

**Four Towns  
Planning**

*Planning and property consultant*

## **STATEMENT OF ENVIRONMENTAL EFFECTS**

**Internal fit out of  
approved take-away food  
and drink premises, new  
mechanical ventilation and  
replacement of existing  
business identification  
signs**

**3/38-42 The Corso, Manly  
NSW 2095**

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**This report has been prepared to support a Development Application under the *Environmental Planning and Assessment Act 1979*.**

**Report prepared by:**

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Director – Four Towns Pty Ltd

**Report prepared for:**

Dang Lieu Nguyen

**30 March 2024**

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## 1. Introduction and Background Information

### 1.1 Introduction

This report has been prepared as supporting documentation for a Development Application for an internal fit out of approved take-away food and drink premises, mechanical ventilation and replacement of existing business identification signs at 3/38-42 The Corso, Manly, being Lot 3 in Strata Plan 18046.

This report has been prepared following instructions from the client, Dang Lieu Nguyen. In preparing this application consideration has been given to the following:

- *Environmental Planning and Assessment Act, 1979* (as amended) (EP&A Act);
- Environmental Planning and Assessment Regulation 2021;
- Relevant State Environmental Planning Policies;
- Manly Local Environmental Plan 2013 (MLEP 2013);
- Manly Development Control Plan (MDCP);
- Architectural Plans prepared by Keeyuen Design Pty Ltd;
- BCA Compliance Assessment prepared by BCA Vision;
- Waste Management Plan.

This Statement of Environmental Effects describes the proposed development having particular regard to the provisions of Section 4.15 of the EP&A Act 1979 and examines any potential environmental impacts with regard to the relevant sections of the Act, State policies and requirements of Northern Beaches Council's MDCP.

The conclusions of the Statement of Environmental Effects are that the proposed development, being an internal fit out to an approved take-away food and drinks premises and replacement of business identification signs, is permissible with development consent and is consistent with the relevant statutory planning instruments including the Manly Local Environmental Plan 2013 and planning policies of the Manly Development Control Plan 2013.

Accordingly, the Development Application succeeds on its merits and should be approved by Council as submitted.

### 1.2 Background Information

A Development Application (DA2022/1567), for a change of use as a takeaway food and drink premises and associated fit out, was approved on 28/11/2022 with hours of operation being Monday to Sunday – 10:00am – 10:00pm.

It is noted this application is not the subject of any pre-lodgement meetings.

## 2. Site Profile

### 2.1 Property Description

The subject allotment is described as 3/38-42 The Corso, Manly, being Lot 3 in Strata Plan 18046. The site is zoned E1 Local Centre under the Manly Local Environmental Plan 2013.

The site is located on the Foreshore Scenic Protection Area Map. The site is also identified as a heritage item and is located within the Manly Town Centre Heritage Conservation Area.

### 2.2 Site and Locality Description

The site is located on the corner of Darley Road and The Corso and has a total area of 39.9sqm.

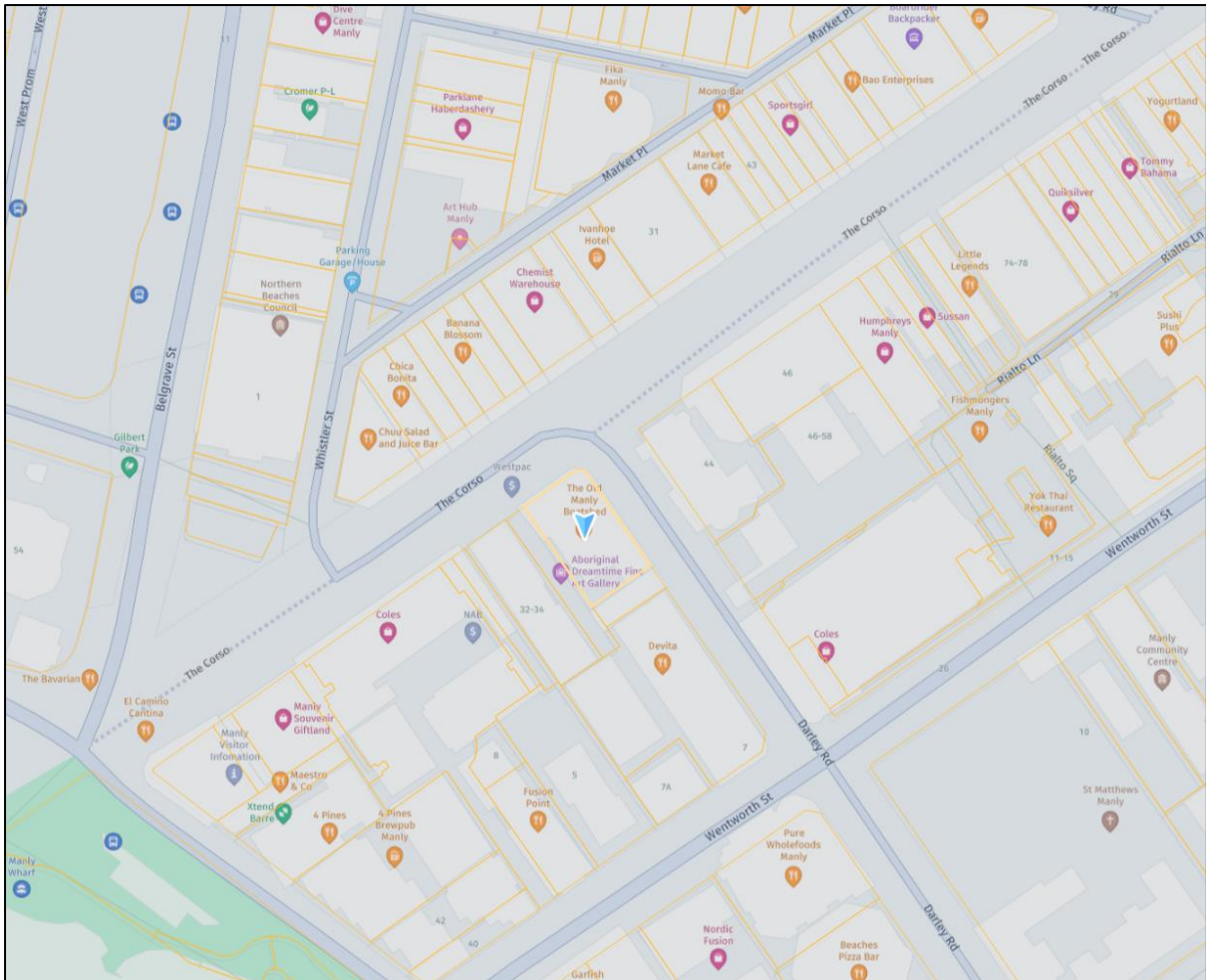
The site is located within an existing mixed-use development, which has numerous tenancies across The Corso and Darley Road. The building has multiple land uses including commercial on the ground floor and residential accommodation above.

The locality maps below show the location and area of the site:

#### Locality Maps



Source: Nearmaps 2024



Source: Nearmaps 2024

The locality has a variety of property types and sizes. The proposed internal fit out and replacement signage is not out of context and will complement the existing streetscape of the precinct. Relevant photos are provided on the following pages highlighting the site and streetscape of the area.



*Photograph of 38-42 The Corso, Manly – Lot 8 the subject tenancy is located on the ground floor corner*



*Photograph of the site – note existing signs to be replaced with new business logos*

### 3. Proposal

The proposed development involves the internal fit out of an approved take-away food and drink premises and replacement of existing business identification signs at 3/38-42 The Corso, Manly, being Lot 8 in Strata Plan 18046.

The proposed works include the following:

#### ***Demolition Works***

- Demolition works as depicted on architectural plans.

#### ***Proposed Works – Internal Fit Out, Signage and Mechanical Ventilation Only***

- Internal fit out for the proposed take-away food and drink premises
- Replacement signage in same location as per approved signage under DA DA2022/1567
- New mechanical ventilation system

Refer to architectural plans prepared by Keeyuen Design Pty Ltd.

#### ***Hours of Operation***

Monday to Sunday – 7:00am to 10:00pm

#### ***Staff***

Maximum three (3) staff at anytime

#### ***Waste***

The building has a designated communal waste area. Waste will be separated, stored and recycled where possible. The waste will be collected as required by a commercial contractor. It is envisaged that waste will be minimal noting the premises as a take-away food and drinks premises. Waste will generally relate to the preparation of the food only with customers to take food away.

#### ***Signage***

The proposal includes the replacement of the existing approved business identification signs as depicted on the plans prepared by Keeyuen Design Pty Ltd.



## 4. Statutory Planning Controls

The proposal has been assessed in accordance with the following instruments and controls:

- *Environmental Planning and Assessment Act 1979*, and Environmental Planning and Assessment Regulation 2021;
- State Environmental Planning Policies;
- Manly Local Environmental Plan 2013; and
- Manly Development Control Plan 2013.

### 4.1 *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)

The EP&A Act 1979 governs all environmental planning instruments within New South Wales. The proposal has been reviewed pursuant to the matters for consideration within Section 4.15 of the EP&A Act 1979.

The proposal is not Designated Development under Section 4.10 of the EP&A Act 1979 or Schedule 3 of the EPA Assessment Regulation 2021, therefore Northern Beaches Council is the Consent Authority. In addition, the proposal does not constitute an Integrated Development under the EP&A Act 1979, Section 4.46 with no further approvals from other Government agencies required.

### 4.2 State Environmental Planning Policies (SEPPs)

#### **SEPP (Transport and Infrastructure) 2021**

It is submitted that the proposal does not fall under the provisions of SEPP (Transport and Infrastructure) 2021 and therefore no assessment is required.

#### **SEPP (Sustainable Buildings) 2022**

The proposal has been assessed in accordance with the relevant provisions of the BASIX requirements. A BASIX Certificate is not required for the proposed work as it relates to commercial premises.

#### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

##### General

State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to various rescinded SEPPs that related to the preservation of trees and vegetation, koala habitat and bushland in urban areas.

The aims of this Policy are to protect the biodiversity values of trees and other vegetation, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The development remains consistent with the provisions of the SEPP as it does not propose the removal of any significant vegetation.

## **SEPP (Resilience and Hazards) 2021**

### Contamination

SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting of consent to the carrying out of any development on that land.

It is submitted that the site has been used for the purpose of a mixed-use development for decades. Therefore, no known high-risk contaminants are known for the site and the building would be low risk. The builder/contractors should take all measures to ensure if contamination is found during construction that relevant procedures are followed to report and remove contaminated materials. Based on the above and the site inspection undertaken, it is my professional opinion that the proposal is low risk, and no further assessment is required.

## **State Environmental Planning Policy (Industry and Employment) 2021**

### **Schedule 5 Assessment criteria**

#### **1 Character of the area**

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

**Comment:** Complies – the proposal has been designed to maintain the existing character. It is noted that the proposed signage will involve the replacement of business logos of existing signage, which was approved under DA2022/1567, thus is consistent existing outdoor advertising in the locality.

#### **2 Special areas**

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

**Comment:** Complies – the proposal signs do not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas. A detailed assessment against the Clause 5.10 Heritage Conservation is provided below heritage provisions is provided below in Section 4.3.

#### **3 Views and vistas**

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

**Comment:** Complies – the proposed signage will not compromise important views or reduce the quality of vistas as it will be located under the existing awning and is consistent with signage in the area.

#### **4 Streetscape, setting or landscape**

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*

- *Does the proposal require ongoing vegetation management?*

**Comment:** Complies – the proposed signage is compatible with the surrounding commercial area, noting that it will not create visual clutter, contributes visual interest of the streetscape and does not protrude above buildings.

### **5 Site and building**

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

**Comment:** The proposed development is consistent with the existing commercial precinct and existing built structures. The signage is minimal and is compatible with the scale and proportion of the associated building as well as surrounding tenancies, noting that existing approved signs are to remain, and this application involves the replacement business logos only.

### **6 Associated devices and logos with advertisements and advertising structures**

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

**Comment:** Yes – the proposed under awning sign will be illuminated with lighting devices as per relevant Australian Standards. No change to the existing approved signs apart from the replacement of business branding and logo.

### **7 Illumination**

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

**Comment:** The under awning signage will be illuminated in accordance with the relevant standards and will not adversely affect the safety of pedestrians or vehicles, nor will it impact on the amenity of surrounding residential accommodation.

### **8 Safety**

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

**Comment:** Complies – the signs are minimal and simplistic in nature. The signs do not clutter the site and retain the visual representation of the industrial area. The signs have been designed to be direct which reduce any safety impacts to public roads, pedestrians and cyclists.

### 4.3 Manly Local Environmental Plan 2013 (MLEP2013)

The relevant matters to be considered under MLEP2013 are outlined below in the LEP summary compliance table.

<b>Part 4: Principal Development Standards</b>			
<b>Standard</b>	<b>Permitted</b>	<b>Proposed</b>	<b>Comments</b>
4.1 Minimum subdivision lot size	N/A	N/A	N/A
4.1AA Minimum subdivision lot size for community title scheme	N/A	N/A	N/A
4.1A Minimum lot sizes for manor houses and multi dwelling housing (terraces) in Zone R2	N/A	N/A	N/A
4.2 Rural subdivision	N/A	N/A	N/A
4.3 Height of buildings	15m	N/A	N/A - No change to existing building height.
4.3A Special height provisions	N/A	N/A	N/A
4.4 Floor space ratio	3:1	N/A	N/A - No change to existing GFA
4.5 Calculation of floor space ratio and site area	Noted	N/A	Noted
4.6 Exceptions to development standards	Noted	N/A	N/A

<b>Part 5: Miscellaneous Provisions</b>	
<b>Provisions</b>	<b>Comments</b>
5.1 Relevant acquisition authority	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissible uses	N/A
5.5 (Repealed)	N/A
5.6 Architectural roof features	N/A
5.7 Development below mean high water mark	N/A
5.8 Conversion of fire alarms	N/A
5.9, 5.9AA (Repealed)	N/A
5.10 Heritage conservation	N/A
5.11 Bush fire hazard reduction	N/A
5.12 Infrastructure development and use of existing buildings of the Crown	N/A
5.13 Eco-tourist facilities	N/A

5.14 Siding Spring Observatory – maintaining dark sky	N/A
5.15 Defence communications facility	N/A
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones	N/A
5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	N/A
5.18 Intensive livestock agriculture	N/A
5.19 Pond-based, tank-based and oyster aquaculture	N/A
5.20 Standards that cannot be used to refuse consent—playing and performing music	N/A
5.21 Flood planning	Complies – a portion of the site is located within a low-risk flood area. There are no changes to the existing levels within the building, also noting that the use as a takeaway food and drink premises was previously approved under DA2022/1567 with no flood-related concerns raised.
5.22 Special flood considerations	N/A
5.23 Public bushland	N/A
5.24 Farm stay accommodation	N/A
5.25 Farm gate premises	N/A

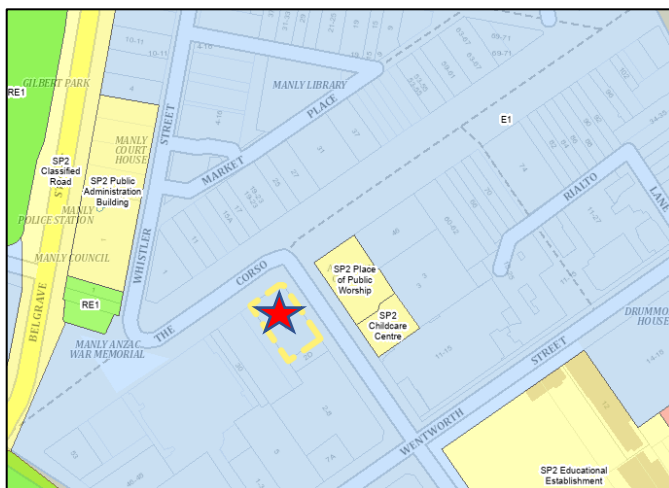
<b>Part 6: Relevant Additional Local Provisions</b>	
<b>Provisions</b>	<b>Comments</b>
6.1 Acid sulfate soils	The site is identified as class 4 acid sulfate soils. The proposed development will not impact acid sulfate soils as within assessment after this table.
6.2 Earthworks	N/A
6.3 (Repealed)	N/A
6.4 Stormwater management	N/A - No change to the existing stormwater management through the existing building footprint.
6.5 Terrestrial biodiversity	N/A
6.6 Riparian land and watercourses	N/A
6.7 Wetlands	N/A
6.8 Landslip risk	N/A
6.9 Foreshore scenic protection area	Complies - The site is identified in the Manly foreshore scenic protection area map. Refer to assessment after this table.
6.10 Limited development on foreshore area	N/A
6.11 Active street frontages	Complies – the proposal will contribute to an active street frontage along the Corso. Refer to assessment after this table.
6.12 Essential services	Complies – no change to existing provisions.

6.13 Design excellence	N/A
6.14 Requirement for development control plans	N/A
6.15 Tourist and visitor accommodation	N/A
6.16 Gross floor area in Zone B2	N/A – no change to existing GFA. Refer to assessment after this table.
6.17 Health consulting rooms in Zones E3 and E4	N/A
6.18 (Repealed)	N/A
6.19 Development in St Patrick’s Estate	N/A
6.20 Location of sex service premises	N/A
6.21 Noise impacts – licensed premises	N/A
6.22 Development for the purposes of secondary dwellings in certain residential and environmental protection zones	N/A

Relevant Schedules	
Schedule	Comments
Schedule 1 – Additional permitted uses	N/A
Schedule 2 – Exempt development	N/A
Schedule 3 – Complying development	N/A
Schedule 4 – Classification and reclassification of public land	N/A
Schedule 5 – Environmental heritage	N/A
Schedule 6 – Pond-based and tank-based aquaculture	N/A

## Zoning Provisions

### Zone E1 Local Centre



- Manly Land Zoning Map
- National Parks and Nature Reserves
  - Environmental Conservation
  - Environmental Management
  - Environmental Living
  - Local Centre
  - Productivity Support
  - General Residential
  - Low Density Residential
  - Medium Density Residential
  - Public Recreation
  - Private Recreation
  - Primary Production Small Lots
  - Special Activities
  - Infrastructure
  - Tourist
  - Natural Waterways

### **1 Objectives of zone**

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To minimise conflict between land uses in the zone and adjoining zones and ensure amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

### **2 Permitted without consent**

*Home-based child care; Home businesses; Home occupations*

### **3 Permitted with consent**

*Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Creative industries; Early education and care facilities; Electricity generating works; Entertainment facilities; Environmental protection works; Flood mitigation works; Function centres; Group homes; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Registered clubs; Respite day care centres; Roads; Service stations; Shop top housing; Signage; Tank-based aquaculture; Tourist and visitor accommodation; Veterinary hospitals; Waste or resource transfer stations*

### **4 Prohibited**

*Any development not specified in item 2 or 3*

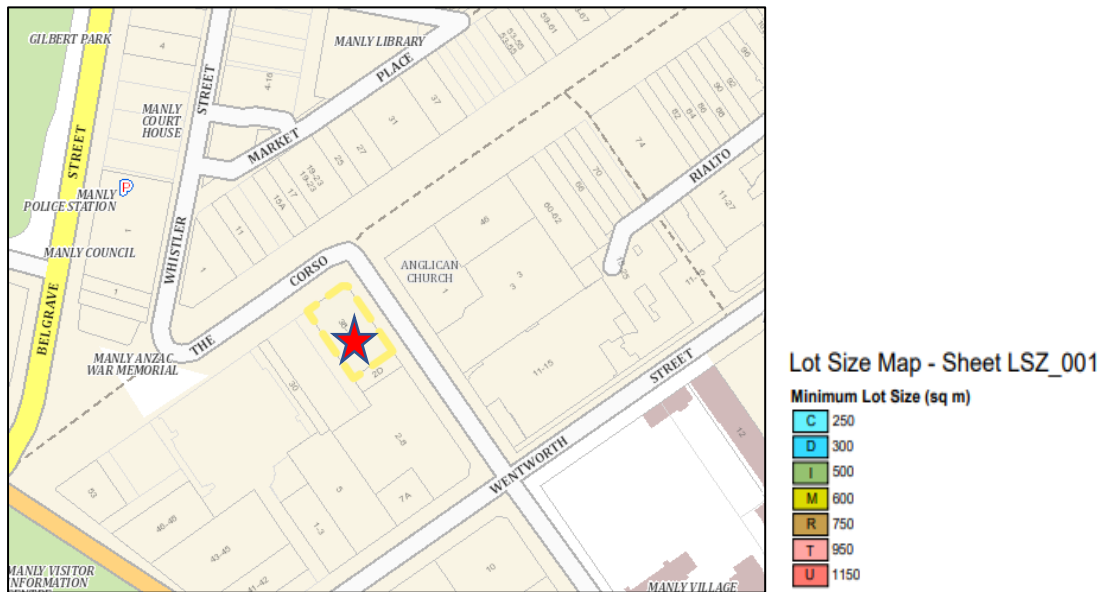
#### **Comment:**

The site is zoned E1 Local Centre pursuant to MLEP2013. The proposed internal fit out and replacement to existing signage, to an existing takeaway food and drink premises, is consistent with the objectives of the zone, as follows:

- The proposed food and drink premises will serve the needs of people who live in, work in and visit the area.
- The proposal invests in local commercial development that generates employment and economic growth.
- The proposal activates the street frontage within the ground floor of the development.
- The proposal will not have an adverse impact to adjoining properties, noting that the proposed hours of operation align with surrounding uses.
- The proposal maintains and enhances the existing urban form as it maintains the existing character of the locality and will not detract from the streetscape and bulk and scale of the precinct.

## Part 4 Principal development standards

### 4.1 Minimum subdivision lot size



(1) The objectives of this clause are as follows—

- (a) to retain the existing pattern of subdivision in residential zones and regulate the density of lots in specific locations to ensure lots have a minimum size that would be sufficient to provide a useable area for building and landscaping,
- (b) to maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns,
- (c) to require larger lots where existing vegetation, topography, public views and natural features of land, including the foreshore, limit its subdivision potential,
- (d) to ensure that the location of smaller lots maximises the use of existing infrastructure, public transport and pedestrian access to local facilities and services.

(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.

(3A) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.

(4) This clause does not apply in relation to the subdivision of any land—

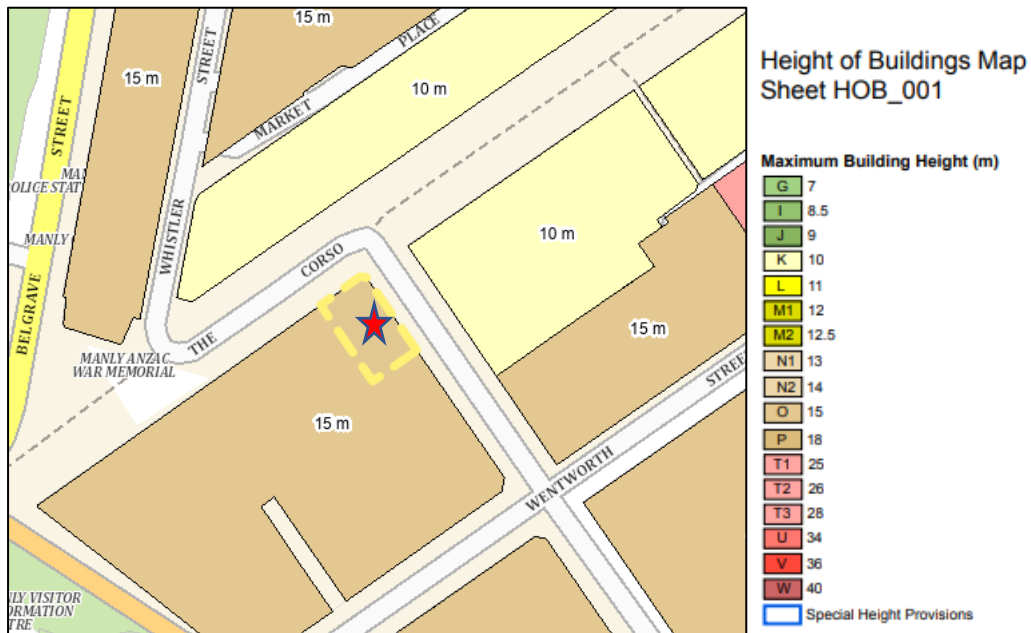
- (a) by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or
- (b) by any kind of subdivision under the Community Land Development Act 1989.

#### Comment:

Not applicable – minimum lot size does not apply to the subject site.



### 4.3 Height of buildings



(1) The objectives of this clause are as follows—

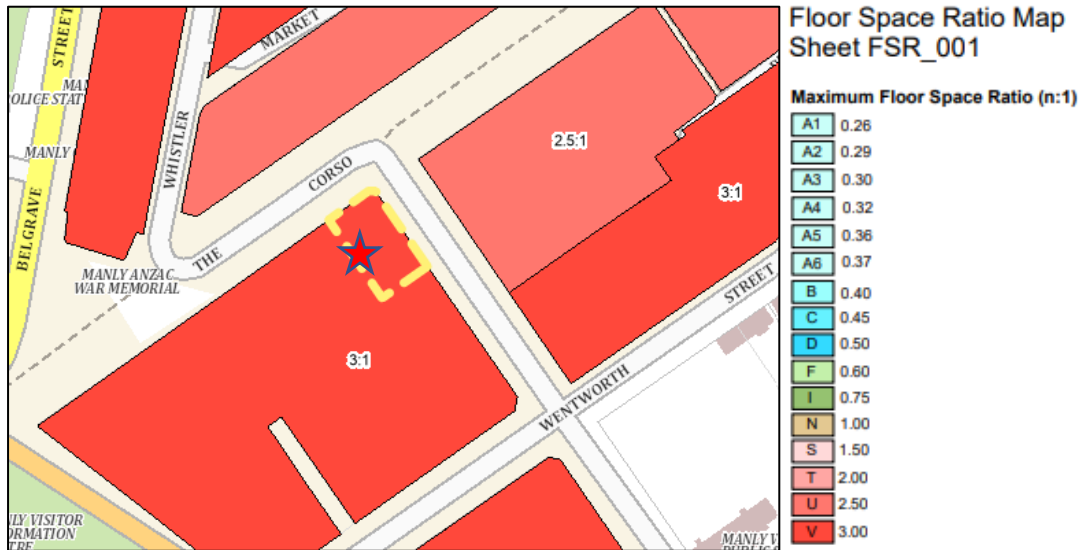
- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,
- (b) to control the bulk and scale of buildings,
- (c) to minimise disruption to the following—
  - (i) views to nearby residential development from public spaces (including the harbour and foreshores),
  - (ii) views from nearby residential development to public spaces (including the harbour and foreshores),
  - (iii) views between public spaces (including the harbour and foreshores),
- (d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,
- (e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

**Comment:**

Not applicable – the proposal will not alter the height of the existing building.

#### 4.4 Floor space ratio



(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:**

Not applicable – no change to existing FSR for the site.

#### 4.6 Exceptions to development standards

(1) The objectives of this clause are as follows—

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) 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.

(4) Development consent must not be granted for development that contravenes a development standard unless—

- (a) the consent authority is satisfied that—
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

**Note.** When this Plan was made, it did not include land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition or Zone R5 Large Lot Residential.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

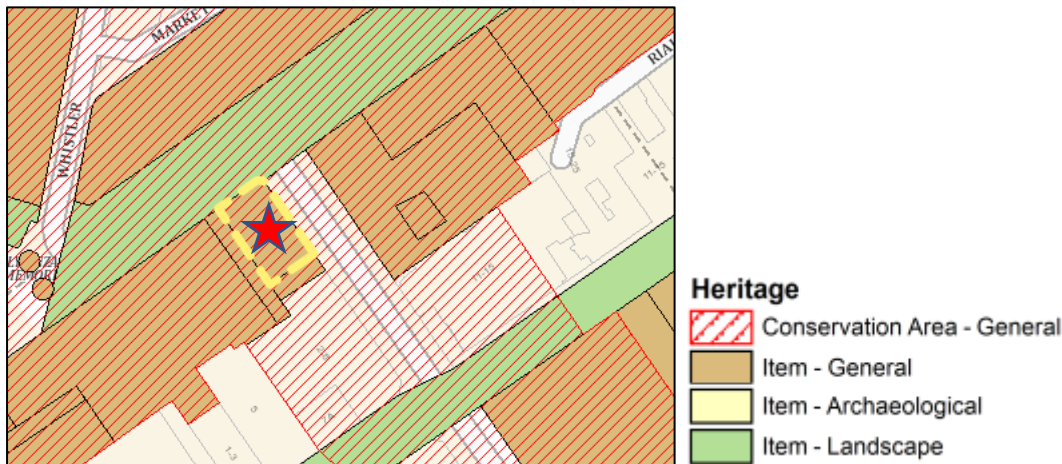
- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (ca) clause 6.15,
- (cb) a development standard on land to which clause 6.19 applies.

**Comment:**

Not applicable – no variations proposed to development standards.

## Part 5 Miscellaneous provisions

### 5.10 Heritage conservation



#### Note—

Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

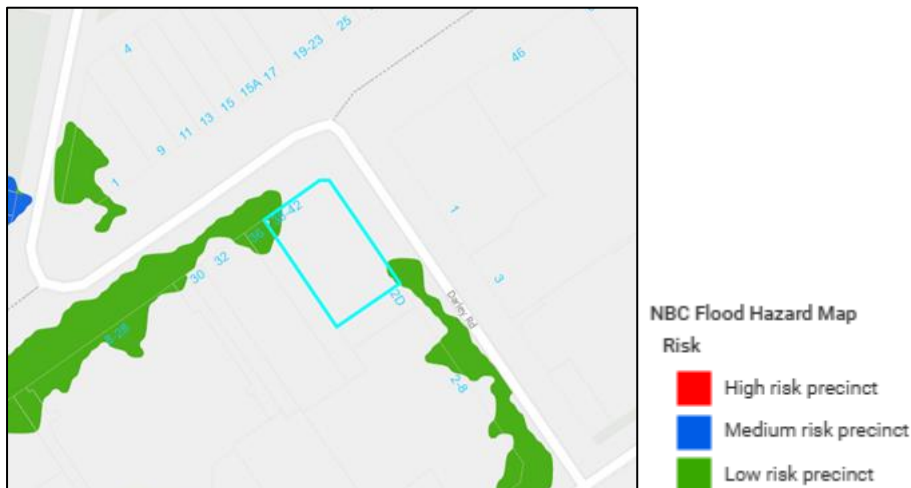
(1) Objectives The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of Manly,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

#### Comment:

Complies - the site is located within the Town Centre Conservation Area and the building is identified as an item of heritage significance. The proposed fit out and associated signage is consistent with the objective of this clause as it will not result in an adverse impact on the environmental heritage of Manly. It is noted that the ground floor commercial component of the building has been altered over time, whereas the residential component above remains intact. The proposed development involves minor internal changes to the ground floor commercial tenancy, as well as external signage which will replace the existing (as approved under DA2022/1567), which will not result in an adverse impact on the original heritage fabric of the listed building. The proposed mechanical ventilation is consistent with previous system and other tenancies. The ventilation system is located just above the awning and will not have a detrimental impact to the heritage item. On the basis of the above, it is my professional opinion that the proposal meets the objectives of Clause 5.10 and a heritage impact statement is not required.

## 5.21 Flood planning



(1) *The objectives of this clause are as follows—*

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- (c) *to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- (d) *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

(2) *Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*

- (a) *is compatible with the flood function and behaviour on the land, and*
- (b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

(3) *In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—*

- (a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) *the intended design and scale of buildings resulting from the development,*
- (c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

(4) *A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.*

(5) *In this clause—*

**Considering Flooding in Land Use Planning Guideline** means the Considering Flooding in Land Use Planning Guideline published on the Department's website on 14 July 2021.

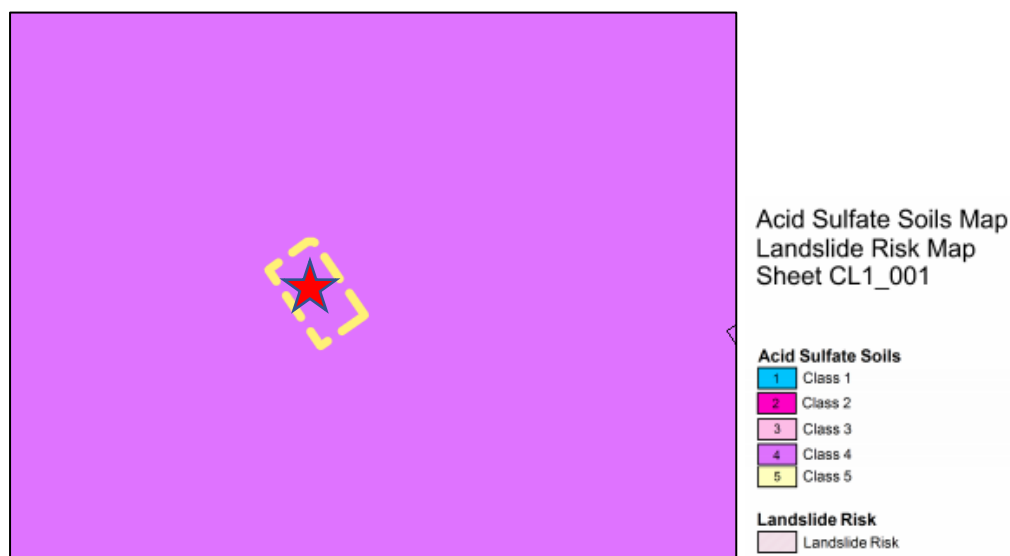
*flood planning area has the same meaning as it has in the Floodplain Development Manual. Floodplain Development Manual means the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.*

**Comment:**

Complies – a portion of the site is located within a low-risk flood area. There are no changes to the existing levels within the building, also noting that the use as a takeaway food and drink premises was previously approved under DA2022/1567 with no flood-related concerns raised. Further, it is noted that the tenancy is located within an area of the site that is not impacted on the flood map. Based on the above, a flood impact assessment is not required with this application.

**Part 6 Additional local provisions**

**6.1 Acid sulfate soils**



*(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*

*(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.*

<b>Class of land</b>	<b>Works</b>
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

*(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.*

- (4) *Despite subclause (2), development consent is not required under this clause for the carrying out of works if—*
- (a) *a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and*
  - (b) *the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.*
- (5) *Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—*
- (a) *emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,*
  - (b) *routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),*
  - (c) *minor work, being work that costs less than \$20,000 (other than drainage work).*
- (6) *Despite subclause (2), development consent is not required under this clause to carry out any works if—*
- (a) *the works involve the disturbance of less than 1 tonne of soil, and*
  - (b) *the works are not likely to lower the watertable.*

**Comment:**

Not applicable - the site is identified as class 4 acid sulfate soils. The proposal does not include earthworks, therefore not triggering the requirements of clause 6.1.

**6.2 Earthworks**

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure that earthworks and associated groundwater dewatering for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
  - (b) *to allow earthworks of a minor nature without requiring a separate development consent.*
- (2) *Development consent is required for earthworks unless—*
- (a) *the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
  - (b) *the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*
- (3) *Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*
- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
  - (b) *the effect of the development on the likely future use or redevelopment of the land,*
  - (c) *the quality of the fill or the soil to be excavated, or both,*
  - (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
  - (e) *the source of any fill material and the destination of any excavated material,*
  - (f) *the likelihood of disturbing relics,*
  - (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

**Note.** The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.

**Comment:**

Not applicable – the proposal does not include earthworks.

**6.4 Stormwater management**

(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

(2) This clause applies to all land in residential, business, industrial and environmental protection zones.

(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.

**Comment:**

Not applicable - No change to the existing stormwater management through the existing building footprint.

**6.9 Foreshore scenic protection area**



(1) The objective of this clause is to protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore in Manly.



*(2) This clause applies to land that is shown as “Foreshore Scenic Protection Area” on the Foreshore Scenic Protection Area Map.*

*(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters—*

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) measures to protect and improve scenic qualities of the coastline,*
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

**Comment:**

Complies - the site is located within the foreshore scenic protection area. The proposed works relate to a proposed fit out to the ground floor to support a new takeaway food and drink premises (as already approved). The proposed signage replaces the existing, as such no additional visual impact is anticipated.

The proposed works protect the visual aesthetic amenity and will not impact views to or from Sydney Harbour, the Pacific Ocean and the foreshore in Manly. The proposed works therefore satisfy the objectives of clause 6.9.

**6.11 Active street frontages**

*(1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone E1.*

*(2) This clause applies to land identified as “Active street frontages” on the Active Street Frontages Map.*

*(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.*

*(4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following—*

- (a) entrances and lobbies (including as part of mixed use development),*
- (b) access for fire services,*
- (c) vehicular access.*

*(5) In this clause, a building has an **active street frontage** if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.*

**Comment:**

Complies – the proposal maintains the activation of the street frontage to The Corso maintaining the use of the premises as a take away food and drink premises. The proposal meets the objective of clause 6.11 by promoting uses that attract pedestrian traffic along the ground floor.

**6.12 Essential services**

*(1) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*

*(d) stormwater drainage or on-site conservation,*

*(e) suitable vehicular access.*

*(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any essential service referred to in this clause.*

**Comment:**

Complies - the site maintains access to the relevant essential services under clause 6.12.

**6.16 Gross floor area in certain areas**

*(1) The objective of this clause is to provide for the viability of the land to which this clause applies and encourage the development, expansion and diversity of business activities, that will contribute to economic growth, retention of local services and employment opportunities in local centres.*

*(2) This clause applies to land identified as "Gross Floor Area for Certain Commercial Premises" on the [Key Sites Map](#).*

*(3) Development consent must not be granted to the erection of a building on the land to which this clause applies unless the consent authority is satisfied that at least 25% of the gross floor area of the building will be used as commercial premises.*

*(4) Development consent must not be granted for development on land to which this clause applies if the gross floor area of any retail premises on the land would exceed 1,000 square metres.*

**Comment:**

Not applicable – the proposal does not change the existing floor space within the building.

## 4.4 Manly Development Control Plan (MDCP)

In designing the proposed changes to the built form, due consideration has been given to the respective sections and objectives of MDCP2013, in particular:

- Part 3: General Principles of Development
- Part 4: Development Controls and Development Types

Key components of the DCP have been detailed below. The proposal is compliant with relevant provisions of the MDCP2013.

### **Part 3: General Principles of Development**

#### **3.1 Streetscapes and Townscapes**

##### *3.1 Streetscapes and Townscapes*

*Relevant DCP objectives to be met include the following:*

##### *Streetscape*

*Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.*

*Objective 2) To ensure development generally viewed from the street complements the identified streetscape.*

*Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.*

##### *Townscape*

*Objective 4) To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape.*

*Objective 5) To assist in maintaining the character of the locality.*

*Objective 6) To recognise the importance of pedestrian movements and townscape design in the strengthening and promotion of retail centres.*

*Objective 7) To minimise negative visual impact, in particular at the arterial road entry points into the Council area and the former Manly Council area, so as to promote townscape qualities.*

#### **Comment:**

The site is located within the Manly Town Centre and involves an internal fit out of an approved take-away food and drink premises and replacement of existing business identification signs. The proposal will maintain and activate The Corso by retaining the use as a takeaway food and drink premises, therefore complying with Clause 3.1: Streetscape and Townscape within the Manly Development Control Plan 2013.

#### **3.1.1 Townscape (Local and Neighbourhood Centres)**

*Many areas of the former Manly Council area have a particularly important townscape character with an essentially unified townscape, giving rise to a particular individual character which should be maintained. This townscape character is derived as a result of the general scale and interest of the buildings and surrounds. This scale and interest exists even in areas with a limited number of heritage listed buildings with individual importance. The determination of the townscape of a locality should examine this sense of place and the sense of unity from a variety of perspectives identified in the following design principles.*

**Comment:**

The proposal enhances the existing townscape of Manly Town Centre through an internal fit out to facilitate a new takeaway food and drink premises at ground level which activates the streetscape.

**3.1.3.1 Design Principles**

*The following design principles and requirements at paragraphs 3.1.3.1.a) to i) should be achieved in all development involving the erection of a new building or external alterations to an existing building in order to:*

*☑ maintain and enhance the townscape of the former Manly Council area's LEP Business Zones:*

*☑ achieve the townscape objectives of this plan; and*

*☑ consider that the development exhibits design excellence in accordance with considerations of LEP clause 6.13(4) (as a statutory consideration for land in Zone B2 Local Centre and as a DCP consideration in other zones)*

*A scale and design of building appropriate to this local role should then be achieved.*

**Comment:**

The proposed internal fit out will result in an enhanced commercial space to facilitate a new takeaway food and drink premises, thus maintaining the townscape of the Manly Town Centre.

**3.2 Heritage**

*Relevant DCP objectives in relation to heritage in this plan include the following:*

*Objective 1) To retain and conserve environmental heritage and cultural significance of Manly including:*

- significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- the foreshore, including its setting and associated views; and*
- potential archaeological sites, places of Aboriginal significance and places of natural significance.*

*Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.*

*Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.*

*Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.*

*Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.*

**Comment:**

The site is located within the Town Centre Conservation Area and the building is identified as an item of heritage significance. The proposed fit out and associated signage is consistent with the objective of this clause as it will not result in an adverse impact on the environmental heritage of Manly. It is noted that the ground floor commercial component of the building has been altered over time, whereas the residential component above remains intact. The proposed development involves minor internal changes to the ground floor commercial tenancy, as well as external signage which will replace the existing (as approved under DA2022/1567), which will not result in an adverse impact on the original heritage fabric of the listed building.

### **3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)**

*Relevant DCP objectives to be met in relation to these paragraphs include the following:*

*Objective 1) To protect the amenity of existing and future residents and minimise the impact of new development, including alterations and additions, on privacy, views, solar access and general amenity of adjoining and nearby properties including noise and vibration impacts.*

*Objective 2) To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.*

*Designing for Amenity*

*a) Careful design consideration should be given to minimise loss of sunlight, privacy, views, noise and vibration impacts and other nuisance (odour, fumes etc.) for neighbouring properties and the development property. This is especially relevant in higher density areas, development adjacent to smaller developments and development types that may potentially impact on neighbour's amenity such as licensed premises.*

*b) Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private viewpoints.*

*c) The use of material and finishes is to protect amenity for neighbours in terms of reflectivity. The reflectivity of roofs and glass used on external walls will be minimal in accordance with industry standards. See also Council's Administrative Guidelines regards DA lodgement requirements for materials and finishes.*

#### **Comment:**

Complies – The proposed works will not have an adverse impact on amenity in the locality, the proposal maintains an active street frontage through the provision of the take-away food and drink premises. The proposal will not result in unreasonable levels of noise for an E1 Local Centre zone and the proposed hours of operation are consistent with businesses in the surrounding area.

### **3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)**

*Relevant objectives in relation to this part include the following:*

*Objective 1) To ensure the principles of ecologically sustainable development are taken into consideration within a consistent and integrated planning framework that achieves environmental, economic and social sustainability in the short, medium and long term.*

*Objective 2) To encourage the retention and adaptation of existing dwellings including a preference for adaptive reuse of buildings rather than total demolition. Where retention and adaption is not possible, Council encourages the use of building materials and techniques that are energy efficient, non-harmful and environmentally sustainable.*

*Objective 3) To minimise waste generated by development and embodied in the building materials and processes through demolition.*

*Objective 4) To encourage the use of recycled materials in landscape construction works.*

*Objective 5) To encourage the establishment of vegetable gardens and the planting of fruit trees.*

*Objective 6) To encourage energy efficient building design, construction and practices, that reduce energy consumption (primarily for heating and cooling), reduce the use of non-renewable fossil fuels, minimise air pollution, greenhouse gas emissions and reduce energy bills.*

*Objective 7) To require that residential site planning and building design optimise solar access to land and buildings.*

*Objective 8) To site and design development to optimise energy conservation and sustainability in accordance with BASIX legislation and encourage development to exceed requirement particularly to ensure energy efficient use of energy for internal heating and cooling.*

*See also Council's Administrative Guidelines*

*Objective 9) To site and design development to optimise energy conservation (in accordance with the energy hierarchy) and sustainability to which BASIX does not apply.*

*Objective 10) To ensure non-residential development involving a gross total floor area of greater than 500 sqm set and meet criteria for energy efficiency/conservation through an Energy Performance Report.*

*Objective 11) To ensure non-residential development complies with the Building Code of Australia energy efficiency provisions.*

**Comment:**

Complies – the proposal does not require a BASIX Certificate as it relates to the commercial component of the building only. The proposal will comply with and provide relevant water and energy efficiency with the fit outs for commercial premises.

**3.6 Accessibility**

*Objective 1) To ensure equitable access within all new developments and ensure that any refurbishments to existing buildings provide improved levels of access and facilities for people with disabilities.*

*Objective 2) To provide a reasonable proportion of residential units that should be designed to be adaptable and easily modified to promote 'ageing in place' and for people with disabilities.*

*Objective 3) To highlight consideration of access issues early in the development design process.*

*Objective 4) To continue improving understanding and awareness of access issues for people with disabilities through a commitment to implementation of best practice.*

*Objective 5) To ensure that the public domain, including public domain in new developments provides connectivity, legibility, flexibility and consistency to allow for equitable and safe access for all people.*

**Comment:**

Complies – the proposal retains the current access arrangements within the commercial tenancy.

**3.7 Stormwater Management**

*Relevant objectives to satisfy relation to this part include the following:*

*Objective 1) To manage urban stormwater within its natural catchments and within the development site without degrading water quality of the catchments or cause erosion and sedimentation.*

*Objective 2) To manage construction sites to prevent environmental impacts from stormwater and protect downstream properties from flooding and stormwater inundation.*

*Objective 3) To promote ground infiltration of stormwater where there will be no negative (environmental) impacts and to encourage on-site stormwater detention, collection and recycling.*

*Objective 4) To make adequate arrangements for the ongoing maintenance of stormwater facilities.*

**Comment:**

Not applicable - The proposed development will retain the existing stormwater management systems onsite.

### **3.8 Waste Management**

*Relevant objectives to satisfy in relation to this paragraph include the following:*

*Objective 1) To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development (ESD).*

*Objective 2) Encourage environmentally protective waste management practices on construction and demolition sites which include:*

- sorting of waste into appropriate receptors (source separation, reuse and recycling) and ensure appropriate storage and collection of waste and to promote quality design of waste facilities;*
- adoption of design standards that complement waste collection and management services offered by Council and private service providers;*
- building designs and demolition and construction management techniques which maximises avoidance, reuse and recycling of building materials and which will minimise disposal of waste to landfill; and*
- appropriately designed waste and recycling receptors are located so as to avoid impact upon surrounding and adjoining neighbours and enclosed in a screened off area.*

*Objective 3) Encourage the ongoing minimisation and management of waste handling in the future use of premises.*

*Objective 4) To ensure waste storage and collection facilities complement waste collection and management services, offered by Council and the private service providers and support on-going control for such standards and services.*

*Objective 5) To minimise risks to health and safety associated with handling and disposal of waste and recycled material, and ensure optimum hygiene.*

*Objective 6) To minimise any adverse environmental impacts associated with the storage and collection of waste.*

*Objective 7) To discourage illegal dumping.*

**Comment:**

Complies - the proposed demolition works and internal fit out will be completed as per the requirements of Councils Waste Management policies. A Waste Management Plan is submitted to the Northern Beaches Council with respect to the construction waste that is associated with the proposed works. All waste generated during the construction of the building will be reuse, recycle and dispose of waste in an environmentally friendly and sustainable manner.

### **3.9 Mechanical Plant Equipment**

**Comment:**

Not applicable – no change to existing plant rooms within the site.

### **3.10 Safety and Security**

*Relevant DCP objectives to be met in relation to these paragraphs include the following:*

*Objective 1) To ensure all development are safe and secure for all residents, occupants and visitors of various ages and abilities.*

*Objective 2) To ensure that the design process for all development integrate principles of 'Safety in Design' to eliminate or minimise risk to safety and security.*

*Objective 3) To contribute to the safety and security of the public domain.*

**Comment:**

Complies - The development has been designed with due regard to safety and security through the activation of the frontage to The Corso and Darley Road with a new fit out, to support a take away food and drink premises. Therefore, the proposal enhances the safety and security of the site and contributes to the public domain.

**Part 4: Development Controls and Development Types**

**4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)**

*All DAs in local and neighbourhood centres are to consider townscape, design, diversity, interest and heritage values. Any departure from this plan and its controls will not be allowed where Council regards*

*these considerations and the objectives of the LEP as being compromised by the development.*

*Relevant DCP objectives to be met in relation to these paragraphs include:*

*Objective 1) To introduce guidelines for the assessment of building heights, setback and other controls relating to building form and height in order to achieve a consistent and coherent townscape appropriate to the locality.*

**4.2.1 FSR (Consideration of Exceptions including Arcades)**

*Note: FSR is a development standard under LEP clauses 4.4 & 4.5 and applies to land shown on the LEP FSR Map. This paragraph details certain considerations for arcades in determining whether to grant an exception to the FSR standard in the LEP concerning whether 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case', and whether 'there is sufficient environment planning grounds to justify contravening the development standard' (LEP clause 4.6.3).*

*FSR gives a firm indication of the overall maximum scale of development considered. In practice many sites may be limited in the ability to achieve this scale given characteristics of the site itself, and the other requirements of this plan.*

*In additional to LEP Objectives at clause 4.4(1) this plan further details the control of FSR in the following objective:*

*Objective 1) To provide firm guidelines as to the potential development of a centre and an individual site. See also paragraph 3.2.5.2 Exceptions to FSR for development of Heritage Items.*

**4.2.1.1 Exceptions to FSR for Arcades**

*Arcades and other types of thoroughfares which are available for public use at all times may be excluded from the calculation of gross floor area for the purpose of determining the FSR.*

**4.2.1.2 Exceptions to FSR for Plant Rooms**

*In determining the exclusion of plant rooms in accordance with the LEP meaning of gross floor area, consideration must be given to paragraph 3.9 Plant Equipment of this plan with regard to the design and maximum area of plant and plant rooms when calculating the gross floor area for the purpose of calculating FSR.*

**Comment:**

Not applicable – the proposal retains existing GFA to the site.



#### **4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)**

*Note: Height of Building is a development standard contained under LEP clause 4.3 and applies to land*

*shown on the LEP Height of Building Map. This DCP details certain considerations to townscape principles \* in determining whether to grant an exception to the LEP standard concerning whether 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' and whether 'there is sufficient environment planning grounds to justify contravening the development standard' (LEP clause 4.6(3)).*

##### **4.2.2.1 Exceptions to Height for Design Excellence**

*In determining whether to grant an exception to the LEP height standard, the environmental planning grounds to justify contravening the development standard (LEP clause 4.6(3)) may include consideration of the design principles at paragraph 3.1.3.1 Design Principles in this DCP.*

**Comment:**

Not applicable – no change to the existing building height is proposed.

#### **4.2.3 Setbacks Controls in LEP Zones B1 and B2**

*Relevant DCP objectives in this plan to be met in relation to this paragraph include the following:*

*Objective 1) To ensure unobstructed access between the private and public domain.*

*Objective 2) To maintain the existing streetscape of building to the boundary.*

*All buildings must be constructed to the public road and side boundaries of the allotment except where:*

*a) an alternative setback is identified on the townscape and opportunities maps or having regard to established building lines and whether they contribute positively to the streetscape; or*

*b) the applicant can demonstrate to the satisfaction of the Council that an alternative setback will not conflict with overall townscape objectives, reduce the general availability of retail frontage or remove weather protection for pedestrians; or*

*c) the stipulated setback would be undesirable in terms of the amenity of any residential uses existing on adjoining land or proposed for inclusion in the development. In such cases the planning principles in this plan for residential development at paragraph 3.1.1 will also apply. In relation to setbacks in Neighbourhood Centres, see also paragraph 4.2.8.2 which includes guidance for when development adjoins land zoned residential in the LEP.*

*d) Council considers the need for building works to be setback at corner lots/street intersections to provide for an unobstructed splay for the purpose of improved traffic visibility. 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:**

Not applicable - no change to existing building setbacks.

#### **4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor**

*Objective 1) To ensure there is adequate provisions for car parking access and loading in future development and redevelopment in all business zones.*

*Objective 2) To minimise conflicts between pedestrian and vehicular movement systems within the business areas.*

**Comment:**

Not applicable – the proposal is for an internal fit out only which does not change the existing approved use or existing parking and loading on-site.

##### **4.2.4.1 Car Parking**

*a) The Council may be prepared to allow exceptions to the parking rate/requirements required in this DCP in the following circumstances:*

*(i) where it can be demonstrated that particular activities in mixed use developments have car parking demands which peak at different times;*

*(ii) where visitors are likely to use more than one facility per trip;*

*(iii) considering available car parking in the surrounding area, except in relation to Manly Town Centre where more particular exceptions are provided at paragraph 4.2.5.4 of this plan; or*

*(iv) where it is satisfied that reduced number of parking spaces will facilitate conservation of an item of the environmental heritage in accordance with LEP clause 5(10).*

**Comment:**

Not applicable – the proposal relates to an internal fit out only which does not change the existing approved use as a take-away food and drinks premises.

##### **4.2.4.2 Vehicular Access**

Vehicular Access is to be provided for all new buildings in such a manner that all vehicles enter and leave the site in a forward direction.

**Comment:**

Not applicable – no change to existing vehicular access points.

##### **4.2.4.3 Loading bays**

*a) Loading bays must be provided in sufficient number to meet anticipated demand. This demand is related to the total amount of floor space, the intensity of use and the nature of the activity.*

*b) The minimum dimensions for a loading bay are 7.6m length, 3m width and 3.4m height.*

*c) Access is to be provided to and from the loading bay areas in such a manner that there is sufficient room for trucks to manoeuvre. Greater head-height may be required, in consultation with NSW Roads Services (previously RTA) Guidelines, should this seem warranted by the nature of the development. Council will also have regard to the NSW Roads Services guidelines when assessing the required number and dimensions of loading bay facilities.*

*d) Off street loading facilities are to be provided to service the entire development in the LEP Business Zones considering the uses proposed on the site and to overall townscape considerations and in other LEP zones where the use requires regular servicing by commercial vehicles.*

*e) Where a residential building may require regular servicing by commercial vehicles, off street loading facilities must be provided with least 1 complying loading bay.*

**Comment:**

Not applicable – no change to existing loading areas.

**4.2.5 Manly Town Centre and Surrounds**

*Objective 1) To consolidate, promote and strengthen both retail activity in the Manly Town Centre as well as townscape in accordance with the townscape requirements of this plan.*

**Comment:**

Complies - the proposal promotes retail activity within the Manly Town Centre through a new fit out to support the existing use as a takeaway food and drink premises. The proposal therefore meets the objective of clause 4.2.5.

**4.2.5.1 Design for Townscape**

*Council must be satisfied that the design of any development (not just heritage listed buildings) has given due attention to the site's position within, and the developments contribution to the overall existing and future townscape quality of the Manly Town Centre and surrounds.*

*In addition to the townscape principles at paragraph 3.1.3 which apply to all Centres including the Townscape Principles Map A for Manly Town Centre at Schedule 2 of this plan, additional townscape requirements for Manly Town Centre and Surrounds apply as follows:*

*a) Maintain the predominant pattern of narrow fronted buildings within the town centre with new buildings incorporating modulation of the street wall such as recesses or modulation in the building facade to visually reduce the length and perceived bulk of the street wall.*

*b) Maintain existing setbacks.*

*c) New development to enhance townscape characteristics, disregarding existing unsympathetic buildings.*

*d) Step back development around the intersection of Sydney Road and Whistler Street to reveal the historic building (church) at this intersection.*

*e) Develop new facade line in North Steyne to avoid unattractive end walls and sharp transitions in the vicinity of 46-48 North Steyne, Manly.*

*f) Height and setback of development must cause no undue affectation to properties to the south in terms of loss of sunlight or privacy (Pittwater Road, Manly).*

**Comment:**

Complies - the proposal meets the requirements for 4.2.5.1 by maintaining an active street frontage and promoting commercial activities to the locality.

**4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre**

*Consideration of the appropriate heights within the maximum Building Height development standard and exceptions to the standard in the LEP includes the following:*

*a) Whether the final building height including any architectural embellishments adversely dominate the heights of end (corner) buildings in the same street block or that of adjoining buildings.*

*b) Whether the proposed development successfully demonstrates the most appropriate relationship to adjoining development in terms of fulfilling the Council's townscape objectives. New development*

*provides opportunities to achieve the maximum height of building in the centre of the street blocks to obtain views and outlook over buildings on the block edge at a lower height.*

*c) Whether new development should be constructed to the same building envelope as existing buildings on a site in order to maintain interest and variety, provided the other objectives and requirements (including FSR) of this plan are achieved.*

*d) Whether new buildings equate with both the overall height as well as the level of each floor of adjoining buildings and in relation to particular architectural details like parapet details and with particular regard to important end-buildings in the particular street block.*

**Note:** *The height relationship of particular architectural details with adjoining buildings may often require particular consideration of floor to ceiling heights. The creation of an additional storey by reducing the typical floor to ceiling height in a manner inconsistent with adjoining buildings will not be permitted. The use of internal mezzanine levels may be considered in order to achieve the desired height levels, where necessary, within the total height of the building.*

**Comment:**

Not applicable - no change to existing building height.

**4.2.5.3 Security Shutters**

*Shop window security roller shutters are not permitted on the external face of the building. Such screens may only be used behind the window display.*

**Comment:**

Not applicable – the proposal does not include security shutters.

**4.2.5.4 Car Parking and Access**

*See also paragraph 4.2.4 Parking, Access and Loading (in LEP Zones B1 and B2 generally).*

*See also Schedule 3 Minimum Parking Rates/ Requirements.*

*Exceptions to parking rates/ requirements in Manly Town Centre*

*a) In exceptional circumstances and having regard to the merits of the application, Council may be prepared to allow a reduction in the any parking rate/ requirements in Manly Town Centre (including residential and commercial) where the applicant has demonstrated that:*

*(i) in the case of all uses other than dwellings, the dimensions or topography of the site would physically prevent the provision of some or all of the required spaces;*

*(ii) the required access interferes with the continuity of retail frontage or interrupts the frontage of the property in other ways such that there would be a conflict with any other provisions of this DCP in particular the townscape objectives; or*

*(iii) the movement of vehicles to and from the site would cause unacceptable conflict with pedestrian movements, special servicing arrangements for pedestrianised areas or contribute to congestion at key intersections.*

*Application of Manly Section 94 Contributions Plan*

*b) In respect of onsite parking requirements generated by development under this plan in Manly Town Centre (other than dwellings, tourist accommodation and backpackers' accommodation), no more than 50 percent of the required car parking spaces is permitted to be provided onsite, with the remainder being provided by way of monetary contribution in accordance with the former Manly Council's Section 94 Contributions Plan.*

*Note: This provision supports parking in conjunction with development in accordance with long held standards, at the same time limiting the number of cars brought into Manly Town Centre with ready access to public transport as well as existing and future public carparking stations.*

*Location of Driveways*

*c) No driveway crossover should be less than 10m from a major street intersection and vehicular crossovers should be minimal in size.*

**Comment:**

Not applicable - the proposed works do not generate the requirement for addition car parking.

**4.2.5.5 Backpackers' Accommodation**

**Comment:**

Not applicable – the proposal is not for backpackers accommodation.

**4.2.5.6 Late Night Venues**

**Comment:**

Not applicable – the existing use is not identified as a late night venue.

**Part 4.4 Other Development (all LEP Zones)**

**4.4.1 Demolition**

*Relevant DCP objectives in this plan in relation to these paragraphs include:*

*Objective 1)*

*To protect the environment during demolition, site works, and construction phases of development.*

*Where development involves demolition, the applicant is to demonstrate that the degree of demolition considers any existing building on the land that should be retained and appropriately adapted in order to:*

*a) Meet ecologically sustainable development principles by conserving resources and energy and reducing waste from any demolition process; and*

*b) Conserve the cultural heritage of the existing building and that of the locality. An appropriate assessment of potential heritage significance must accompany any DA in relation to demolition. If the property has merit as a potential heritage item, the heritage controls and considerations in this plan apply, and*

*c) Comply with the requirements of the Northern Beaches Waste Management Policy*

**Comment:**

Complies - the proposal includes demolition works as required for the internal upgrade works, as per architectural plans prepared by Keeyuen Design Pty Ltd. Where possible the building will retain materials for reuse, otherwise as per the Waste Management Plan they will be reused or recycled off-site.

**4.4.2 Alterations and Additions**

*Manly Council promotes the retention and adaptation of existing buildings rather than their demolition and replacement with new structures.*

*Extent to which this Plan Applies to Alterations and Additions*

*a) This paragraph defines alterations and additions in respect of how much of the building is to be demolished. If alterations and additions involve demolition of more than half of the building then the development will be assessed as new work and the controls of this plan will apply to the whole building i.e. to both existing and new development.*

b) *In paragraph a) above, the extent of demolition is calculated as a proportion of the existing external fabric being demolished including the surface area of the walls, the roof measured in plan form and the area of the lowest habitable floor.*

**Comment:**

Complies - The proposed internal fit out is minor and will maintain the streetscape through an activated frontage to The Corso.

**4.4.3 Signage**

*Relevant DCP objectives in this plan to be met in relation to these paragraphs include:*

*Objective 1) To ensure that advertising does not detract from the scenic beauty and amenity of the Municipality; harmonises with its surroundings and the buildings to which they are attached.*

*Objective 2) To minimise the visual impact by encouraging fewer more effective signs that may otherwise degrade the existing and likely future quality of residential environments or result in excessive, unnecessary signage, visual clutter and confusion caused by a proliferation of signs in local and neighbourhood centres.*

*Objective 3) To permit building and business identification signs which communicate the facilities (including tourist facilities), amenities, goods and services in local and neighbourhood centres which do not interfere with the streetscape or amenity of residents.*

*Objective 4) Signs should enhance the distinctive urban character and scenic amenity of the Municipality and contribute to the atmosphere of the streets in local and neighbourhood centres and should be designed in sympathy with both the building to which it is attached and any adjoining buildings, taking into account the architectural styles and finishes of buildings in local and neighbourhood centres.*

*Objective 5) To prevent signage from impacting on the presentation of the heritage item or area to the general public on heritage items and conservation areas.*

*Objective 6) To ensure all signage is of high standards of graphic and textural content.*

*Objective 7) To encourage co-ordinated advertising in the Industrial Zone by the use of appropriately sized street numbers and complex names, and the use of directory boards to identify multiple unit complexes, so as to reduce adverse impact on the streetscape and confusion to traffic.*

**4.4.3.2 Signage on Heritage listed items and in Conservation Areas**

*See also paragraph 4.4.3.1.a Maximum Number of Signs.*

a) *Advertising signs should be designed and located in a manner which preserves and enhances Heritage listed items and Conservation Areas*

*Sign locations*

b) *Signs should be discreet and should complement the building and surrounding uses. The architectural features of the building or listed item should always dominate. Advertising should preferably be placed in locations on the building or item which would traditionally have been used as advertising areas. Opportunities for advertising, therefore, may be somewhat limited. Generally sign panels can be determined by dividing a building into a grid and identifying locations on:*

- i) a solid parapet above a cornice;*
- ii) the horizontal panel below a cornice;*
- iii) verandas or awning fascia;*
- iv) ground floor windows;*
- v) notice boards or plaques on ground floor piers;*
- vi) small signs on individual architectural elements such as rendered blocks;*
- vii) under awning signs;*
- viii) small not illuminated free standing pole signs; and*
- ix) side walls (carefully considered).*

*Other Guidelines for Heritage Items and Conservation Areas*

c) *In addition to the requirements for the particular zoning, and matters listed above, the following matters must be taken into consideration:*

- i) *Signs on shop windows should not exceed 25 percent of the window area;*
- ii) *As the external colours applied in different historical periods varied, and were more muted in range than today, it is wise to research appropriate colour ranges for buildings in heritage areas. Generally however, the following dark or muted colours are suggested: Maroon, dark green, terracotta, brown, charcoal, etc. highlighted with creams, ochres, pinks and earth tones;*
- iii) *Heritage lettering styles may involve shaded letters, the mixing of sizes and styles of letters, and ornamental scrolls relevant to the period of the building;*
- iv) *Signs are preferably illuminated by floodlighting, with the source of the illumination being suitably concealed;*
- v) *Modern standardised “trademarks” advertising will not usually be appropriate. This however, could be compromised by placing the modern sign in a panel with a perimeter margin and surrounding wall surface, printed in sympathetic heritage colours.*

**Comment:**

Complies – the proposal is for the replacement of existing approved signs only. It is my professional opinion that the proposed new business logo is far less intrusive than that approved. On the basis of replacement only of existing signs, the proposal complies and can be supported.

**4.4.4 Awnings**

**4.4.4.1 Awnings in LEP B1 and B2 Business Zones**

*Continuous footpath awnings must be provided on all street frontages generally consistent with the streetscape. The width, fascia height and method of support of all awnings in any street block must be consistent with entrances to public lands and through-site links allowed to be accentuated and generally in accordance with given dimensions (see Figure 46 – Awnings).*

*In particular, awnings may be permitted where:*

- a) *development abuts pedestrian ways;*
- b) *aligned with adjoining awnings in height and width;*
- c) *it can be demonstrated the specific need for protection of goods or from weather and sun;*
- d) *through site links are not obscured; and where*
- e) *lighting under the awnings is provided for pedestrian safety and security*

**Comment:**

Not applicable – the proposal does not change the existing awning.

**4.4.5 Earthworks (Excavation and Filling)**

**Note:** *Before granting development consent for earthworks, consideration must be given to the matters listed in LEP clause 6.2(3)(a)-(h).*

*Relevant DCP objectives in this plan in relation to these paragraphs include:*

- Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:*
- *Limiting excavation, “cut and fill” and other earthworks;*
  - *Discouraging the alteration of the natural flow of ground and surface water;*
  - *Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*

- *Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.*

*See also paragraph 4.1.8 Development on Sloping Sites (Planning Principles).*

*See also paragraph 3.3.2 Preservation of Trees and Bushland V.*

**Comment:**

Not applicable – the proposal does not include excavation works.

**Part 5 – Special Character Precincts, Areas and Sites**

**5.1 Manly Town Centre Heritage Conservation Area and The Corso**

**5.1.1 General Character**

*a) Manly Town Centre has a cohesive character resulting from a generally low scale of development on its principle streets. Construction to the property boundaries, slightly higher and distinctive corner buildings and a good level of pedestrian protection and amenity generated by footpath awnings and through-block arcades has produced strongly defined and comfortable urban spaces. These spaces range from the tight enclosure of the arcades through to the openness of the Ocean Beach promenade and the Esplanade. Developments which contradict these features have not been sufficient to remove this character.*

*b) This unified form of development still allows a diverse range of architectural styles. Further, civic buildings such as the Council Chambers and St. Matthews Church have not been overwhelmed by taller and larger scaled modern development and still therefore retain their visual importance. The Town Centre has been identified as a Conservation Area for these reasons.*

*c) The Town Centre Urban Design Guidelines provide more detailed analysis of Manly Town Centre from an urban design point of view and provides more detailed guidelines for certain precincts and areas within the Town Centre. These precincts include:*

- i) Harbour/ Ocean Grid (including The Corso, Rialto Lane, Wentworth Street, Victoria Street, Ashburner Street & Darley Road);*
- ii) Mainland Grid (including Sydney Road, Belgrave Street, Raglan Street, Whistler Street, North Short Street & Central Avenue);*
- iii) Whistler Street Triangle (Whistler Street (south) Market Lane);*
- iv) Oceanfront (North + South Steyne);*
- v) Manly Cove (East + West Esplanade);*
- vi) Gilbert Park Precinct (Gilbert Street); and*
- vii) Pittwater Road Precinct.*

*Note: These Guidelines further detail the above precincts including other areas in these precincts.*

**5.1.1.1 Statement of Significance for Manly Town Centre Conservation Area**

*The Manly Town Centre Conservation Area is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the Manly Town Centre Conservation Area as it is today. The physical elements of the Manly Town Centre Conservation Area reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.*

*The beautiful natural setting of the Manly Town Centre Conservation Area has provided a solid foundation for its picturesque qualities. The cultural landscape, including plantings, monuments and*



*open spaces, reflects the continued enhancement of the Manly Town Centre Conservation Area over time, in order to attract and sustain visitors to the area, which in turn has provided great support to the local economy. The many historic vistas which remain to this day enhance the visitor experience of the Manly Town Centre Conservation Area and assist with providing an interpretation of the Manly Town Centre Conservation Area as it has changed over time.*

*The Manly Town Centre Conservation Area maintains a high level of social significance, as a popular destination for local, national and international tourists, as well as through its encapsulation of the Australian beach culture.*

**Comment:**

Complies – the proposal is for a minor internal fit out for a take away food and drink premises. The proposal is sympathetic and will have no adverse impact on the heritage qualities of the area, as discussed in Section 4.3 of this report.

**5.1.2 The Corso**

*The existing positive qualities of The Corso, comprising both the public area of the roadway and the private properties that front it all contribute to making it a special street. Although some more recent development, and some maintenance practices on older buildings, are unsympathetic to these qualities, the overall integrity of the structure - and hence significance - of the street continues. This significance has been recognised via listings as Items of the Environmental Heritage in the LEP including the listing of all buildings as whole, individual and groups of buildings with additional individual merit as well as various streetscape elements such as parks and monuments. These listings place a responsibility on Council, land owners and applicants to maintain the significance of the 'greater whole' of both The Corso and the Manly Town Centre Conservation Area. The LEP Heritage Items for The Corso include:*

*All commercial buildings fronting The Corso (item 106)*

*Various individual or group of commercial buildings at street numbers 36 (item 107), 41 – 45 (item 108); 46 – 64 (item 109); & 102 – 108 (item 112) The Corso;*

*New Brighton Hotel at 69 – 71 The Corso (item 110);*

*Hotel Steyne at 75 The Corso (item 111);*

*St. Matthew's Church and Church Hall at 44 The Corso (item 113);*

*St. Matthew's Rectory at the corner of Darley Road and The Corso (item 118);*

*Street Trees from Whistler St to Sydney Rd, The Corso (item 104);*

*Unnamed Triangular Park at the corner of the Corso & Belgrave St, Council Chambers (item 105);*

*Cast Iron Pedestals - former Street Lights between The Esplanade and Darley Rd (item 102);*

*Monument – War Memorial Cenotaph (item 103); and*

*Cast Iron Letter Box at corner of The Corso and Whistler St (item 114).*

*The provisions contained in this paragraph apply to and are additional to those for Manly Town Centre (see paragraph 4.2.5) as well the Site Specific Guidelines for The Corso at Schedule 6 and in this DCP generally.*

**Comment:**

Complies – The proposal is sympathetic to the listed building and conservation area and will have no adverse impact to the heritage qualities of the area.

**5.4.1 Foreshore Scenic Protection Area**

*LEP clause 6.9 designates land in the Foreshore Scenic Protection Area as shown on the LEP Foreshore Scenic Protection Area Map to protect visual aesthetic amenity and views both to and from Sydney Harbour, the Pacific Ocean and the Manly foreshore. Development in the Foreshore*

*Scenic Protection Area must not detrimentally effect the ‘visual or aesthetic amenity of land in the foreshore scenic area nor must the development similarly effect the views of that land, including ridgelines, tree lines and other natural features viewed from the Harbour or Ocean from any road, park or land in the LEP for any open space purpose or any other public place. Any adverse impacts considered in this paragraph will be mitigated. In accordance with these LEP objectives Council seeks to conserve and preserve tree canopies and street trees, wildlife corridors and habitat and minimise cumulative impacts on escarpment, rock shelves and other natural landscape features.*

#### *5.4.1.1 Additional matters for consideration*

*LEP clause 6.9(3)(a) to (d) lists certain matters to be taken into account in relation to all development within the Foreshore Scenic Protection Area.*

*a) Further to matters prescribed in the LEP, the development in the Foreshore Scenic Protection Area must also:*

- i) minimise the contrast between the built environment and the natural environment;*
- ii) maintain the visual dominance of the natural environment;*
- iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;*
- iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;*
- v) locate rooflines below the tree canopy;*
- vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and*
- vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality.*

*b) Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly.*

*See also paragraph 4.1.4.5 of this DCP and LEP clause 6.10 in relation to Foreshore Building Lines and limited development in the Foreshore Area*

#### **Comment:**

Complies – refer to assessment under Clause 6.9.

### **5.4.3 Flood Prone Land**

#### ***Objectives***

*Protection of people.*

*Protection of the natural environment.*

*Protection of private and public infrastructure and assets.*

#### ***Requirements***

*1. Development must comply with the prescriptive controls set out in the Matrix below. Where a property is affected by more than one Flood Risk Precinct, or has varying Flood Life Hazard Category across it, the assessment must consider the controls relevant at each location on the property.*

*2. Development on flood prone land requires the preparation of a Flood Management Report by a suitably qualified professional.*

#### **Comment:**

Complies – a portion of the site is located within a low-risk flood area. There are no changes to the existing levels within the building, also noting that the use as a takeaway food and drink premises was previously approved under DA2022/1567 with no flood-related concerns raised.

### **Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles**

*Note: For other development types not identified in this Schedule, parking shall be provided in accordance with the Roads and Maritime Services (RMS) Design Reference Documents located at [www.rta.nsw.gov.au/doingbusinesswithus](http://www.rta.nsw.gov.au/doingbusinesswithus). This site is a one-stop-shop to access a large range of information and programs to assist in the management of the NSW road network. It includes RMS's technical directions, updated survey data, specifications, guidelines, and information fact sheets*

#### **Application of Parking Rates/Requirements:**

*All calculations of required parking rates are to be rounded up to the next whole number. In the case of visitors spaces, the required rate is to be rounded up separately for the visitors parking (e.g. for 2x2b dwellings, the sum of rates are 2.4 resident spaces and 0.5 visitor spaces, these rates would be rounded to 3 resident spaces and 1 visitor space i.e. a total of 4 spaces.)*

#### **Commercial Premises (including business, offices and retail premises) not elsewhere referred to in this Schedule \*:**

- *1 parking space for every 40sqm of gross floor area. Note: Where Commercial Premises that are subject to this rate are located in Manly Town Centre, paragraph 4.2.5.4 Car Parking and Access also applies (particularly in relation to section 94 Contributions).*

*\*Note: Commercial Premises elsewhere specifically referred to in this schedule and subject to a different requirement to that of the standard rate for commercial premises includes Pubs and Supermarkets. Restaurant or Cafes and Take Away Food and Drink Premises are subject to a similar rate but are only calculated on the basis of the serviced area for the development.*

#### **Guide to Traffic Generating Developments – RTA (now RMS)**

##### **5.9.2 Gymnasiums**

*Metropolitan regional (central business district) centres. If a gymnasium is located within a regional centre and is in close proximity to rail / bus services, the recommended off-street parking provision is 3.0 spaces per 100m<sup>2</sup> GFA.*

#### **Comment:**

Not applicable – no change to existing approval as a take-away food and drinks premises under DA2022/1567.

## 5. Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979

The following matters are to be taken into consideration when assessing an application pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). Guidelines (in *italic*) to help identify the issues to be considered have been prepared by the Department of Planning and Environment. The relevant issues are:

### **(a) The provisions of:**

#### *(i) The provision of any Environmental Planning Instrument*

**Comment:** The proposal is permissible and consistent with the intent of the Manly Local Environmental Plan and Development Control Plan as they are reasonably applied to the proposed works.

#### *(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

**Comment:** Not applicable.

#### *(iii) Any development control plan*

**Comment:** The proposal has been reviewed and assessed under Manly Development Control Plan.

#### *(iiia) 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*

**Comment:** Not applicable.

#### *(iv) The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

**Comment:** Not applicable.

#### *(v) (repealed)*

### **(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,**

#### **Context and Setting:**

*i. What is the relationship to the region and local context in terms of:*

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

**Comment:** The proposed internal fit out to facilitate a food and drink premises will activate the street frontage of The Corso.

*ii. What are the potential impacts on adjacent properties in terms of:*

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*

- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

**Comment:** The proposal is compatible with adjacent and adjoining land uses and will not result in an unacceptable amount of noise.

***Access, transport and traffic:***

*Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:*

- *Travel Demand*
- *dependency on motor vehicles*
- *traffic generation and the capacity of the local and arterial road network*
- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*
- *Vehicular parking spaces*

**Comment:** The proposal retains the existing vehicular access points to the site.

***Public Domain***

**Comment:** The proposed development will have no adverse impact on the public domain.

***Utilities***

**Comment:** Existing utility services will connect to service the dwelling.

***Flora and Fauna***

**Comment:** The proposal does not impact flora and fauna.

***Waste Collection***

**Comment:** Normal waste collection applies with access to waste facilities within the loading area.

***Natural hazards***

**Comment:** The site is identified as flood prone land (low risk). There are no changes to the existing levels within the building, also noting that the use as a takeaway food and drink premises was previously approved under DA2022/1567 with no flood-related concerns raised.

***Economic Impact in the locality***

**Comment:** The proposed development will not have any significant impact on economic factors within the area notwithstanding that it will generate additional employment opportunities through the construction period with respect to the proposed works.

***Site Design and Internal Design***

*i) Is the development design sensitive to environmental considerations and site attributes including:*

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*
- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

**Comment:** These matters are discussed in detail earlier in this report. The proposed works are suitable for the locality and intend to revitalise the street frontage to The Corso.

*ii) How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

**Comment:** The proposed development can comply with the provisions of the Building Code of Australia. The proposal complies with the relevant standards pertaining to health and safety and will not have any detrimental effect on the occupants.

### **Construction**

*i) What would be the impacts of construction activities in terms of:*

- *The environmental planning issues listed above*
- *Site safety*

**Comment:** The proposal will employ normal site safety measures and procedures will ensure that no safety or environmental impacts will arise during construction.

### **(c) The suitability of the site for the development**

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

**Comment:** The site is located within an established Town Centre with the proposed internal fit out relating to an existing approved take-away food and drinks premises which will not create unmanageable transport demands.

### **(d) Any submissions received in accordance with this act or regulations**

**Comment:** No submissions are available at this time.

### **(e) The public interest**

**Comment:** The proposed works are permissible and consistent with the intent of MLEP2013 and MDCP controls as they are reasonably applied to the proposed alterations and additions to the existing development. The development would not be contrary to the public interest. In our opinion, the development satisfies the planning regime applicable to development on this particular site having regards to the considerations arising from its context.

The proposal is acceptable when assessed against the heads of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (as amended), and is appropriate for the granting of consent and accordingly, is in the public interest.

## 6. Summary and Conclusion

The proposed development, involving an internal fit out of approved take-away food and drink premises, mechanical ventilation and replacement of existing business identification signs at 3/38-42 The Corso, Manly, being Lot 3 in Strata Plan 18046, is permissible and consistent with the intent of the built form controls as they reasonably apply to the proposed works. The proposal is appropriate and is worthy of the granting of development consent for the following reasons:

- The merits of the application have been assessed in accordance with the provisions of the relevant requirements of MLEP 2013 and the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). There is no evidence that the impacts of the development would warrant amendment to the subject proposal or justify refusal. Where a variation is proposed, adequate documentation has been provided to support the application.

Accordingly, the proposed development for an internal fit out of an approved take-away food and drink premises, mechanical ventilation and replacement of existing business identification signs at 3/38-42 The Corso, Manly, being Lot 3 in Strata Plan 18046, is acceptable from an environmental, social, heritage and planning perspective and approval should therefore be granted by Council.