
Sent: 19/10/2020 8:24:20 PM
Subject: Attn: Lashta Haidari re DA2020/1167 Submission
Attachments: DA submission Murphy Family v5.pdf;

Hi Lashta,

Thank you for your assistance in understanding the DA process, and your consideration of our attached submission.

Please confirm receipt of the submission in regards to the proposed development at 9 Francis Street & 28 Fisher Road Dee Why. I trust the process will deliver a reasonable outcome to all parties.

If there is anything you need from me please let me know.

Best Regards,

Oliver

Murphy Family Submission

Submitters Details

Oliver Murphy on behalf of a family of 3

3/7 Francis Street

Dee Why NSW 2099

oliver_murphy@hotmail.com

Application Details

DA2020/1167

Assessment Officer: Lashta Haidari

DA Property Address: 28 Fisher Road and 9 Francis Street Dee Why

We have inspected the Development Application plans; we have considered them in the context of the [Northern Beaches Local Strategic Planning Statement](#), the Warringah Local Environmental Plan and Warringah Development Control Plan and their impact on our property, community and interests.

I am willing to appear and provide evidence to the Land and Environment Court should the application be appealed

Oliver Murphy

Summary

Thank you for the opportunity to submit our thoughts in relation to the proposed development.

We are disappointed with the lack of community consultation provided by the Baptist Church prior to the application. For a community group to allow residents the minimum possible time to understand the process and submit a response is appalling.

We have reviewed the plans and supporting documentation in detail. We are further disappointed with the misleading statements and images submitted by the various parties whose submissions make up the application (see Appendix 1.4). The intent appears to be to mask and treat with contempt those residents who rely on the application in good faith. The set of impacts on the residences of 7 Francis Street are not acceptable.

As one of many young families in the immediate area, we do not have the resources nor have been afforded the time to present such sophisticated applications and supporting documents. Please understand that whilst our diagrams are less sophisticated, they are more representative of the true outcome of the proposed development on our home. With reasonable notice of the proposal, we would have been able to provide exact images of current solar access on June 21st 2020.

Despite the applicants statements to the contrary, we have found the proposed development will take away all **solar access** from the windows, walls, living and private open spaces of our property (and those of our neighbours) on June 21st. For at least 5 months of the year, our living space will be deprived of direct sunlight under the proposal (see Appendix 1.2), an unacceptable impact.

The proposed development presents **privacy** concerns with windows from bedrooms overlooking our living and private open spaces at close proximity.

We are concerned about the **noise** levels affecting the neighbourhood. Residents are aware that the one rooftop in the area creates more nuisance and noise travels farther than when generated from other spaces. Noise will also be an issue from the auditorium, kitchen, laundry and parking garage. As residents we already struggle with noise from groups congregating around their vehicles when entering and exiting events and extracurricular activities on the site.

Whilst we agree Affordable Rental Housing is a commendable aim, we are concerned that in such **density** (up to 161 persons with private space of under a single garage size per person) at a single site it is likely to create an environment that brings negative safety and security impacts to our home and surrounds.

The increase in **traffic movements** in and out of 9 Francis Street and reduction in street parking for local residents are also causes of concern. Francis Street is a notorious local rat run with high speed traffic and low visibility. The proposed development caters for a substantial increase in traffic movements and increases the likelihood of more accidents in the area.

Other concerns include:

- the lack of detail in areas of the Operational Management Plan
- ventilation of exhaust (moisture and gases) from the garage, kitchen and laundry facilities
- higher Floor Space Ratio than the site allows
- side boundary setbacks not complying with councils requests
- building exceeding the building envelope

We have significant concerns with the application in its current form. We believe equity is a pillar on which society should remain. The positive effects of the development fall on one side, whilst only negative affects accrue to the residents of 7 Francis Street and surrounding areas.

Further detail on each of the above points is provided below. Thank you for considering our submission.

Solar

As one of the 6 Southern residences at 7 Francis Street, we are deeply concerned at the loss of direct sunlight and solar access the proposal contends is acceptable. Currently we receive more than 4 hours of direct sunlight into our internal living spaces on June 21st(see Appendix 1.1). Being deprived of the entire amount is not an acceptable outcome.

Solar Access is a desirable and highly valuable outcome. It is recognised as providing amenity, liveability and sustainability in many State and Local planning and development legislation and regulation pieces (see Appendix 1.5) . It is clearly a high priority in all residential situations.

On June 21st, our family home at 3/7 Francis Street currently receives direct sunlight into our living spaces and to the thermal mass of the building prior to 10am continuing until after 2pm, over 4 hours (see Appendix 1.1).

The application has 6 sweeping positive statements and a misleading solar study (see Appendix 1.4) that either directly or indirectly suggest that the Southern neighbours (the application frequently refers to 7 Francis Street as one residence for the purposes of their argument) will not be overshadowed or have unreasonable loss of solar access. These statements are misleading, the fact is that solar access will be unreasonably compromised for at least 4 of the 6 residences including our home.

Whilst our research disputes elements of the Solar Study diagram provided by the applicant, the results (despite the contrary statements of the applicant) are clear: The residents of 2,3,4 & 5 at 7 Francis Street will not receive the generally accepted minimum of 3 hours solar access on June 21st. This result is unreasonable. The applicant provided study (reproduced in Appendix 1.4) clearly shows:

- Unit 1 (North West corner) will receive solar access between approximately 12pm and 3pm
- Unit 2 will receive under 1 hour solar access between 2pm and 3pm
- Unit 3 will not receive any solar access between 9am and 3pm
- Unit 4 will not receive any solar access between 9am and 3pm
- Unit 5 will not receive any solar access between 9am and 3pm
- Unit 6 (North East corner) will receive solar access between approximately 9:30am and 11:30am.

The study clearly demonstrates 83% of the residences will not meet the required minimum guidance. Note that even if hours for consideration are extended, the result is not improved.

The impact of the lost solar access is not reasonable. Our homes were oriented to the north for efficient passive solar reasons. Not only does the sunlight provide amenity and liveability, it also provides warmth to the thermal mass of 7 Francis Street. This loss will dramatically increase costs of heating and carbon emissions during winter.

See Appendix 1.2 illustration of sun elevation required to penetrate living spaces of the middle 3 units of 7 Francis Street. As per Appendix 1.1, this access is currently available, the proposal is unreasonable to take it all away.

Privacy

Whilst windows do not directly face side boundaries, they overlook private internal and external living spaces from very close proximity. As mentioned by council we support window to boundary distances of 6m. Should this not be achieved, we request fixed louvres or similar solution are incorporated into the design of every window overlooking (whether directly or at an angle) the southern neighbours to maintain adequate privacy.

We understand the requirements of NDIS make it difficult to build to the regulations, the applicant has chosen what to build to that standard and should do so within the regulations.

Noise

We know from years of living in the area as a family and sharing stories with our neighbours that the worst noise repeatedly comes from the only current roof top terrace in the area. The sound projected from such great height bounces off every hard surface and causes a nuisance to residents in the surrounding buildings. We see no reason this proposed roof top open space would be any different. We suggest at a bare minimum the terrace is to be off limits after 10pm.

We are also concerned about the noise pollution caused by vehicles and crowds gathered in the large underground carpark on entrance and exit. As current neighbours to the site we see the same occur in the current above ground car park. If there is a way to provide acoustic baffling of the garage or ensure that noise is exhausted away from other residents that would be great.

Please consider additional sound proofing in the auditorium and conference areas. When used as a church facility we have not experienced issues, however some of the extracurricular activities currently performed on the site impede on neighbour's ability to peacefully enjoy their own homes. Occupants need to turn their Televisions up so loud they are likely damaging their own hearing to avoid the shouting.

Please consider re-orientation of the laundry door on proposed Ground Level 1 at the Francis Street end of the building. Particularly relevant with the reduced sunlight proposed for southern neighbours, we anticipate additional moist air would come out the door and further impact the damp issues. If there is an exhaust fan for the laundry we support it being captured on site or expelled above 9 Francis Street rather than directing it to neighbouring properties. We also propose the laundry has hours of access limited to the same hours that noise regulations apply.

Environment and surrounding land use

On the Francis Street side, surrounding land use could best be described as a friendly residential neighbourhood. Our concern is that a dense population of a single demographic will lead to undesirable outcomes, particularly in terms of safety. This has been the experience of many affordable housing projects cities worldwide. We support affordable housing in mixed developments to ensure interaction and integration between all people of all walks of life.

Another concern is the specific density of the proposal when compared the surrounding area. The proposal puts 161 occupants on a lot size of 1,391 square metres. This results in a specific density of 115,744 persons per square kilometre. This is 27x higher than the Dee Why/Brookvale average of 4,287 persons per square kilometre and 42x the Northern Beaches average of 2,765 persons per square kilometre (see Appendix 2 study of July 2019). We propose that this is seeking to extract too much from a site that is at least 50% zoned R3 medium density.

The final point is the scale of the building. The applicant has provided images of the largest nearby buildings, please note the Francis Street side of the proposed development also has much smaller buildings.



Traffic Impacts

Francis Street is a notorious local rat run street. It sees frequent travel in excess of the speed limit and has low visibility. We are concerned the proposed 250% + increase in vehicle movements into and out of the expanded garage at 9 Francis Street will create a situation where traffic accidents and

traffic accidents involving pedestrians are more likely to occur. We suggest that traffic calming or a reduction in the speed limit be required at a minimum.

We are concerned about the loss of street parking for local residents which is already under pressure. The development indicates driveway widening which will take away one space, and a kiss and go designated area which will take away more.

Other issues

The Plan of Management does not clearly articulate the hours an onsite manager will be present. We also suggest smoking is not permitted in any communal outdoor areas with a café and food service on the same site.

In addition to noise pollution, we request that ventilation of the garage, kitchen and laundry be direct above the building if not captured on site. These facilities will increase presence of harmful gases, moist air, and grease in the area. They must be dispersed at elevation rather than vented at a low level.

The issues noted below all contribute to the unreasonable loss of solar access for our residence. They refer to specific regulations and guidance we understand applies to the area.

- The proposed Floor Space Ratio of the lot on Fisher Road (3.44:1) exceeds the allowable guidance under the Warringah LEP 2011 of 2.4:1.
- The proposed Building Envelope exceeds what is allowable according to Warringah DCP 2011 B3 "Side Boundary Envelope).
- The proposed Side Boundary Setbacks exceed what is allowable according to Warringah DCP 2011 B5 "Side Boundary Setbacks"

Appendix 1 – Solar

A compass placed at 7 Francis Street along the dividing lines the 6 attached residences measures 348 degrees. The magnetic declination at the site is approximately 12.39 degrees¹ to the East. This implies that the dividing walls between properties at 7 Francis Street are oriented towards True North.

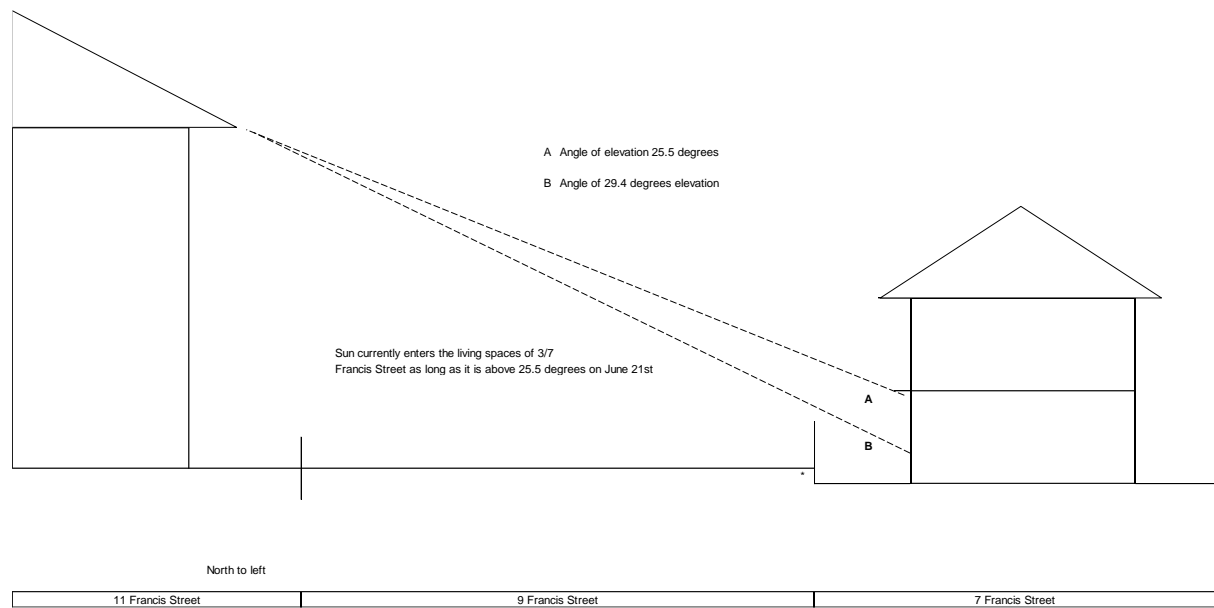
All Azimuth angles noted below are in reference to a theoretical compass where True North is 0 degrees².

1. [https://www.magnetic-declination.com/Australia/Sydney/124736.html#:~:text=Answer%3A%20%2B12.68%C2%B0%20\(13%C2%B040'\)](https://www.magnetic-declination.com/Australia/Sydney/124736.html#:~:text=Answer%3A%20%2B12.68%C2%B0%20(13%C2%B040'))
2. https://www.sunearthtools.com/dp/tools/pos_sun.php#txtSun_2

Appendix 1.1 – Our Current Solar Access

Below we offer proof that our home currently receives over 4 hours of direct sunlight into our living spaces on June 21st. Taking away this on June 21st and every other day for at least 7 months is not an acceptable outcome.

1.1a - Current Solar Access Elevation Obstacle

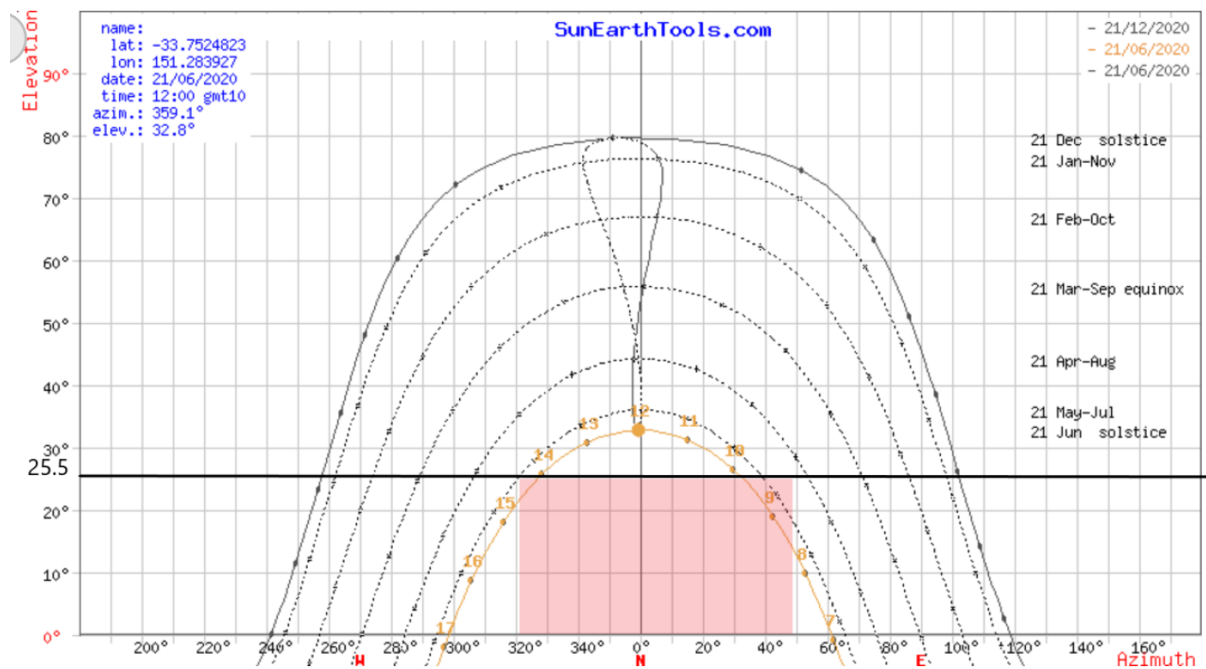


- Above image illustrates that sun elevated at or above 25.5 degrees currently enters the living areas of 3/7 Francis Street



- Above image confirms 25.5 degrees elevation produces direct sunlight into the living space of 3/7 Francis Street

1.1b - Current Solar Access Elevation & Azimuth Chart



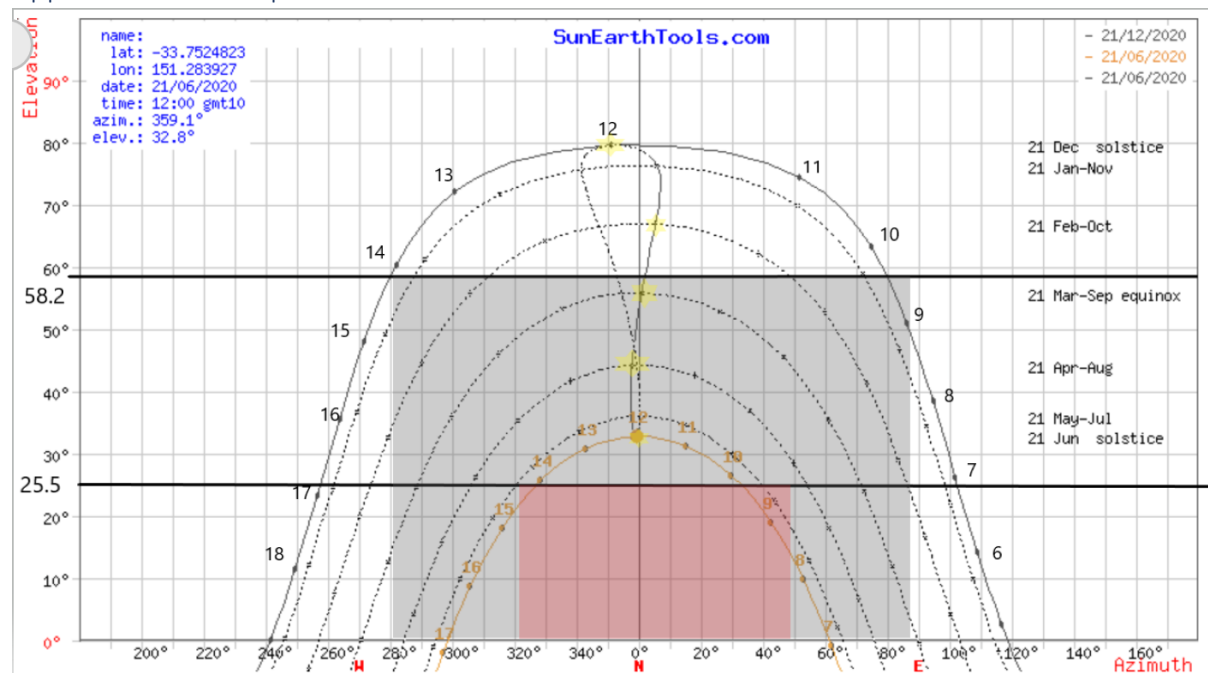
- The above diagram illustrates the entire year of solar access via the elevation and azimuth that the sun passes through on the 21st of each month, with hours indicated as nodes on the lines.
- Overlaid on the above diagram are
 - The current built environment and its relative angles to the living spaces of 3/7 Francis Street shaded Red
- The above diagram illustrates that on June 21st, the sun is elevated above 25.5 degrees from just before 10am and remains there until after 2pm. This confirms we currently receive over 4 hours of direct sunlight into our living spaces on June 21st

1.1c - Current Solar Access - Additional Proof



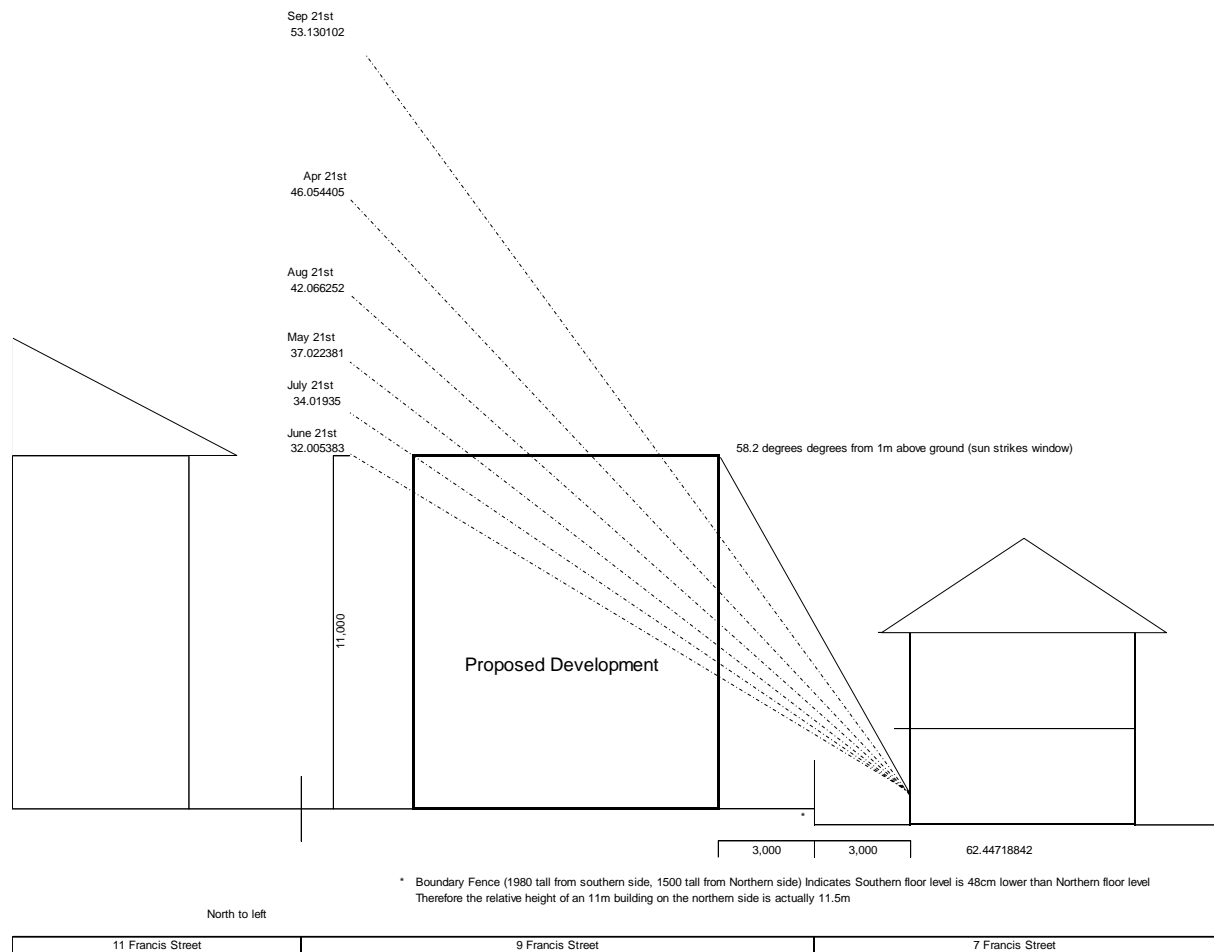
Appendix 1.2 - Proposed Solar Access

Appendix 1.2a – Proposed Solar Access Elevation & Azimuth Chart



- The above diagram illustrates the entire year of solar access via the elevation and azimuth that the sun passes through on the 21st of each month, with hours indicated as nodes on the lines. Midday is highlighted in yellow for each month of the year.
- Overlaid on the above diagram are
 - The current built environment and its relative angles to the living spaces of 3/7 Francis Street shaded Red
 - The proposed development and its relative angles to the living spaces of 3/7 Francis Street shaded grey
- The above diagram depicts the proposed development will take away direct sunlight from the living spaces of 3/7 Francis Street. Not only will this occur on June 21st, but also for many months of the year. Under the proposal, the only months where 3/7 Francis Street would receive 3 hours of sunlight into living spaces during 9am and 3pm would be November, December & January.

Appendix 1.2b – Proposed Solar Elevation Obstacle



Notes

- The dotted lines refer to the peak elevation of the sun on the 21st of the listed months as measured from 1m above floor level where sun enters the living spaces at 7 Francis Street
- During the listed months, the proposed development blocks the direct solar access entirely for the middle residents of 7 Francis Street.**
- The diagram also illustrates that current solar access is uninhibited.

Appendix 1.2b – Proposed Solar Azimuth Obstacles

Given the height of the proposed buildings at 9 Francis Street & 28 Fisher Road, it is clear that solar access can only be attained around the sides of the proposed buildings.

The table below¹ represents the reference date of June 21st at the location of 7 Francis Street. According to the source *“The azimuth angle indicates the direction of the sun in the horizontal plain from a given location. North is defined to have an azimuth of 0° and south has an azimuth of 180°”*. This table and the diagrams provided dispute the results of the Solar Study put forward by the developer. Regardless of the dispute, the loss of solar access to the residents of 7 Francis Street is unacceptable on either presentation.

Date:	21/06/2020 GMT+10	
coordinates:	-33.7524823, 151.2839806	
location:	-33.75248230, 151.28398060	
hour	Elevation	Azimuth
06:59:27	-0.833°	62.05°
7:00:00	-0.74°	61.98°
8:00:00	9.79°	53.08°
9:00:00	19.04°	42.55°
10:00:00	26.43°	29.96°
11:00:00	31.24°	15.24°
12:00:00	32.8°	359.1°
13:00:00	30.86°	343.06°
14:00:00	25.73°	328.55°
15:00:00	18.1°	316.2°
16:00:00	8.69°	305.87°
16:53:57	-0.833°	297.95°

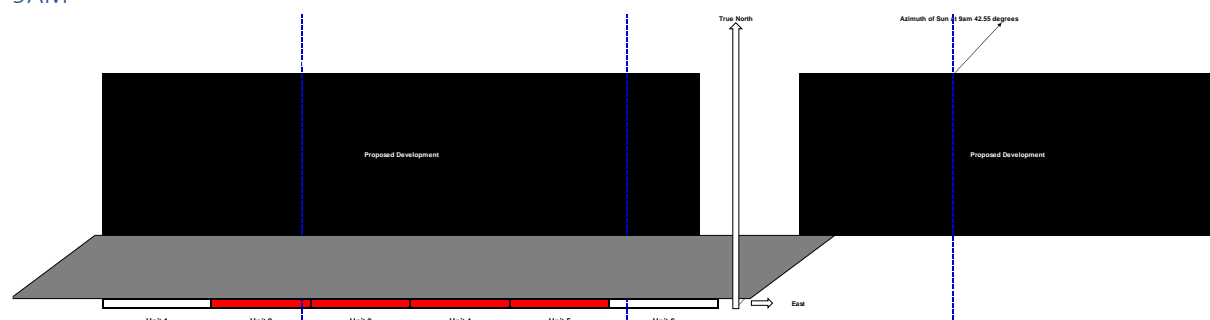
June 21st

- a) **Under the proposal, 4 of the 6 apartments (those in Red) at 7 Francis Street will receive no sunlight (Yellow) to their living spaces, windows, private open spaces or thermal mass.**

Area in shade

- b) Area in Sun Light

9AM



- 12PM

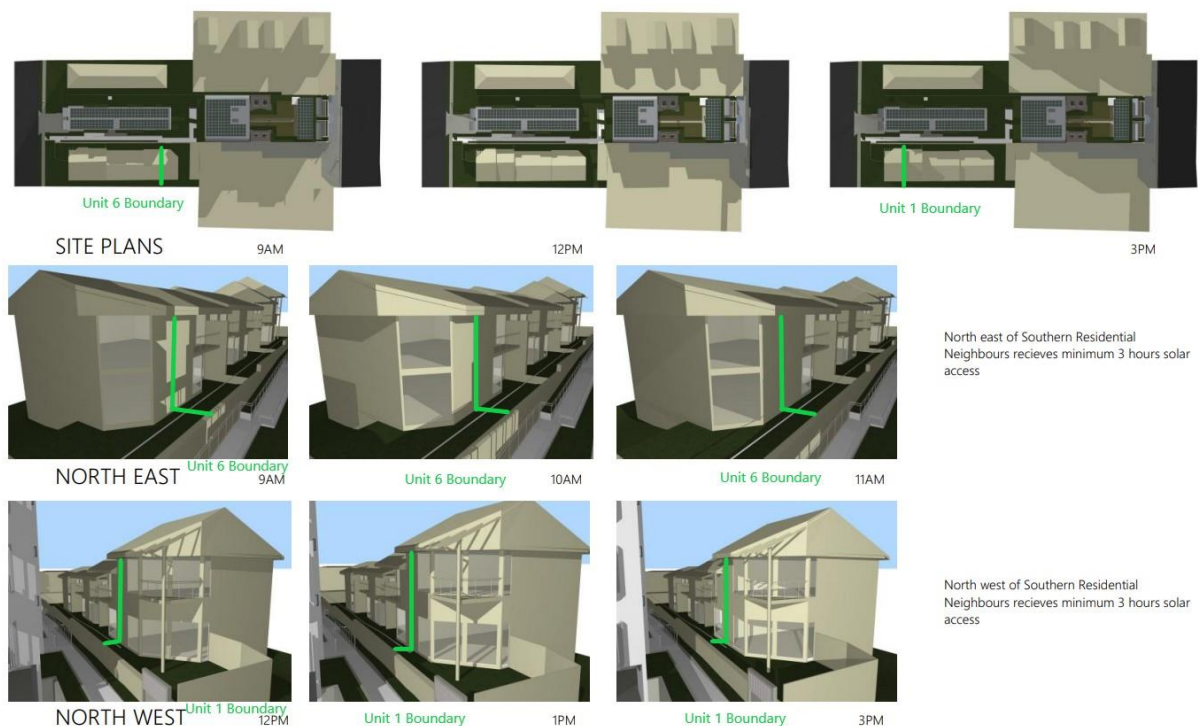


Appendix 1.3 – Intentionally Left Blank

Appendix 1.4 – Misleading Statements presented in Development Application

The statements below clearly indicate an understanding of responsibilities and reasonable outcomes; the detail and study results reveal an apparent hope that no-one delves beyond the surface.

- *“the development is sited and **designed to ensure no adverse impacts** occur on surrounding development including **overshadowing**, noise and traffic impacts”* – Section 4.5 “Statement of Environmental Effects”
 - Response: It is clear that the siting and design have significant adverse impacts including overshadowing on the neighbours at 7 Francis Street.
- *“It provides **a development with no adverse overshadowing impacts...**”* – Section 4.6
 - Response: It is clear the development has adverse overshadowing impacts on the neighbours at 7 Francis Street.
- *“A detailed solar study has been prepared by the architect and found within the architectural set of plans. **They demonstrate that the adjoining residential development is not compromised**”* – Page 9, Table 1 “Statement of Environmental Effects”
 - Response: The detailed solar study prepared demonstrates nothing but compromised solar access for 5 of the 6 adjoining residential properties.
- *“Shadow Diagrams are included... they **indicate more than 3 hours sun between 9am and 3pm to southern neighbour at Francis St.**”* – Page 8 “Architectural Statement”
 - Response: There is not one neighbour on the Southern side, there are 6. Of the 6, only 1 can possibly receive 3 hours of sun between 9am and 3pm. The others are cast into shadow.
- *“**These indicate sun access to the southern neighbours in the morning and afternoon for a total of more than 3 hours**”* – Page 15 “Architectural Statement”
 - Response: Of the 6 Southern neighbours, only 1 is indicated to receive a possible 3 hours of sun access. The others are cast into shadow.



PROPOSED SUN SHADOW PLANS JUNE 21

Proposed inaccuracy in above diagram provided by the applicant

- The diagram shows direct sunlight striking low elevations of the North East corner of 7 Francis Street at 9am and 10am.
 - We believe this is incorrect. The surrounding built environment in the azimuth of the sun between 9 and 10am from the North East of 7 Francis Street has an elevation (from 1m above ground level) of 18 degrees between roof peaks and 25 degrees at roof peaks on the southern side. For the sun to hit 7 Francis Street as indicated by the Solar study at 9am is impossible, as it does not reach 18 degrees elevation until 9:52am.

Appendix 1.5 – Solar Regulation and Guidance

Excerpts in *italics* below (emphasis added) provide relevant guidance around adequacy of Solar Access in residential areas and demonstrate a clear intent to allow development that provides Solar Access to all residents of new and existing buildings.

Appendix 1.5a - NSW State and Environmental Planning Policy 65

- Principle 4: Sustainability
 - *“Good sustainable design includes use of natural cross ventilation and **sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling** reducing reliance on technology and operation costs”*
- Principle 6: Amenity
 - *“Good amenity combines appropriate room dimensions and shapes, **access to sunlight**, natural ventilation, outlook, visual and acoustic privacy, storage, indoor*

and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.”

- Practice Note “Solar access Requirements in SEPP 65 has the following Objective:
 - *“To optimize the number of apartments receiving sunlight **to habitable rooms, primary windows and private open space**”*
 - *“Direct sunlight into living rooms and private open spaces is **a key factor influencing residential amenity** for apartments. It is beneficial for residents to experience the light and warmth of the sun in their living environment. It also **reduces reliance on artificial lighting and heating, improving energy efficiency and environmental sustainability.**”*
- Practice Note “Solar access Requirements in SEPP 65” has three Design Criteria, including two currently relevant:
 - *“Living rooms and private open spaces of **at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid winter in the Sydney Metropolitan Area...**”*
 - *“A **maximum of 15% of apartments in a building** receive no direct sunlight between 9am and 3pm at mid winter”*

Appendix 1.5b - Warringah Development Control Plan 2011

- D6 Access to Sunlight
 - *“To ensure that **reasonable access to sunlight is maintained.**”*
 - *“To encourage innovative design solutions to improve the urban environment and public open space.”*
 - *“To promote passive solar design and **the use of solar energy.**”*
 - *“At least 50% of the required area of private open space of each dwelling and **at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.**”*
- D22 Conservation of Energy and Water
 - *“Site layout and structures are to allow for reasonable solar access for the purposes of water heating and electricity generation and **maintain reasonable solar access to adjoining properties.**”*

Appendix 1.5c - Warringah Local Environment Plan 2011

- 4.3 Height of Buildings
 - *“to **minimise** visual impact, disruption of views, loss of privacy and **loss of solar access**”*

Appendix 1.5d - Towards 2040 Northern Beaches Local Strategic Planning Statement

- Figure 51
 - *“Ensure new buildings are high amenity and **do not unreasonably impact on neighbouring properties and the public domain.**”*

Appendix 2 – Environment and Surrounding Land Use

Brookvale-Dee Why

Of the strategic centres, the **Brookvale-Dee Why** centre surrounding catchment has:

- Good connectivity to the other centres and a large workforce base (only centre accessible from all other Northern Beaches centres within 30min by using public transport)
- Almost 50% of the population growth (+7,090 people) has occurred in this area between 2011 and 2016 and approximately a quarter of the dwelling growth (+1,569 dwellings) - population density of 4,287 people per km² compared to Northern Beaches average of 2,675 people per km²
- It also represents the largest employment hub on the Northern Beaches, accommodating approximately one third of the LGA's jobs (27,492)

https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.nthbch-yoursay.files/2415/6945/9046/Attachment_2A_-_Demographic_Analysis_-_SGS.pdf