

Statement of Environmental Effects

PROPOSED ADDITIONS TO TOWNHOUSE

AT

46C WHITE STREET, BALGOWLAH , NSW

Prepared under instructions from:

Ms. S. Donohoe

By:

Woodhouse & Danks Pty Ltd Architects

Suite 207 20 Dale Street, BROOKVALE,
NSW 2100 Tel: (02) 9939 8810

NOTE: This document is Copyright. Apart from any fair dealings for the purposes of private study, research, criticism or review, as permitted

under the *Copyright Act*, no part may be reproduced in whole or in part, without the written permission of *Woodhouse & Danks Pty Ltd Architects*,

TABLE OF CONTENTS

1.0 INTRODUCTION

2.0 SITE DESCRIPTION AND LOCATION

The Site

The Locality

3.0 PROPOSED DEVELOPMENT

General Layout

Design

Neighbour consultation

4.0 STATUTORY PLANNING FRAMEWORK

4.1 General

4.2 Manly Local Environmental Plan 1988

4.3 Manly Development Control Plan for the Residential Zone

4.4 Compliance Table

5.0 CONCLUSION

APPENDIX 1 FSR VARIATION

1.0 INTRODUCTION

The development application proposes the additions of an artists studio to the existing Townhouse being No.46C at White Street, Balgowlah.

In preparation of this document, consideration has been given to the following:

Environmental Planning and Assessment Act, 1979 as amended.

Northern Beaches; Manly Local Environmental Plan 2013

Northern Beaches; Manly Development Control Plan 2013

A set of architectural drawings including plans, sections and elevations have been prepared in relation to the proposed additions.

The proposal conforms to the *Manly Local Environmental Plan 2013*, its planning guidelines and desired future character of the locality, as outlined in the *Manly Residential Development Control Plan*. The proposal succeeds when assessed against the "Heads of Consideration" pursuant to s79C of the *Environmental Planning and Assessment Act, 1979* as amended.

The existing site is not located within the area of the "Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Strategic Foreshore Sites Map)

The site is not located within the Manly LEP Foreshore Scenic Protection Area.

The site is located in a Class 5 Acid Sulphate area but excavation of the site will not effect any Class 1,2,3 or 4 acid sulphate zones as "likely to lower the water table below 1 metre in Class 1, 2, 3 or 4 land". Accordingly there is no requirement for the site regarding acid sulphate soil precautions.

It is considered that this application succeeds on merit and is appropriate for the granting of consent.

2.0 SITE DESCRIPTION & LOCATION

The Site



Site location 46C White Street Balgowlah

The overall site was known as Lot 2, DP 169227, No.46 White Street, is rectangular in shape with a total site area of approximately **914.9 m²** with a primary frontage to White Street of 15.24m.

Currently the site is known as **Strata Plan 92761** with No.46C being Lot2 of that plan.

The site is currently occupied by a 3 unit Townhouse development with the proposed additions being related to Townhouse 3, Number 46C White Street Balgowlah.

The streetscape surrounding the site consists of a mix of various single dwellings of various styles and multiple unit developments mainly from the post war period and some recent development.

The Locality

The locality is characterised by topographical variety, which has influenced the varied design characteristics of the residential developments. There is a sandstone cliff ridge to the immediate west boundary of the site.

The adjoining site to the west at No.48 White Street is occupied by a three storey single residence building. The immediate site to the east is a 3 metre wide battle axe handle allotment serving the multi residential development adjoining the site to the north. Further to the east is a single residential building at No.42 White Street.

The site is in close proximity to both the Stocklands Balgowlah Shopping Centre and the Manly Town Centre and Manly Wharf which can be readily accessed by a short walk or alternatively by the community "Hop Skip and Jump" bus or public bus transportation.

3.0 PROPOSED DEVELOPMENT

General Layout

It is proposed to construct an Artists Studio in the level 1 area beneath the "unexcavated area below the master bedroom of Townhouse 3 (No,46C). This location originally formed the bowl of the swimming pool belonging to the original house on the site before development of the three townhouses, accordingly the volume of this area below the bedrooms of the townhouse is largely void area and can readily be constructed as a compliant dwelling space.

The proposed additions are as shown on drawings X1 to X4 inclusive dated December 2018, prepared by *Woodhouse & Danks Architects Pty Ltd*.

The proposed additions are described as follows:-

- Construction of a Studio area of approximately 21m² in area.
- The studio is to be accessed from the internal Lobby stair of No.46C.
- Some excavation will be required to form the studio area but the existing volume of this area is generally void due to the previous swimming pool bowl located in the area.
- The existing perimeter walls to the east and south are in place as constructed in accordance with the previous development approval.
- An access door and windows will be installed to provide ventilation and light to the proposed studio
- A tea bench unit is proposed for use with the artists studio function.

Design Impact

There will be no impact on either the internal site dwellings being Nos 46A and 46B White Street, nor will there be any impact on adjacent neighbouring properties as the proposed studio is largely below the levels of adjacent properties and/or their visibility.

The proposed design has been assessed against Northern Beaches LEP and the DCP "heads of consideration". Accordingly, it is our considered opinion that a "Pre DA Review" would not assist the further formalisation of the proposal and the subsequent DA submission.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 General

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 79C of the *Environmental Planning & Assessment Act, 1979* as amended. Outlined are those matters to address, and any steps to mitigate against any potential adverse environmental impacts discussed below.

4.2 Northern Beaches; Manly Local Environmental Plan 2013

Zone, Objectives and Heritage

The subject site is zoned *Residential 2 (pink)* pursuant to the provisions of the *Manly Local Environmental Plan 2013*

It is considered that the proposed development achieves the objectives of the *Residential 2* zone when addressed in terms of the LEP objectives (a) through (i) inclusive with respect to dwelling house approval, retaining the existing scale and character of the area, supporting the amenity of the area and improving the quality and revitalisation of the built environment and landscaping in the precinct.

The site is not identified as a heritage item or located within a heritage conservation area.

4.3 Northern Beaches; Manly Development Control Plan 2013

The following built form controls contained in this *Development Control Plan* apply to the subject development.

BASIX

Certification of the residences has been assessed and we would refer you to the BASIX Certificate for the proposed alteration that accompanies this Development Application.

The Site

The DCP site controls address the issues of appropriate height, bulk and scale together with provision of adequate daylight and sunlight.

This proposal does not effect any of the above controls of height, bulk, scale nor is there any effect on sunlight to the surrounding dwellings.

Landscaping

Landscaping on the existing site remains unaffected.

Building Form and Roofs

Setbacks have been maintained especially with reference to the rear boundary setback of 8m minimum.

Vehicular Access

No effect by this proposal

Accessibility

No effect by this proposal

Bicycle Storage

No effect by this proposal. The existing dwelling has a lock up garage and a secure storage room that can adequately accommodate at least 2 bicycles.

Excavation and Earthworks

The proposal incorporates a generally void area below the master bedroom area of the existing dwelling. This area is generally void due to the removal of the previous swimming pool prior to the current townhouse development.

A geotechnical report is available for this site and was issued to council in the townhouse development application. As noted above this area is largely void and as can be seen from the surrounding excavation any minor additional excavation will be generally in rock (sandstone).

Stormwater Control

No effect by this proposal. There is no additional collection or dispersal of stormwater due to the Studio additions.

Heritage and Conservation Areas

It has been determined that the property is not heritage listed or located within a heritage conservation area.

Manly Development Control Plan for Residential Zone ; Part 3

Development Controls :-

The site is located in DCP Residential Density Sub-zone 4. The site area is 914.9m².

Development Controls for principal development standards;- refer Compliance Table contained in this document and subject notes below:-

Residential Density

No effect by this proposal

Floor Space Ratio

The FSR controls relate to building bulk guidelines relevant to the development so that the development is consistent with the objectives and requirements for floor space ratio (FSR) of the DCP. Building bulk should be distributed to minimise overshadowing of neighbours, streets and public open space and should enable a sharing of views with surrounding residences and permit views from public streets and open spaces. The building footprint should be designed to minimise cut and fill and the building form should be compatible with the prevailing development pattern and character in terms of overall shape and articulation of form.

None of the above considerations are effected in any way by the Studio additions

In accordance with the Floor Space ration Map, the maximum floor ratio for the subject site is 0.5:1.

The subject site has an area of 914.9 square metres, and as such a maximum permissible floor are of 457.5 square metres.

The total floor area of existing development is 494 sq metres and the current proposal is an additional 21 sq metres to a new total gross area of 515 sq metres,

Accordingly the proposal seeks an increase of 21 square metres over the existing approved FSR. It is noted that a 21 sq metres increase in the FSR control is equal to an increase of 0.023:1 in FSR.

The additional area for the Studio will slightly increase the total site FSR by 21m² but the bulk and scale of the development remains unaffected.

There is no discernable effect on either the on site FSR controls or the bulk and visual characteristics of the existing dwelling and accordingly the DCP Objectives are fully complied with, even though there is a marginal increase in FSR.

Accordingly a variation to this standard is sought in accordance with Clause 4.6 of Council's Local Environmental Plan, and addressed in **Appendix A** to this report.

Overshadowing

No effect by this proposal

Views

No effect by this proposal

Height

No effect by this proposal

Setbacks

No effect by this proposal. The rear boundary setback remains at the required min of 8m and the proposed studio conforms to that alignment (by matching the alignment of the building above).

Open Space and Landscaping

No effect by this proposal

Private Open Space

No effect by this proposal

Streetscape and Building Design

No effect by this proposal. The design of the development remains unaltered and the proposed studio is not seen from the streetscape.

Car-Parking and Access

No effect by this proposal

Sunlight, Daylight and Overshadowing

No effect by this proposal. It is noted that light and ventilation will be provided to the proposed studio through the east and south facing windows.

Privacy and Security

No effect by this proposal

Stormwater Management

No effect by this proposal. The proposed additions do not add to stormwater collection or management on site.

Waste Minimisation and Management

No effect by this proposal.

4.4 Compliance Table

No.46 Total Site Area: 914.9 m ²	Control	Proposed	Compliance
Northern Beaches Development Control Plan			
Density ; Sub Zone 4 (orange)	1 dwelling/300m ²	No change	YES
Storeys	2 (unless site constraint)	No change	YES
Open Space	55%.ie 503.2m ²	No change	YES
Soft Open Space	35% (of 55%) ie 176m ²	No change	YES
Private Open Space	12m ² (adjacent Living Rm)	No change	YES
Wall Heights	Maximum 7.5m (as DCP fig 4 for 1 in 7.5 site slope)	No change	YES
Roof height	3m	No change	YES
Front Setback	6m, or exist alignment (No.48 White St is 4m setback)	No change	YES
Rear Setback	8m	8m. This proposal is aligned with existing 8m rear setback	YES
Side Setback; East	1/3 max wall height of 5.5m ie 1.8m min	3m. This proposal is aligned with existing 3m side setback	YES
Side Setback; West	1/3 max wall height of 7.5m ie 2.5m min	No change	YES

Floor Space Ratio (Total site at No.46)	FSR 0.5:1 ie 457.5m2	494m2 exist + 21m2 = 515m2 total site FSR. FSR for total site is adjusted to 0.56:1	NO. Proposal is a slight increase in FSR. Refer Appendix A
Carparking	1 per dwelling plus 0.5/3bed dwelling = 4.5 spaces	No change	YES
Visitor Carpark	0.25 per dwelling = 1 space required	No change	YES

5.0 CONCLUSION

The proposal complies with the Northern Beaches; Manly Local Environmental Plan 2013 and the Northern Beaches; Manly Development Control Plan 2013 with the minor exception of a marginal increase in FSR for the entire 3 townhouse site at No. 46 White Street Balgowlah.

The proposed development takes into account the planning guidelines, desired character of the locality, and respects the amenity of the adjoining residential developments through the design principles adopted.

Woodhouse & Danks Pty Ltd Architects

November 2019

APPENDIX A

FLOOR SPACE RATIO VARIATION

Introduction

Clause 4.6 of MLEP 2013 provides Council with the flexibility to vary development standards contained within gazetted environmental planning instruments, when it can be demonstrated that compliance with the development standard, in the particular circumstances of an individual development application, is unreasonable or unnecessary.

Although there are minor differences in the approach applied by State Environmental Planning Policy (SEPP1) and that of Clause 4.6, the tests to be applied to a variation under Clause 4.6, are similar to those articulated in relation to SEPP 1.

However Clause 4.6 has the added requirement which is detailed in Clause 4.6(3), which states as follows:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) That there are sufficient environmental planning grounds to justify contravening the development standard.*

Having regard to the above, and dealing first with issue of whether the standard is *unreasonable and unnecessary*, it is noted that the tests applied to a SEPP 1 objection were set out by Lloyd J in *Winton Property Group Limited v North Sydney Council* [2001] NSWLEC 46, where his Honour set out five questions that need to be addressed.

The first is, "*Is the planning control a development standard?*"

The second raises the underlying objectives or purposes of the standard.

The third and fourth deal with the questions of consistency with the aims of the policy and the objects in 5(a)(i) and (ii) of the Act and whether or not compliance is unreasonable or unnecessary.

According to Lloyd it conventionally being the fact that if application of the standard is held to be unreasonable or unnecessary in the

circumstances of the case, that the objection is likely to be well-founded (thus satisfying the fifth Winten test).

The following assessment has been undertaken having regard to this judgement, and identifies the applicable planning instruments, zoning and applicable standard applying to the subject land, and considers the implications of the variation to the floor space ratio sought, having regard to the objectives of the zoning and standard, as well as the relevant objectives of the Environmental Planning and Assessment Act.

This assessment concludes that compliance with the applicable standard, having regard to the particular circumstances of this application, would in this instance, be unreasonable and unnecessary, and therefore should be approved.

Applicable environmental planning instrument

Manly Local Environmental Plan 2013

Identification of the development standard to which the SEPP 1 objection applies

.Clause 4. of MLEP 2013 refers to the floor space ratio control, and the Floor Space Ratio Control Map, which provides detailed floor space ratio controls for the locality.

In accordance with the Floor Space Ratio control Map, the maximum floor space ratio of building permitted on the subject site is 0.5:1.

Variation sought

The maximum permitted floor area is 457.5 square metres, whereas the proposed development has a total existing approved floor area of 494 square metres plus the proposed addition of 21 sq metres for this application, to give a total gross floor area of 515 sq metres.

That is an increase of 57.5 square metres over the control being a total of approximately 0.063 increase in FSR for the site.

Notwithstanding the above the additional floor area sought under this application only amounts to 21 sq metres which is the equivalent of an FSR Control increase of 0.023:1.

A variation in accordance with Clause 4.6 of MLEP is therefore sought to permit the subject development proposal.

Objectives of the applicable zone

The subject site is zoned **R2 Low Density Residential** in accordance with MLEP 2013. The relevant **Objectives** of this zone 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.*

COMMENT

It is considered that the proposed development is consistent with these objectives as it is providing an increase in variety and choice of housing to meet the community needs within a low density residential environment.

Objectives of applicable standard

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
 - (b) *to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*
 - (c) *to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*
 - (d) *to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*
 - (e) *to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*
- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*
- (2A) *Despite subclause (2), the floor space ratio for a building on land in Zone B2 Local Centre may exceed the maximum floor space ratio allowed under that subclause by up to 0.5:1 if the consent authority is satisfied that at least 50% of the gross floor area of the building will be used for the purpose of commercial premises.*

COMMENT

It is considered that the variations to the applicable standard in relation to the proposed development satisfies the objectives of this Clause, as the bulk and scale of the new development is similar, if not the same as, other developments in this locality, ensuring maintenance of the contextual, visual and landscaping relationships with adjoining development, and the streetscape in which the building is to be sited.

As discussed previously in this report, there will be no adverse environmental impacts in relation to the use or enjoyment of adjoining land and the public domain.

Further to the above, and as also indicated previously in the report, the character of the locality will not be adversely impacted by the proposed increase in the floor space ratio, and subsequent erection of the proposed addition on this lot, and there are no existing vegetation, topography, public views and natural features of land, including the foreshore, which would limit the floor space, as proposed in this application

Similarly the compatibility of the building form to the size of the land will continue to be maintained.

The potential impacts on solar access, privacy, and overshadowing have all been addressed previously in this report, and it can be concluded that the variation of the floor space ratio in this instance will have no adverse impacts on adjoining properties.

It can therefore be concluded that the variation in the floor space ratio, continues to acknowledge the environmental constraints of the site, and will not inhibit the contextual relationship between the subject land and that of adjoining residential development.

In terms of the relevant objectives of the Environmental Planning and Assessment Act, it is considered that the variation to the floor space ratio, will not have any adverse impact on the environmental constraints of the site, as addressed in this planning report, and in fact will contribute towards maintaining and enhancing the residential character of the locality.

It can therefore be concluded that the variation to the floor space ratio, is consistent with the relevant objects of the Act, which are as follows;

- (c) to promote the orderly and economic use and development of land,*
- (g) to promote good design and amenity of the built environment,*

Further to the above, Preston J has expressed the view that there are five different ways in which an objection may be well founded. These are addressed as follows:

- 1. the objectives of the standard are achieved notwithstanding noncompliance with the standard;*

Comment

As indicated above, it is considered that the objectives of the standard are achieved notwithstanding the variation to the floor space ratio sought.

- 2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

Comment

Not applicable. Objectives of the standard have been identified in MLEP 2013, and have been addressed above.

3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

Comment

Not applicable

4. the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

Comment

Not applicable

5. the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone

Comment

Strict application of the standard is considered to be unreasonable and unnecessary in the current circumstance for the following reasons:

- The proposed technical variation to the floor space ratio, does not result in any unreasonable impacts on the amenity of adjoining residential properties in terms of overshadowing, privacy, loss of views or loss of daylight;
- The proposed variation continues to recognise the existing environmental constraints of the site and retain the contextual relationship with other buildings in this locality;
- The proposed variation does not result in any material impacts in terms of privacy, views, solar access, separation distances, light and ventilation on any adjoining development in the immediate vicinity of the proposal or surrounds;
- The proposal will facilitate the enhancement of the existing building form to create a building of enhanced architectural merit, consistent with the desired future strategic vision for this locality.

For these reasons it is considered that strict application of this standard is unreasonable and unnecessary having regard for the particular circumstances of this case.

Further to the above it is considered that the proposed variation does not raise any matter of significance in relation to State or Regional planning, and it is not anticipated that the variation will

undermine the standard itself and lead to any potential adverse precedent.

The reason for this conclusion is that the proposed variation is very site specific and related to a specialised use of the subject site, which is a very low intensity use.

In addition, the technical variation to the floor space ratio, will not change the contextual relationship currently experienced in relation to the existing dwelling on the site.

Finally, it is considered that there does not appear to be any public benefit in maintaining the existing floor space control, adopted by the planning instrument in this instance.

The public benefit is to be found in the provision of the development of the site for the proposed addition, designed to enhance the general amenity of the locality, as well as the future residents who will inhabit the dwelling.

For the reasons referred to above it is considered that the variation to the maximum floor space control as sought in this application, is reasonable and necessary, having regard to the circumstances of the case, and as such should be approved.

In relation to Clause 4.6(3)(b) of Clause 4.6 however, it is noted, that the proposed development is consistent with the objectives of the standard, particularly those related to the bulk and scale of development, the density control, and the visual relationship between the new development and the existing character and landscape of the area.

Whilst the degree of the variation is small to say the least, any reduction in the size of the dwelling, will obviously impact adversely on the amenity of the future residents of the proposed townhouses, which have been designed to ensure that:

- the spatial arrangement of the dwelling is functional;
- the layouts provide high standard of residential amenity; and

- the dwelling is capable of accommodating a variety of household activities and occupants needs.

Accordingly it can also be concluded that the proposed development satisfies the requirements of Clause 4.6 of Manly Local Environmental Plan.