
STATEMENT OF ENVIRONMENTAL EFFECTS

To accompany a Development Application
For the construction of an in-ground swimming pool in
association with an existing dual occupancy

at No. 44 Upper Beach Street, Balgowlah

Issue A – March 2024

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1.0 INTRODUCTION

This statement has been prepared to accompany a Development Application for the construction of an in-ground swimming pool in association with an existing dual occupancy at No. 44 Upper Beach Street, Balgowlah.

The purpose of this report is to describe the proposed development and review the relevant planning controls relating to the proposal. It provides an assessment of the proposed development in light of the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979.

This report aims to demonstrate that the proposed development is appropriate within its context and within the framework of the relevant planning policies.

This statement addresses issues arising from the proposed works in light of the following planning controls:

- Manly Local Environmental Plan 2013
- Manly Development Control Plan 2013
- Provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979

The assessment relies upon the following information:

- The subject land is zoned R1 General Residential under the Manly Local Environmental Plan 2013
- The immediate context of the site and surrounding residential character

2.0 SITE & CONTEXT ANALYSIS

2.1 SUBJECT SITE DESCRIPTION

The subject site is located at No. 44 Upper Beach Street, Balgowlah and is legally identified as Lot C within DP 344493. The area of the subject site is 461.6m² by survey.

The subject site is located on the northern side of Upper Beach Street, between the cross-streets of Maretimo Street and Kareema Street, with Manly Road located further west. Figure 01 illustrates the context of the site within the locality.

The site is a rectangular allotment with a 15.24 metre frontage to Upper Beach Street. The site is orientated approximately north to south and slopes to the north.

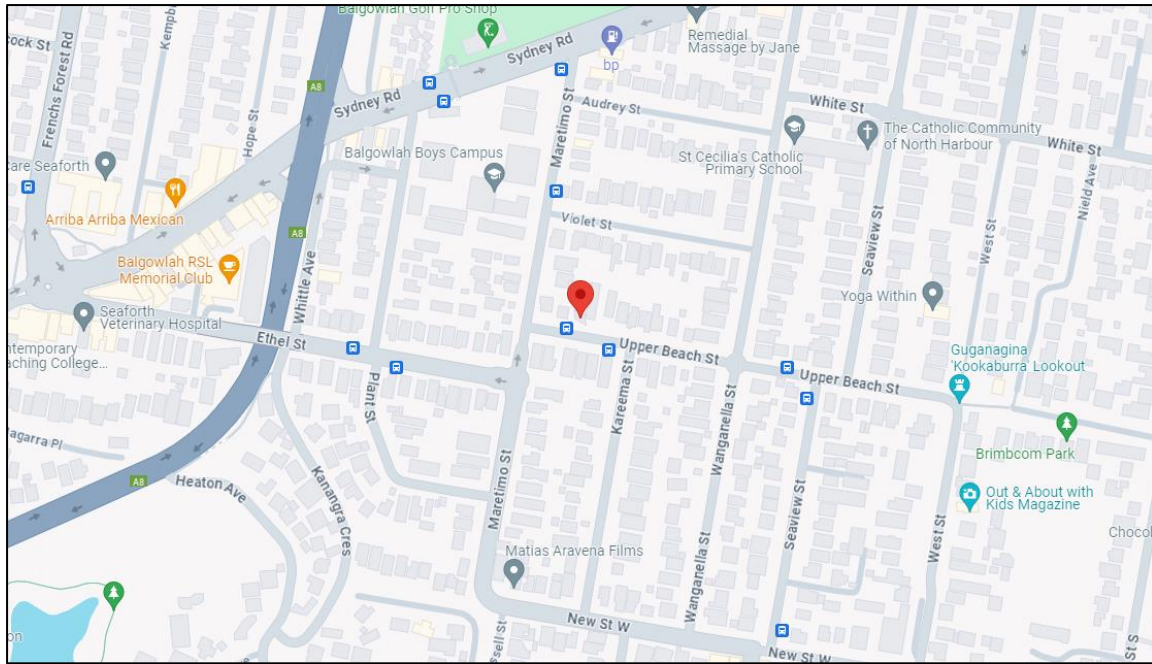


Figure 01: Map of site location (Google Maps, accessed 2024)

2.2 EXISTING BUILDING AND ASSOCIATED STRUCTURES

The subject site is occupied by a two storey dual occupancy constructed of brick finish with tile roofing.



Figure 02: Subject Site at No. 44 Upper Beach Street, Balgowlah (Google Maps, accessed 2024)

2.3 NEIGHBOURING PROPERTIES

No. 42 Upper Beach Street

Neighbouring the subject site to the east is a two storey residential flat building constructed of brick finish with tile roofing.



Figure 03: Neighbouring property at No. 42 Upper Beach Street (Google Maps, accessed 2024)

No. 46 Upper Beach Street

Neighbouring the subject site to the west is a two storey dwelling house constructed of rendered brick finish with tile roofing.



Figure 04: Neighbouring property at No. 46 Upper Beach Street (Google Maps, accessed 2024)

2.4 SURROUNDING AREA

Locality

The subject site is located within an R1 General Residential zone under the Manly Local Environmental Plan 2013. The site is located in Balgowlah, a suburb of northern Sydney located 12km north-east of the Sydney central business district. The site is located at the south-western periphery of Balgowlah within a predominantly residential area.

The locality of Balgowlah is characterised by a diversity of land uses. The locality is bounded by North Balgowlah, Manly Vale, Fairlight, North Harbour, Balgowlah Heights, Clontarf, and Seaforth.

Street Pattern

The streets form a consistent grid pattern with long linear blocks which have no predominant orientation. There is a network of footpaths which are accompanied by street trees and vegetated road reserves.

3.0 THE DEVELOPMENT PROPOSAL

3.1 OVERVIEW

This Development Application will result in the construction of an in-ground swimming pool in association with the existing dual occupancy on site.

3.2 DESCRIPTION OF WORKS

This Development Application proposes the following work as depicted on the architectural drawings prepared by Archispectrum:

Ground Floor (RL +84.92, RL +86.12)

- Construction of in-ground swimming pool (18,000L capacity, 4.744 metres x 3.169 metres)
- Construction of deck with pool fence and gate (1.2 metres height)
- Construction of elevated pool deck with pool equipment

4.0 EVALUATION PURSUANT TO PLANNING INSTRUMENTS

The application has taken into consideration relevant provisions of the Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013.

4.1 MANLY LOCAL ENVIRONMENTAL PLAN 2013

Part 2 Permitted or prohibited development

Clause 2.1 Land use zones

Zone R1 General residential

1 Objectives of zone

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Centre-based child care facilities; 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; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Tank-based aquaculture; Water recreation structures; Water recycling facilities; Water supply systems

4 Prohibited

Advertising structures; Water treatment facilities; Any other development not specified in item 2 or 3

Comment

The proposed swimming pool, which is associated with an existing dual occupancy, meets the objectives of the zone and is permitted with consent.

4.2 MANLY DEVELOPMENT CONTROL PLAN 2013

Part 3 General principles of development

Chapter 3.4 Amenity (Views, overshadowing, overlooking/ privacy, noise)

Clause 3.4.2 Privacy and security

Sub-clause 3.4.2.3 Acoustical privacy

- a) Consideration must be given to the protection of acoustical privacy in the design and management of development.
- 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.
- c) Council may require a report to be prepared by a Noise Consultant that would assess likely noise and vibration impacts and may include noise and vibration mitigation

strategies and measures. See particular requirements for noise control reports for licenced premises below at paragraph g) below.

Comment

The proposed swimming pool will be set back 3.645 metres from No. 42 Upper Beach Street and 6.85 metres from No. 46 Upper Beach Street to ensure acoustic privacy is maintained. Similarly, the pool equipment has been located away from habitable areas in the adjoining properties.

Chapter 3.8 Waste management

All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.

Comment

A waste management plan has been prepared by Archispectrum and submitted alongside this application.

Part 4 Development controls and development types

Chapter 4.1 Residential development controls

Clause 4.1.4 Setbacks (front, side and rear) and building separation

Sub-clause 4.1.4.2 Side setbacks and secondary street frontages

- 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.*
- b) *Projections into the side setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, and the like, if it can demonstrate there will be no adverse impact on adjoining properties including loss of privacy from a deck or balcony.*
- c) *All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;*
- d) *For secondary street frontages of corner allotments, the side boundary setback control will apply unless a prevailing building line exists. In such cases the prevailing setback of the neighbouring properties must be used. Architecturally the building must address both streets.*
- e) *Side setbacks must provide sufficient access to the side of properties to allow for property maintenance, planting of vegetation and sufficient separation from neighbouring properties. See also paragraph 4.1.4.3.b.vi. of this plan.*
- f) *In relation to the setback at the street corner of a corner allotment the setback must consider the need to facilitate any improved traffic conditions including adequate and safe levels of visibility at the street intersection. In this regard Council may consider the need for building works including front fence to be setback at this corner of the site to provide for an unobstructed splay. The maximum dimension of this triangular shaped splay would be typically up to 3m along the length of the site boundaries either side of the site corner.*

Comment

The proposed swimming pool and associated decking will be set back 3.045 metres and 5.65 metres from the east and west boundaries respectively.

Sub-clause 4.1.4.4 Rear setbacks

- a) *The distance between any part of a building and the rear boundary must not be less than 8m.*
- b) *Rear setbacks must allow space for planting of vegetation, including trees, other landscape works and private and/or common open space. The character of existing*

- natural vegetated settings is to be maintained. See also paragraph 3.3 Landscaping.*
- c) *On sloping sites, particularly where new development is uphill and in sensitive foreshore locations, consideration must be given to the likely impacts of overshadowing, visual privacy and view loss.*
 - d) *Rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity to minimise overshadowing, visual privacy and view loss.*

Comment

This application proposes to retain the existing 8.761 metre setback between the dual occupancy and the rear boundary. The proposed swimming pool and deck will be located within the rear setback of the site, 2.592 metres from the rear boundary.

Clause 4.1.5 Open space and landscaping

Sub-clause 4.1.5.1 Minimum residential total open space requirements

- a) *Open Space must be provided on site in accordance with Figure 34 - Numeric Requirements for Total Open Space, Landscaped Area and Open Space Above Ground.*

Residential open space areas at Map B	Total open space (min. % of site area)	Landscaped area (min. % of total open space)
Area OS3	55%	35%

Comment

As the subject site measures 461.6m², a minimum of 55% of total open space is required. This application proposes 50.5% of total open space, and deep soil landscaping which occupies 73.18% of the total open space.

Whilst numerically non-compliant, the total open space will remain unchanged from the existing conditions of the site. It is noted that the existing total open space area falls short of the minimum requirement by 20.48m² or 8%, to which no changes are proposed. Considering only 6.43% of the total open space area will be made up by proposed swimming pool and the landscaped areas will occupy 73.18%, the existing total open space area is considered acceptable.

Clause 4.1.9 Swimming pools, spas and water features

Sub-clause 4.1.9.1 Height above ground

- a) *Swimming pools and spas must be built on or in the ground and not elevated more than 1m above natural ground level. Consideration of any exception to exceed the height above ground must demonstrate that any swimming pools and/or spa and their curtilage and/or concourse more than 1m above natural ground level:*
 - i) *would not detract from the amenity or character of the neighbourhood; and*
 - ii) *is a minimum distance from any side boundary equivalent to the height of the swimming pools and/or spa and their curtilage and/or concourse at any point above existing ground level.*

Comment

The proposed swimming pool will be in-ground, however a pool deck which is elevated by a maximum of 1.22 metres is proposed. The proposed elevated deck will not be seen from Upper Beach Street, and therefore will not detract from the amenity or character of the neighbourhood.

Sub-clause 4.1.9.2 Location and setbacks

- a) *Swimming pools and spas must not be located within the front setback i.e. between the front boundary of the lot and the building line. Consideration of any exception to the required location must demonstrate that any swimming pools and/or spa and their curtilage and/or concourse:*
 - i) *does not detract from the amenity or character of the neighbourhood; and*
 - ii) *is a minimum distance from the front boundary equivalent to at least twice the height of the swimming pools and/or spa and their curtilage and/or concourse at any point above existing ground level.*
- c) *The setback of the outer edge of the pool/spa concourse from the side and rear boundaries must be at least 1m, with the water line being at least 1.5m from the boundary.*

Comment

The proposed swimming pool will be located within the rear setback of the site and will be set back 4.092 metres from the rear boundary when measured from the water line.

Sub-clause 4.1.9.3 Proportion of total open space

Swimming pools and associated concourse areas must not comprise more than 30 percent of the total open space.

Comment

The proposed swimming pool will occupy 6.43% of the total open space.

Chapter 4.4 Other development (all LEP zones)

Clause 4.4.5 Earthworks (excavation and filling)










Sub-clause 4.4.5.2 Excavation

- a) *Excavation is generally limited to 1m below natural ground level with the exception of basement parking areas (which will be contained within the footprint of the building) and swimming pools;*
- b) *A dilapidation survey report and geotechnical assessment may be required for excavation works exceeding 1m. Dilapidation survey reports are to include photographic survey of the physical condition of adjoining properties, both internally and externally, including walls ceilings, roof, structural members and other such items. Such records are to provide proper record in relation to the proposed development to particularly assist in any dispute over damage to adjoining proposed arising from the works. It is in the interests of applicants and adjoining landowners for it to be as full and as detailed as necessary commensurate with the nature of the proposed development.*

Comment

This application proposes excavation to a maximum depth of 1.2 metres to accommodate the swimming pool.

5.0 COMPLIANCE TABLE

Planning Instrument	Clause	Complies
Manly Local Environmental Plan 2013	Clause 2.1 Land use zones	
Manly Development Control Plan 2013	Sub-clause 3.4.2.3 Acoustical privacy	
Manly Development Control Plan 2013	Chapter 3.8 Waste management	
Manly Development Control Plan 2013	Sub-clause 4.1.4.2 Side setbacks and secondary street frontages	
Manly Development Control Plan 2013	Sub-clause 4.1.4.4 Rear setbacks	
Manly Development Control Plan 2013	Sub-clause 4.1.5.1 Minimum residential total open space requirements	Justification provided
Manly Development Control Plan 2013	Sub-clause 4.1.9.1 Height above ground	
Manly Development Control Plan 2013	Sub-clause 4.1.9.2 Location and setbacks	
Manly Development Control Plan 2013	Sub-clause 4.1.9.3 Proportion of total open space	
Manly Development Control Plan 2013	Sub-clause 4.4.5.2 Excavation	

6.0 CONCLUSION

The proposed construction of an in-ground swimming pool in association with an existing dual occupancy at No. 44 Upper Beach Street, Balgowlah is consistent with the objectives and relevant provisions of Northern Beaches Council's planning instruments.

From this statement it is concluded that the proposed development provides a higher standard of residential accommodation which is compatible with the existing and desired future character of the area surrounding the subject site. There are no additional impacts that can be attributed to the development that will adversely affect the amenity of neighbouring properties.

In this regard the Council is requested to review the application favourably and grant the development consent.