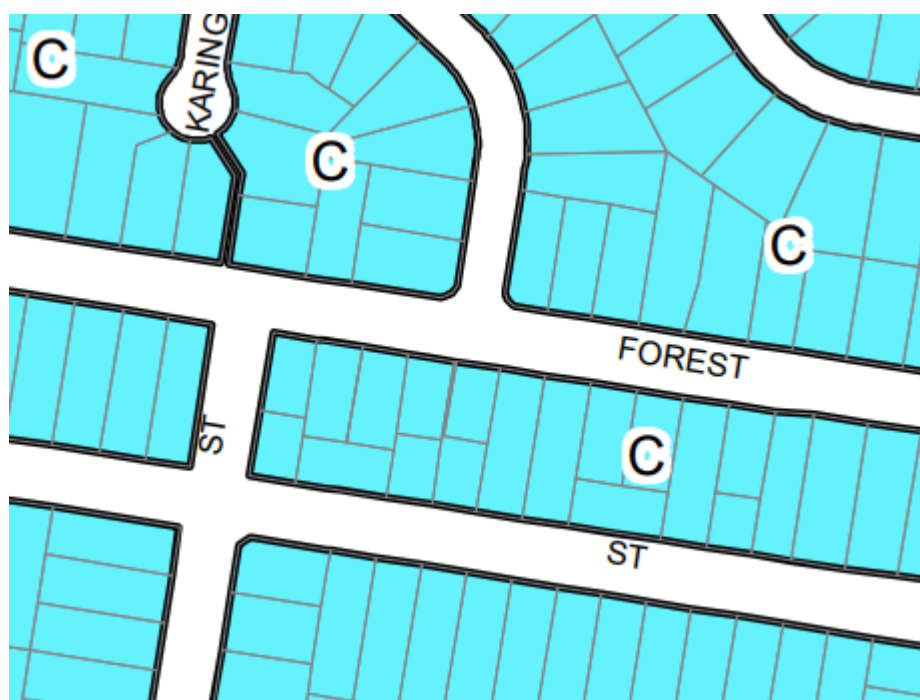
It is noted that Subclause 4.1.3.1 Exceptions to FSR for undersized lots provides:

The undersized nature of a lot is a matter that Council may consider in determining whether 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' and 'there is sufficient environment planning grounds to justify contravening the development standard' under LEP clause 4.6(3).

- a) The extent of any exception to the LEP FSR development standard pursuant to LEP clause 4.6 in this plan is to be no greater than the achievable FSR for the lot size indicated in Figure 30.

The lot falls under Area I of the LEP Lot Size Map, which is based on 500m² lot size/site area. This aspect of the application is addressed below in **Table 4** and in detail in the request for variation at **Annexure C**.

FIGURE 6 – FLOOR SPACE RATIO



4.5.5 CLAUSE 5.10 – HERITAGE CONSERVATION

The subject property is not listed as a heritage item on Council's Map and not located within a conservation area, according to the Section 10.7 Planning Certificate ePLC2020/5361.

4.5.6 CLAUSE 6.1 – ACID SULFATE SOILS

The subject land is shown on the Acid Sulfate Soils Map as being affected by this clause. The Acid Sulfate Soils Map shows the land as Class 5.

The proposal does not involve excavation below ground level and it is considered appropriate that infrastructure and building material be designed to ensure that the dwelling is not impacted by such soils.

Suitable conditions of consent can be imposed to ensure that the dwelling and infrastructure are designed to take into account potential impacts from acid sulfate soils.

4.5.7 CLAUSE 6.2 – EARTHWORKS

Clause 6.2 relates to earthworks and whilst this relates more to significant earthworks, nonetheless, some minor works will be undertaken for footings and infrastructure.

4.5.8 CLAUSE 6.3 – FLOOD PLANNING

Clause 6.3 relates to flood planning. The subject property is not affected by flooding according to the Section 10.7 Planning Certificate ePLC2020/5361.

4.5.9 CLAUSE 6.4 – STORMWATER MANAGEMENT

Clause 6.4(3) provides:

- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
 - (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
 - (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
 - (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

In this regard stormwater disposal can be conveyed to the existing system, see **Sheet 10 of Annexure A**.

4.5.10 CLAUSE 6.8 – LANDSLIDE RISK

In accordance with Council's Landslide Risk Map, the land is not affected by such risks.

4.5.11 CLAUSE 6.9 – FORESHORE PROTECTION AREA

The land is not affected by this clause, or by terrestrial biodiversity, wetlands, riparian lands or watercourses.

There are no further clauses applicable to the proposed development.

4.6 MANLY DEVELOPMENT CONTROL PLAN 2013

The subject Development Control Plan, amendment 16, provides a compendium of development controls for the Manly Local Government Area. Some controls are land use based and generic, whilst others are detailed and sometimes site specific.

It is considered that the proposed dwelling is consistent with the requirements of the DCP and the following is provided.

4.6.1 PART 1 – INTRODUCTION

Part 1 is essentially the administrative provisions of the DCP. Part 2.1 is the requirement for lodging a development application. This part of the DCP provides details of what is expected to be lodged with the application, including landscape plans, shadow diagrams, waste management plans, etc.

Part 2.2 is the notification section. Council will notify the application in accordance with the subject requirements.

4.6.2 PART 3 – GENERAL PRINCIPLES

Part 3 of the DCP sets the general principles for all forms of development. The following **Table 5** provides a compliance check against these principles.

TABLE 5 – GENERAL PRINCIPLES – COMPLIANCE TABLE

DCP	Proposed	Complies
3.1.1 Streetscapes (Residential Areas)		
3.1.1.1 Complementary Design and Visual Improvement		
a) Development in the streetscape (including buildings, fences and landscaping) should be designed to:	As discussed in this report, the area is an eclectic mix with no dominate architectural style. The dwelling provides a tiled roof that is provided in the area.	Yes.
complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality;	This aspect is addressed above. Indeed, the new dwelling will result in the dwelling respecting the streetscape in setbacks and removes large areas of concrete, thereby a vast streetscape improvement.	Yes.
i) ensure the bulk and design of development does not detract from the scenic amenity of the area (see also <i>paragraph 3.4 Amenity</i>) when viewed from surrounding public and private land;	As stated in the report, there are some large dwellings built in the vicinity of the subject property and therefore the bulk and scale of this development is not out of character with these dwellings. The dwelling does not meet the floor space ratio requirements of the LEP.	Yes.

DCP	Proposed	Complies
	In this regard, a Clause 4.6 request for variation accompanies this application at Annexure C .	
ii) 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 height of the dwelling is less than the provisions of the LEP and confirmed with survey levels.	Yes.
iii) avoid elevated structures constructed on extended columns that dominate adjoining sites such as elevated open space terraces, pools, driveways and the like. See also paragraph 4.1.8 Development on Sloping Sites and paragraph 4.1.9 Swimming Pools, Spas and Water Features;	No elevated structures.	Not applicable.
iv) address and compliment the built form and style any heritage property in the vicinity to preserve the integrity of the item and its setting. See also paragraph 3.2 Heritage Considerations; visually improve existing streetscapes through innovative design solutions; and	Not applicable.	N/A.
v) 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. See also paragraph 3.5.7 Building Construction and Design.	The design of the dwelling provides variety and improves the streetscape compared to the existing dwelling, which is setback from the street and has a poor streetscape presentation. There is a mixture of cement rendered and face brick dwellings in the immediate area. It is proposed to have render, cladding and selected tile roofing. This is not out of character with other dwellings.	Yes. Yes.

DCP	Proposed	Complies
3.1.1.2 Front Fences and Gates		
a) Notwithstanding maximum height provisions for fencing at <i>paragraph 4.1.10</i> ; the siting, height and form of boundary fences and walls should reflect the fencing characteristic of the locality, 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.	The existing front fence is to remain as shown on Plate 1 above. It is noted that a brushwood fence is provided to No 107.	Yes.
b) Boundary fences or walls must not be erected where they would conflict with the local character.	Boundary fencing will comply with the Fences Act and Council Policy.	Yes.
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.	Refer to comments above regarding existing fencing. Frenchs Forest Road carries reasonable traffic numbers and connects to Wakehurst Parkway. The existing front fence not only provides privacy but reduces noise impacts from vehicles.	Yes, existing fence.
d) Gates must not encroach on public land when opening or closing.	Gates open into the property.	Yes.
3.1.1.3 Roofs and Dormer Windows		
Roof forms should complement, but not necessarily replicate the predominant form in the locality and in particular those of adjacent buildings.	The roof was discussed above and considered to be compatible with area. Given the location of the dwelling, the roof design is acceptable and is consistent with streetscape.	Yes.
a) Roofs should be designed to avoid or minimise view loss and reflectivity.	The proposed development provides for a two-storey dwelling. This is consistent with other dwellings in the street.	Yes.

DCP	Proposed	Complies
b) Dormer windows and windows in the roof must be designed and placed to compliment the roof structure and reflect the character of the building. In particular, such windows are not permitted on the street frontage of the building where there is no precedent in the streetscape, especially on adjoining dwellings.	No dormer windows proposed.	Yes.
3.1.1.4 Garages, Carports and Hardstand Areas		
a) Garages, carports and hardstand areas must be designed and sited in a manner that does not to dominate the street frontage by:	The existing carport is to be demolished and a double garage proposed. The garage is recessed below the floor above to reduce the visual impact of the garages. This is also achieved with the use of material and colours providing a verticality in the design.	Yes.
i) its roof form, material choice and detailing by being subservient to the associated dwelling; and	Refer to above comments regarding the recessive nature of the garage doors. The front fence also assists, as the garage door will only be visible when the gates are open.	Yes.
ii) being compatible with the streetscape and the location in relation to front setback criteria.	Refer to above.	
b) Exceptions to setback criteria referred to in this paragraph may be considered where parking structures are a positive element of the streetscape.	Setbacks compliant.	
3.1.1.5 Garbage Areas		
Buildings with more than 1 dwelling require garbage storage enclosures which are:	Garbage storage located behind the dwelling.	Yes.
a) not visible off site;		
b) integrated into the building design;		
c) unobtrusive and blend in		

DCP	Proposed	Complies
<p>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>		
3.2 Heritage Considerations		
3.2.1.1 Development in the vicinity of heritage items, or conservation areas	The land is not heritage listed or within the vicinity of a conservation item.	Yes.
a) In addition to LEP listings of Environmental Heritage (LEP Schedule 5), this DCP requires consideration of the effect on heritage significance for any other development in the vicinity of a heritage item or conservation area.		
3.3 Landscaping		
3.3.1 Landscaping Design		
<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>	The proposal provides for a landscaped area of 142.16m ² representing 39.21%.	Yes.
3.3.2 Landscape/Tree Preservation		
a) Developments must maximise the retention and protection of	Trees were removed under separate approval (refer to survey plan).	Yes.

DCP	Proposed	Complies
natural landscape features including significant rock outcrops and vegetation including canopy trees and under-storey vegetation, which would require a tree permit under this plan.		
3.4 Amenity (Views, Overshadowing, Overlooking/Privacy, Noise)		
3.4.1 Sunlight Access and Overshadowing		
3.4.1.1 Overshadowing Adjoining Open Space		
In relation to sunlight to private open space of adjacent properties:	The proposed dwelling (replacement) has a northerly aspect. There will be an impact on the property at No 107 in the morning and an impact on No 103 in the afternoon during the winter solstice. Most of the impact is expected to occur on the rear of subject property during this time period. The impact of overshadowing to the rear yard area is considered reasonable given the current situation whereby the 2.3m setback would result in this area being in shade for most parts of the year. With respect to the adjoining neighbours, it is accepted that there will be some impacts, as the new dwelling is located closer to the street. However, the amount of overshadowing must be considered in terms of orientation of the property and the fact that two-storey dwellings are permissible. Therefore, neighbouring properties must accept some level of overshadowing then currently experiencing. The amount of overshadowing would not be a reason for refusal.	Yes.
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.		
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:	The majority of dwellings in the street are two-storeys, including Nos 103 & 109. These dwellings have some impact on the subject property. It is noted that the dwelling at No 109 'sits' higher in the	Yes.
a) for adjacent buildings with		

DCP	Proposed	Complies
<p>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);</p> <p>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);</p> <p>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 minimum number of sunlight hours specified above.</p>	<p>streetscape than the subject property due to level changes. This dwelling will have some impact on the subject dwelling. But as stated above, this is accepted having regard to orientation and height controls. This would not be a reason for refusal.</p>	
3.4.2 Privacy and Security		
3.4.2.1 Window Design and Orientation		
<p>a) Use narrow, translucent or obscured glass windows to maximise privacy where necessary.</p> <p>b) When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy.</p>	<p>Refer to Section 5.4 in respect of security. A highlight window has been provided on the first-floor eastern side and a normal window for the bedroom. There is also a balcony at this level, and it is considered that a privacy screen could be provided, although it is noted that the balcony overlooks the front setback area of this property and not the private open space area. The western side has one window on this side, but could be a highlight window, if deemed to be a privacy issue.</p>	<p>Yes.</p>
3.4.2.2 Balconies and Terraces		
<p>a) Architectural or landscape screens must be provided to balconies and terraces to limit overlooking nearby properties. Architectural screens must be fixed in</p>	<p>As stated above, a privacy screen could be provided to the eastern side elevation of the balcony, but given that this overlooks the front setback area, there is no loss of privacy, in our opinion.</p>	<p>Yes.</p>

DCP	Proposed	Complies
<p>position and suitably angled to protect visual privacy.</p> <p>b) Recessed design of balconies and terraces can also be used to limit overlooking and maintain privacy.</p>	Balcony recessed.	Yes.
3.4.2.3 Acoustical Privacy (Noise Nuisance)		
a) Consideration must be given to the protection of acoustical privacy in the design and management of development.	The dwelling has been designed to reduce windows overlooking the adjoining properties with the use of highlight windows. It would be noted from the plans, that the windows in the dwelling will have 6.38mm laminated glass installed to reduce any traffic noise, but also improve the acoustic privacy for adjoining neighbours.	Yes.
b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.	In terms of balconies, the potential for overlooking of adjoining property to the east from the balcony has been addressed above, and it is recommended that a privacy screen be provided.	Yes.
3.4.3 Maintenance of Views		
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.	The development has been designed to reduce windows overlooking adjoining properties.	Yes.
b) Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will	Noise would be typical of any residential property, but is not expected to be excessive or intrude on the enjoyment of adjoining residents.	Yes.

DCP	Proposed	Complies
not be considered if they contribute to loss of primary views from living areas.	There are no iconic loss of views that were considered in the Land & Environment Court decision of Tenacity v Warringah Council (2004) NSWLEC 140 planning principle.	
3.5 – Sustainability		
3.5.1 Solar Access		
The purpose of this paragraph is to provide passive solar design principles and measures to optimise solar access through: <ul style="list-style-type: none">• Building Form, Design and Orientation;• Solar Shading Devices.	The dwelling has a northerly orientation. The dwelling also complies with BASIX. There are no solar devices on the adjoining dwellings that would be impacted by the development. Nonetheless, any devices would receive the required 6 hours of sunlight per day.	Yes.
3.5.3 Ventilation		
3.5.3.1 Building Design and Orientation to prevailing wind		
a) Buildings are to be orientated to benefit from cooling summer breezes (generally easterly/north easterly in Manly) where possible.	Dwelling has been designed to receive prevailing breezes.	Yes.
b) Buildings are to provide for cross ventilation by locating windows and openings in line with both each other and the prevailing breezes.		
3.5.3.2 Location and area of openings		
a) The area of unobstructed window opening should be equal to at least 5 percent of the floor area served.	The terrace and living areas will receive breezes, as they have adequate openings and have a reasonable aspect.	Yes.
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.		
3.5.5 Landscaping		
Suitable landscaping to be provided.	A landscape plan accompanies this application (Annexure A). The species to be planted are compliant with the DCP.	Yes.

DCP	Proposed	Complies
3.5.7 Building Construction and Design 3.5.7.1 Environmentally Sound Building Materials a) Where possible, reuse existing site materials and materials that have a low embodied energy. That is, materials that have the least impact on the environment in production. b) Building materials should be selected to increase the energy efficiency of the building, and to minimise damage to the environment. In particular, the use of plantation and recycled timber is encouraged and no rainforest timbers or timbers cut from old growth forests are to be used in Manly. Building Specification for timber should specify plantation or regrowth timbers, or timbers grown on Australian farms or State Forest plantations, or recycled timbers. Recommended building timbers are located at <i>Schedule 8</i> of this plan.		
3.5.7.2 Thermal mass a) For the construction of buildings, use materials that have a good thermal mass, such as bricks, concrete and stone. These materials should be used where they can benefit the thermal comfort and energy efficiency of a dwelling. To be effective, materials with thermal mass should be located: i) inside the insulated fabric of the house; ii) in north facing rooms, where they can benefit from winter heat gain.		
	<p>The dwelling will be constructed using render and cladding. The roof will have selected roof tiles. Windows will have 6.38mm glazing installed to reduce noise impacts from the road and increase the acoustic privacy of adjoining neighbours.</p> <p>The dwelling has been designed to reduce the number of windows on the west orientation.</p>	<p>Yes.</p> <p>Yes.</p>

DCP	Proposed	Complies
3.5.7.3 Glazing Glazing to assist in energy efficiency.	Glazing reduced on west facing windows. Windows will have 6.38mm glazing installed to reduce noise impacts from the road and increase the acoustic privacy of adjoining neighbours	Yes.
3.5.7.4 Insulation The use of insulation in walls and roofs can alter the rate at which a house can lose or gain heat.	The roof and walls of the dwelling will be insulated to comply with BASIX.	Yes.
3.5.8 Water Sensitive Urban Design 3.5.8.1 Principles of Water Sensitive Urban Design		
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 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	It is unlikely that the subject dwelling will impact on water quality of the area, as essentially this is an infill development replacing the existing dwelling.	Yes.

DCP	Proposed	Complies
stormwater treatment measures outside riparian land.		
3.7 - Stormwater Management		
<p>The following consideration and requirements apply to the management of stormwater:</p> <p>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). The standards to achieve the controls contained in the Stormwater Control Policy are provided in Council's "Specification for On-site Stormwater Management 2003" and "Specification for Stormwater Drainage". Stormwater management measures are to be implemented and maintained in accordance with the Specification for Stormwater Management.</p>	Stormwater management is proposed to be directed to the Council system, as shown on plans.	Yes
3.8 - Waste Management		
3.8.1 Waste and Recycling Storage Areas		
<p>a) Garbage storage areas must be of sufficient size to store the number of bins required by Council, being:</p> <p>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 240 litre bin for vegetation recycling.</p> <p>ii) For multi-unit dwellings where there is a common waste and recycling storage area, Council allocates a 240L general waste bin, a 240 litre paper</p>	Garbage and recycling bins located behind the building line to comply with Council policy.	Yes.

DCP	Proposed	Complies
recycling bin and a 240 litre co-mingled (container) recycling bin to be shared by every 4 residential dwellings. Provision for space for a 240 litre vegetation bin should be included where such bins are allocated.		
3.8.2 Demolition and Construction Waste Management		
Demolition and construction to comply with standards.	Demolition and construction addressed above in Sections 3.8 and 3.9. A waste management plan accompanies the application.	Yes.
3.10 Safety and Security		
3.10.1 Safety		
The principle of 'safety in design', is to be considered for all development in relation to the design and assessment of DAs to ensure developments are safe and secure for residents, all other occupants and visitors.	Safety and security are addressed below in Section 5.4.	Yes.

4.6.3 PART 4 – DEVELOPMENT CONTROLS

This section of the DCP provides the context of the DCP and contains several controls, which are applicable to the subject application, which are addressed in **Table 6** below.

TABLE 6 –RESIDENTIAL DEVELOPMENT CONTROLS – COMPLIANCE TABLE

DCP	Proposed	Complies
4.1.1 Dwelling Density, Dwelling Size and Subdivision		
4.1.1.2 Residential Land Subdivision		
The minimum lot size is 500m ² according to the Lot Size Map.	It is not proposed to subdivide the property. However, it would be noted that the subject property has an area of 362.6m ² as a result of road widening that occurred along Frenchs Forest Road, which resulted in the lot being less than the minimum lot size.	N/A.

DCP	Proposed	Complies
	This lot size has implications for the dwelling complying with the floor space ratio and some controls in the DCP, which are addressed below (Section 4.6.3.1) and in Annexure C .	
4.1.2 Height of Buildings		
Compliance with the Heights of Building Map.	This aspect was addressed above in Section 4.5.2. It is noted that the dwelling is below the 8.5m height control, at 8.495m.	Yes.
4.1.2.1 Wall Height The maximum wall height is 7.2m.	The wall height is 6.5m.	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.	The dwelling is 2 storeys.	Yes.
4.1.2.3 Roof Height a) Pitched roof structures must be no higher than 2.5m above the actual wall height.	The dwelling has a pitched roof and compliant at 2.25m.	Yes.
4.1.3 Floor Space Ratio (FSR)		
The FSR for dwellings to comply with Clause 4.4 of LEP. This part of the DCP provides: FSR is a development standard contained in the LEP and LEP objectives at clause 4.4(1) apply. In particular, Objectives in this plan support the purposes of the LEP in relation to maintaining appropriate visual relationships between new development and the existing character and landscape of an area as follows: Objective 1) To ensure the scale of development does not obscure important landscape features.	On this basis, under the LEP with an FSR of 0.45:1, the allowable FSR is 163.16m ² . The proposed dwelling has a floor area of 193.33m ² , which is 30.17m ² over the allowable FSR or an FSR of 53.32:1, which is more than the 50% control. This aspect was addressed above in Section 4.5.3 and found to be non-compliant and the control is addressed in several sections of this report.	No. Refer to Annexure C .

DCP	Proposed	Complies
<p>Objective 2) To minimise disruption to views to adjacent and nearby development.</p> <p>Objective 3) To allow adequate sunlight to penetrate both private open spaces with the development site and private open spaces and windows to the living spaces of adjacent residential development.</p> <p>Subclause 4.1.3.1 Exceptions to FSR for undersized lots provides:</p> <p>The undersized nature of a lot is a matter that Council may consider in determining whether ‘compliance with the standard is unreasonable or unnecessary in the circumstances of the case’ and ‘there is sufficient environment planning grounds to justify contravening the development standard’ under LEP clause 4.6(3).</p> <p>a) The extent of any exception to the LEP FSR development standard pursuant to LEP clause 4.6 in this plan is to be no greater than the achievable FSR for the lot size indicated in Figure 30.</p> <p>The lot falls under Area I of the LEP Lot Size Map, which is based on 500m² lot size/site area.</p>		
4.1.4 Setbacks (front, side and 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</p>	<p>Dwelling setback 6m to façade. The dwelling to the west is setback slightly behind the façade of the proposed dwelling at 6.5m; whilst the dwelling to</p>	<p>Yes.</p>

DCP	Proposed	Complies
<p>immediate vicinity.</p> <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> <p>4.1.4.2 Side setbacks and secondary street frontages</p> <p>a) Setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.</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>the east is setback further from the street and is in line with the rear of the proposed dwelling. (refer to Sheet 9 of Annexure A). Subclause (b) provides where there is no prevailing setback, a minimum 6m generally applies. As can be seen from the aerial photograph at Figure 1, there is no consistent setback. The dwelling could be setback to 6.5m to be in line with No 107, but there is no utility in our opinion of further reducing the rear private open space area to provide such a setback. The rear setback is best utilised for such purposes and increases the separation distance to the rear neighbour, noting the existing dwelling is only setback 2.3m.</p> <p>Dwelling setbacks addressed above in Section 3.4. It is noted that the setback requirement based on the control would be 1.9m for both setbacks and the setbacks proposed are 1.469m for western side and 1.65m eastern side and less than that required having regard how the control is assessed.</p> <p>Rear setback to the façade is 7.432m; whilst 3.281m to the alfresco area. There is a minor non-compliance, which is addressed in Section 4.6.3.1 below, noting the current setback is 2.3m and therefore a greater separation is achieved.</p>	<p></p> <p>No. Refer to Section 4.6.3.1.</p> <p>No.</p>
4.1.5 Open Space and Landscaping		
<p>4.1.5.1 Minimum Residential Total Open Space Requirements</p> <p>At least 55% of site area required for open space.</p>	<p>Dwelling has 52.18%, which includes hard and soft surfaces and therefore non-compliant.</p>	<p>No, refer to Section 4.6.3.1 below.</p>
<p>4.1.5.2 Landscaped Area</p> <p>At least 35% to be landscaped area.</p>	<p>This provision achieved at 39.21% (refer to Sheet 9 for details).</p>	<p>Yes.</p>
<p>4.1.5.3 Private Open Space</p> <p><u>Principal Private Open Space</u></p>		

DCP	Proposed	Complies
<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>More than achieved, with 61.49m² provided and an area measuring 4m x 6m provided in the rear yard area (refer to Sheet 9 for details).</p>	<p>Yes.</p>
4.1.6 Parking, Vehicular Access		
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas		
<p>a) The design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality.</p>	<p>As stated above, the existing hardstand area and sheds dominate the front setback area. The garage door width of the proposed dwelling is acceptable and is not visually prominent from the street and is recessed behind the floor above to reduce any impact.</p>	<p>Yes.</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>The garage door is 4.81m wide and is 42.1% of dwelling frontage therefore compliant.</p>	<p>Yes.</p>
4.1.6.4 Vehicular Access		
<p>a) All vehicles should enter and leave the site in a forward direction.</p>	<p>Vehicles can entry the garage in a forward direction.</p>	<p>Yes.</p>
4.1.6.5 Driveways and Crossings		
<p>a) Driveway crossovers/ gutter crossings should be minimised and spaced to maximise kerb-side car parking spaces. An appropriate means of minimising impacts in this regard may involve relocation of garages or carports away from the front property boundary if there is a reasonable alternative location.</p>	<p>Driveway crossing existing and complies with Council requirements.</p>	<p>Yes.</p>
4.1.8 Development on Sloping Sites		
<p>a) The design of development must respond to the slope of the site, to minimise loss of views and amenity from</p>	<p>The subject property is essentially flat (refer to survey plan at Annexure B).</p>	<p>Yes.</p>

DCP	Proposed	Complies
<p>public and private spaces.</p> <p>b) Developments on sloping sites must be designed to:</p> <p>i) generally step with the topography of the site; and</p> <p>ii) avoid large undercroft spaces and minimise supporting undercroft structures by integrating the building into the slope whether to the foreshore or a street.</p> <p><u>Driveways on sloping sites</u></p> <p>c) On steep sites, driveways must be designed so they do not dominate the street frontage, by:</p> <p>i) limiting their height above existing ground level to avoid the need for elevated ramps and similar structures to access car parking areas, especially those which may encroach on public land;</p> <p>ii) limiting their width;</p> <p>iii) using materials that do not visually detract from the natural surroundings; and</p> <p>iv) retaining significant trees.</p>	Existing driveway crossing.	Yes.

It would be noted that the plans show future swimming pool. This will be the subject of a separate application.

4.6.3.1 VARIATION TO CONTROLS

Side & Rear Setbacks

As stated above, the side and rear setbacks do not comply with the controls Clause 4.1.4 of the DCP, Clauses 4.1.4.2 (side) and 4.1.4.4 (rear). The objectives of the setback controls are as follows:

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Objective 2) To ensure and enhance local amenity by:

- providing privacy;
- providing equitable access to light, sunshine and air movement; and
- facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.

- defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and
- facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.

See also objectives at paragraph 3.4 Amenity.

Objective 3) To promote flexibility in the siting of buildings.

Objective 4) To enhance and maintain natural features by:

- accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;
- ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and
- ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.

Objective 5) To assist in appropriate bush fire asset protection zones.

In terms of the above objectives, the subject property has a frontage of 14.24m. To proposed dwelling is 11.12m wide, with a combined setback of 3.119m. To comply with the combined setback of 3.8m, the dwelling would need to be 10.44m wide, some 0.68mm less in width. Whilst this could be achieved, the proportions of the dwelling being at odds with the existing streetscape, which has dwellings less than the DCP control. The result maybe that bedrooms would be less than the new standard for bedroom sizes.

Internal adjustments to rooms and hallways could occur; however, it does not seem reasonable to reduce room sizes to comply with setbacks, when the proposed setbacks are more than normally provided in other Council areas and indeed greater than that provided for dwellings in the immediate area.

In respect of the rear setback; whilst is non-compliant, the setback from the rear has increased from 2.3m to 7.432m to the façade. This setback is closely aligned with the DCP control and has a net benefit of improving the amenity of the residents of this property, but also the rear property, with the dwelling moving a further 5m away from the rear boundary.

Objective (1) is therefore met by the proposed setbacks.

In terms of Objective (2), It is noted that no view line through the setbacks are available to areas of interest, as identified in the matter of *Tenacity v Warringah Council*. Privacy has been addressed in this report and adjoining neighbours to the east and west are impacted. With the rear neighbour, there are two-bedroom windows on the first floor that have the potential to overlook the rear neighbour, but are bedroom windows and the impact neighbours privacy is not significant. As discussed above the proposed dwelling has moved a further 5m from this neighbour and therefore improves the amenity for both the residents of the subject property and the rear neighbours.

The variation is relatively minor in the overall context of the dwelling. The minor non-compliance is not foreseen to contribute any adverse amenity impacts to adjoining properties in respect to privacy or overshadowing and on this basis the variation should be supported.

The rhythm and pattern of spaces between neighbours is maintained, as similar separation is evident in the street.

Therefore Objective (2) has been met.

Objective (3) provides flexibility, and this application seeks flexibility in the setbacks. Objectives (4) and (5) are not applicable to the proposal.

Total Open Space

The DCP requires 55% of open space. The proposal provides 52.18%, which includes hard and soft surfaces and therefore non-compliant. The objectives of the open space provision are essentially related to maximises landscaping and open space for properties.

As stated through this report, the new dwelling improves the amenity of the resident, including adjoining neighbours. The removal of the two sheds and large areas of concrete greatly increase the amount of open space on the property and we are of the opinion that the increase in open space compared to the existing situation, is consistent with the objectives of this part of the DCP.

Having regard to the above, Council is respectfully requested to vary the DCP controls in this particular instance.

5 Assessment of Environmental Impacts

5.1 GENERAL

An overview assessment of the environmental effects as proposed in the manner previously described in this report is provided below. This assessment has had regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act (as amended).

5.2 SECTION 4.15 (1) (a) – (i) PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS, (ii) EXHIBITED DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS, (iii) DCP, (iv) THE REGULATIONS.

The relevant matters for consideration include the provisions of SEPPs, MLEP and MDCP 2013, all of which have been considered in Section 4 of this Report.

5.3 SECTION 4.15 (1) (b) – IMPACT OF THE DEVELOPMENT

5.3.1 SOCIAL AND ECONOMIC IMPACT

The proposed development would be consistent with providing residential accommodation for the family.

5.3.2 PRIVACY

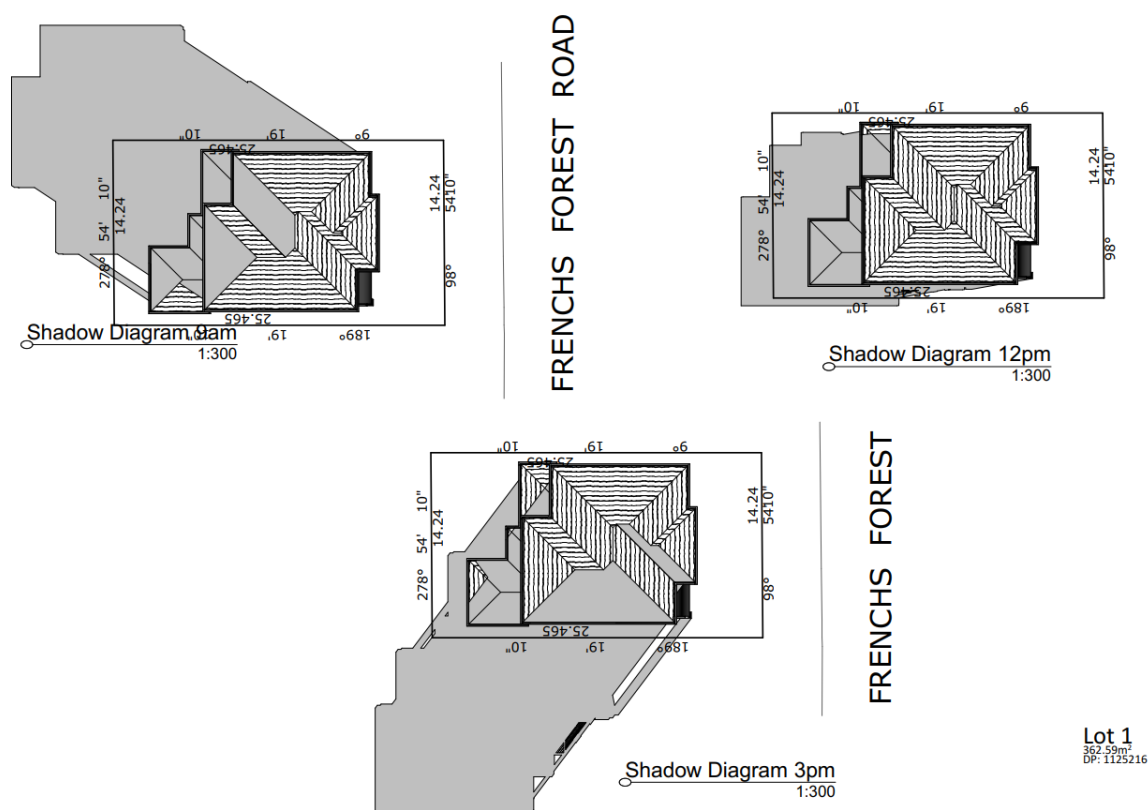
There is overlooking of adjoining property front setback area to east from balcony, as discussed above. This area is not the private open space area for the property and is open to view for the general public walking or driving past.

5.3.3 OVERSHADOWING

Shadow diagrams have been provided with this development proposal. **Figure 7** below shows the impact of overshadowing will have on adjoining properties. The plans show the shadows cast by the proposed development. It would be noted that there is some impact in the morning during the winter solstice on the adjoining property at No 109 until 11.00am to the rear open space area, but this occurs with the subject property from the redevelopment of No 109 in the afternoon.

It is our opinion that given the orientation of the site that it is unlikely that overshadowing at 11.00am would be reasons for refusal of the application.

FIGURE 7 – SHADOW DIAGRAM 11AM



Lot 1
362.99m²
DP: 1125216

In respect of the residence at No 78 McMillan Street (rear neighbour), the shadow impacts are minimal and indeed improved with the dwelling now proposed a further 5m from the rear boundary. With respect to No 105 Frenchs Forest Road, the impact is on the dwelling from about 2.00pm onwards. The front setback area is not impacted. Given the location of the dwelling on No 105, this dwelling would impact on its private open space at the rear of such dwelling. As such the impact is not significant from the proposed development.

Notwithstanding the shadow diagrams showing the impact of overshadowing of the adjoining properties, both comply in terms of the amount of solar access in accordance with the DCP, which requires a minimum of 3 hours during the winter solstice. The amount of overshadowing would not be reasons for refusal of the application and the dwelling has been designed to have increased side boundary setbacks and increased open space.

5.4 SAFETY AND SECURITY

The proposed development adopts the principles of “Safer by Design” to ensure that the development will create an environment, which feels safe and is safe for residents and visitors.

5.4.1 SAFER BY DESIGN PRINCIPLES

There are four (4) principles, which form the basis of crime risk assessment as it relates to Development Applications.

5.4.1.1 SURVEILLANCE

Surveillance is providing human observation of public space. It can be assisted by providing unobstructed views. Surveillance is an excellent crime deterrent as offenders are more likely to be seen and therefore less likely to actually commit an offence.

We consider that the proposed site layout and design of the dwelling offers good and clear sightlines from the dwelling to all shared areas on the site, with casual surveillance provided from windows and balcony to the front of the property. The dwelling entrance is clearly defined, clearly visible and residents would be able to see any visitor to the property.

5.4.1.2 ACCESS CONTROL

The private open space area will be fenced to discourage illegal entry and activity in the area. Indeed, the existing front fence adds another level of security when the front gates are closed.

5.4.1.3 TERRITORIAL REINFORCEMENT

Areas that are well protected and look as if they are owned and cared for, give an impression that it is harder to conduct anti-social behaviour. The development, through the design of the building, provides a clear distinction between public and private property. All side and rear fencing will be 1.800 metres high and compatible with both the building design and Council’s policies to restrict access, including the existing front fence.

5.4.2 CONCLUSION

Having regard to the safer by design principles referred to above we are of the opinion that the proposed development, through the building and access design and incorporated safety features described above, provides a satisfactory response in minimising crime risk. Casual surveillance is provided from the windows and balcony at the front of the dwelling. Fencing also increases the security of the property, particularly across the front of the property.

5.5 SECTION 4.15 (1) (c) – THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The subject property is located in a residential area that contains single and two-storey development and therefore is suitable to the site. The development complies with the zoning of the land.

5.6 SECTION 4.15 (1) (d) – SUBMISSIONS

This cannot be dealt with as part of this Statement. Any submissions received by Council will need to be considered having regard to Section 4.15 of the Act.

5.7 SECTION 4.15 (1) (e) – THE PUBLIC INTEREST

The public interest is an overarching concept. The proposal could be considered to be in the public interest if pursued in accordance with the approval sought. The dwelling has been designed to minimise impacts on adjoining properties. Overall, there is a net benefit for the residents of the subject dwelling and adjoining neighbours in terms of increased amenity and visual appearance of the dwelling. Apart from some areas of non-compliance, which have been addressed in this report, it is considered that the development is worthy of approval, subject to conditions.

6 Conclusion

The proposal is for a new family dwelling of more appropriate size to the character of the area and the needs of the future family. The development will ensure the dwelling on the subject site provides a streetscape presentation in an appropriate landscape setting suited to the streetscape character of Frenchs Forest Road.

It is therefore considered that the proposal is well designed, having due regard to the constraints of the site and provides for a family dwelling that will provide a good level of amenity for the owners; whilst maintaining a good level of amenity for the neighbours.

In summary, the proposed development is acceptable in the following aspects:

- The proposal is consistent with Council's policies for the subject site and its surrounds. The proposal is also generally consistent with the principal objectives and controls of Manly DCP 2013. However, there are several areas of non-compliance with the DCP and Section 4.6.3.1 of this report request variation to those controls, for reasons espoused in the request.
- The proposal also achieves compliance with MLEP 2013, except for the floor space ratio. In this regard a Clause 4.6 request for variation accompanies the application at **Annexure C**.
- The proposal is unlikely to result in any adverse impact on local amenity or detrimental change in the character of the area.

Council is accordingly requested to grant a pragmatic approval in an expedient manner.

Annexure “A”

Reduced Architectural Plans

Annexure “B”

Survey Plan

Annexure “C”

Clause 4.6 Request for Variation of a Development Standard