

**STATEMENT OF  
ENVIRONMENTAL EFFECTS**

**PROPOSED RECREATION FACILITY  
(INDOOR)**

**2/374-378 SYDNEY ROAD  
BALGOWLAH**

**MARCH 2021**

# statement of environmental effects

Submission to

**NORTHERN BEACHES COUNCIL**

**PROPOSED RECREATIONAL FACILITY  
(GYM STUDIO)**

**UNIT 2/374-378 SYDNEY ROAD BALGOWLAH**

Prepared on behalf of

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This statement has been prepared in consideration of the Expert Witness Code of Conduct in the Uniform Civil Procedure Rules and the provisions relating to expert evidence. The opinions in the statement represent the professional opinions of the authors, based on an assessment of the facts and circumstances as have been cited in the document.

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## 1.0 INTRODUCTION

This document has been prepared in order to provide information and assessment in respect of a development application (the 'development application') which proposes the use of part of an existing building (Unit 2) as a Recreational Facility (Indoor). The use would be a gym studio, specifically a 'Brazilian Ju Jitsu Studio'.

Consideration has been given to the environmental merit of the proposal as well as in relation to the following legislature, statutory planning instruments and subordinate policies:

- *Environmental Planning and Assessment Act 1979* ('EPAA');
- *Environmental Planning and Assessment Regulation 2000* ('EPAR');
- *State Environmental Planning Policy No 64—Advertising and Signage* ('SEPP Advertising');
- *Manly Local Environmental Plan 2013* ('MLEP') and
- *Manly Development Control Plan 2013* ('MDCP').

In our opinion, the development application succeeds on the merits and pursuant to the relevant legislation and is suitable for the grant of development consent by Council.

## 2.0 SITE LOCATION AND DESCRIPTION

### 2.1 Location

The property is located on the northern side of Sydney Road in Balgowlah. The use would be conducted in unit 2, at 374 Sydney Road, Balgowlah. The unit is currently vacant and has not previously been used.

The entry of this unit is accessed via Sydney Road. The surrounding area provides strong public transport access and other parking facilities, which are accessible to the general public.

The surrounding locality is a mix of commercial, retail and residential uses which service the community's needs, and has for a considerable amount of time.

A locality plan is provided at **Annexure 1**.

An aerial photograph is provided at **Annexure 2**.

## 2.2 The Site

The subject site is located within a five-storey building, providing residential and commercial uses. The proposed 'Use' will take place in the rear unit, which is currently vacant.

The legal description of the property is Lot 12 in Strata Plan 94012.

There is one (1) car parking reserved for unit 2. In addition, there is sufficient parking within the locality to service the needs of the proposed business. The site has 'exclusive use' of an allocated restroom to service the patrons of the venue.

Photographs of the site and the surrounding streetscape are provided at **Annexure 3**.

## 3.0 DEVELOPMENT PROPOSAL

### 3.1 General

The proposal involves use of Unit 2 as a 'recreation facility (indoor)', specifically a boutique Brazilian Ju Jitsu studio, together with the carrying out of some minor, and purely internal, alterations to the premises which are all non-permanent in nature. The proposal seeks consent for signage along the facade.

The proposed business is 'Alliance BJJ Northern Beaches', a Boutique Brazilian Ju Jitsu which specialises in teaching martial arts and the core concepts of this traditional self-defence form. The business teaches discipline and self-defence in a non-violent manner, to students of a wide age range and skill level. Classes are offered to the general public to promote an active lifestyle, increase confidence and create friendships between patrons.

The majority of the time is spent by participants 'horizontal' on the mats with grappling involving various holds, manoeuvres and techniques.

The studio will be equipped with all things ordinarily associated with the conduct of martial arts, such as safety mats, mirrors and focus pads and other ancillary

items to facilitate the day to day running of the business.

To support the DA submission to Council, the following information forms part of the DA package:

- Traffic and Parking Assessment.
- Landowners consent from landlord and Owners Corporation.
- Acoustic assessment.
- Strata Plan.
- Architectural plan set.
- Statement of Environmental Effects.
- Plan of Management.

For additional detail relating to the proposed DA and the proposed internal alterations, please refer to the plans accompanying the development application.

### 3.2 Hours of Operation

The proposed hours of operation of the recreation facility (indoor) are as follows:

Day	Operating Hours
Monday	6:00 am, 12:00 pm and 3:00 pm – 8:00 pm
Tuesday	12:00 pm and 3:00 pm - 8:00 pm
Wednesday	6:00 am, 12:00 pm and 3:00 pm - 8:00 pm
Thursday	12:00 pm and 3:00 pm - 8:00 pm
Friday	6:00 am, 12:00 pm and 3:00 pm - 8:00 pm
Saturday	9:00 am - 12:00 pm
Sunday	Closed

### 3.3 Staff and Students

There will be a specialised coach teaching each class, with a maximum of two (2) staff working at one time, which including one (1) specialised coach.

The business model suggests 80-100 members from the local community with up to 25 students in each class.

Being a specialised exercises studio, the classes are limited and scheduled. The peak times are 3.00 pm - 7.00 pm with much smaller classes at 6.00 am and 12.00 pm. The proposed 'Use' is a low-intensity indoor recreation facility ensuring impact on the surrounding locality is minimised.

## 4.0 STATUTORY PLANNING FRAMEWORK

### 4.1 Manly Local Environmental Plan 2013

#### 4.1.1 General

*Manly Local Environmental Plan 2013* (MLEP) is the relevantly applicable local environmental plan.

#### 4.1.2 Aims

The aims of MLEP are, among other things, to encourage, provide and consolidate business opportunities for a range of uses in appropriate locations that support local employment, community services and economic growth in business centres.

#### 4.1.3 Zoning and Permissibility

The subject property is zoned Local Centre B2 pursuant to the provisions of the Manly Local Environmental Plan 2013 (MLEP 2013).

Within the B2 zone, a 'Recreational Facility (Indoor)' is permitted with the development consent of the consent authority.

The proposal, involving a use of the site essentially as a gymnasium, falls within the four



corners of the definition of a 'recreation facility (indoor)', as relevantly defined in the Dictionary to, Manly Local Environmental Plan 2013 (MLEP) as follows:

***recreation facility (indoor)*** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

A zoning map extract from MLEP depicting the site is provided at **Annexure 4**.

#### 4.1.4 Zone Objectives

The relevantly applicable B2 zone objectives under WLEP are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- 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.

In our opinion, the proposed development is consistent with the zone objectives referred to above, as are relevant.

The proposed 'Use' provides a permissible use that promotes an active lifestyle that the surrounding community will benefit from. The local community will rely on the surrounding public transport facilities and other 'active transport solutions' to access the venue.

Employment will be generated from the business and the business will be a use compatible with the other surrounding businesses to further promote economic growth within the area. Furthermore amenity will be maintained as the use doesn't generate odours or require use of any 'machinery' (see objective in last bullet point above). Noise levels will be maintained, as the use is low intensity and isn't expected to generate excessive noise levels. Refer acoustic report forming part of DA package.

In our view the proposal is consistent with the zone objectives and is worthy of support.

#### 4.1.5 Active Street Frontages

The site is identified to be within land identified as "active street frontages". As such clause 6.11 Active street frontages applies to the subject property.

The objectives of this clause provide:

*(1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre.*

*(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.*

In our view, the proposal will comply with the control. Specifically, the use will promote an 'go-ahead' lifestyle in which activities are taking

place, and which will encourage patrons to visit the surrounding businesses, so promoting further development and ensuring pedestrian foot traffic is maintained along Sydney Road.

The proposal complies with the control.

## 4.2 Manly Development Control Plan 2013

### 4.2.1 General

Manly Development Control Plan 2013 (MDCP) applies to the carrying out of development on the site.

### 4.2.2 Aims and Objectives

The general aims of the MDCP are as follows:

- a) Ensure that development contributes to the quality of the natural and built environments.
- b) Encourage development that contributes to the quality of our streetscapes and townscapes.
- c) Ensure that development is economically, socially and environmentally sustainable and to require the principles of ecologically sustainable development to be taken into consideration when determining DAs.
- d) Ensure future development has consideration for the needs of all members of the community.
- e) Ensure development positively responds to the qualities of the site and its context.
- f) Ensure development positively responds to the heritage and character of the surrounding area.

The primary objective of MDCP is to create and maintain a high level of environmental quality in the former local government area of Manly.

However, it must be stressed that development control plans contain **guideline** controls at best: see *Zhang v Canterbury City Council* (1999) 105 LGERA 18. This is enshrined in sections 3.42 and

4.15(3A) of the *Environmental Planning and Assessment Act 1979* (NSW), which are as follows:

### **3.42 Purpose and status of development control plans**

(cf previous s 74BA)

(1) The principal purpose of a development control plan is **to provide guidance** on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:

- (a) giving effect to the aims of any environmental planning instrument that applies to the development,
- (b) facilitating development that is permissible under any such instrument,
- (c) achieving the objectives of land zones under any such instrument.

***The provisions of a development control plan made for that purpose are not statutory requirements.***

(2) The other purpose of a development control plan is to make provisions of the kind referred to in section 3.43 (1) (b)–(e).

(3) Subsection (1) does not affect any requirement under Division 4.5 in relation to complying development. *[Our emphasis]*

### **4.15 Evaluation**

(cf previous s 79C)

... ..

(3A) **Development control plans** If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be **flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development**, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria. *[Our emphasis]*

The principal controls in MDCP relating to the development proposal are referred to and discussed below, to the extent to which they are relevant to the proposed development.

#### 4.2.3 Acoustic Privacy

The proposal involves a change of use, in close proximity to a residential area, as such clause 3.4.3.3 of MDCP applies to the proposal.

The proposal involves a change of use of the premises to a recreational facility (indoor). The application is supported by an Acoustic Assessment which states the proposal can readily achieve compliance with the acoustic controls.

The applicant will undertake the recommendation suggested by the consultant and will accept, any appropriately worded condition of consent.

More details please refer to the Acoustic Report.

#### 4.2.4 Sanitary Facilities

Clause 3.6.3.4 of MDCP controls are as follows:

- a) At least one uni-sex sanitary facility accessible for a person with a disability must be provided in all new or refurbished buildings.

Exceptions to requirement for small shops and restaurants

b) In relation to small shops and restaurants, Council may vary the requirement for sanitary facilities in circumstances where there may be existing shared toilet amenities available for these smaller premises. Where provision of an accessible toilet facility is not achievable the applicant must submit an access statement in accordance with this plan. Council acknowledges that retail uses with a floor space of under 50sqm, are particularly constrained by the building envelope to provide compliant accessible toilet facilities. In this regard the floor space required for the sanitary facility may be 10sqm alone.

c) Accessible toilet facilities which are entered from the interior of a building should not be locked. In this regard applicants need to demonstrate evidence of an operational management plan to implement ongoing maintenance to ensure open, amenable and safe use of the accessible facility.

Unit 2 has use of a unisex toilet which is located in the hallway opposite the entrance to the business unit. The toilet facility is equipped with the relevant elements to address accessibility requirements.

In our opinion, the provision of the toilet is consistent with the requirements of Clause 3.6.3.4.

#### 4.2.5 Car Parking

The objectives of this clause 4.2.4.1 are as follows:

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 area.

Currently, there is 1 car space provided for Unit 2. There is also on – street parking and parking

within the neighbouring Stockland's Shopping Centre available. In addition, the locality is supported by public transport facilities which allow for other "active transport" methods.

In our view the proposal succeeds on the merits.

For additional information please refer to the submitted parking and traffic assessment.

#### 4.2.6 Waste Management

The 'use' will generate a minimal amount of waste. All waste generated by the use will be removed in accordance with Council requirements.

In respect of the construction works, any waste generated by the works will be disposed of by the contractors.

#### 4.2.7 Signage

Clause 4.4.3 of MDCP is the controls related to signage. The objectives of this clause are as follows:

- 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.

The proposal involves business identification signage being proposed on two front elevations of shop 2. The elevations with proposed signage are:

- 1) Western elevation which faces towards totem lane. The size of the proposed window wrap will be 2.19m X 2.532m. Details of the signage are provided in the submitted plans.
- 2) South elevation, which faces towards Sydney road. The size of the proposed window wrap will be 1.25m x 2.23m. Details of the signage are provided on the submitted plans.

In our opinion, the proposed signage achieves the assessment criteria outlined within SEPP 64 and can readily achieve the objectives outlined within the MDCP.



For additional information relating to the signage please refer to the submitted plans.

## **5.0 KEY ISSUES**

### **5.1 Car Parking**

Off street parking provision is adequate to cater for the proposed recreational facility use, notwithstanding that there is only one on-site space.

Parents and/or other responsible adults will deliver the students before the commencement of classes/training and leave them at the Facility and then collect those participants following the end of classes/training.

The surrounding locality provides well serviced on-street parking and parking within the neighbouring Stockland shopping centre. The area is also serviced by a variety of public transport routes and options.

For additional information please refer to the submitted traffic and parking assessment.

### **5.2 Noise**

The Gym Studio will have minimal noise impact to the neighbouring residential area. For additional information please refer to the submitted Acoustic assessment.

### **5.3 The Public Interest**

The development will be consistent with the local planning regime and as such, is of course consistent with the public interest.

### **5.4 Environmental Impact**

The Gym Studio will have minimal environmental impact. The use will not generate excessive traffic, nor will it cause harmful noise emissions into surrounding locality.

## 5.5 Compliant Use

The use is a recreational facility (indoor) as defined in the MLEP 2013. The use is permissible in the B2 Zone and will be wholly compliant with the relevant regime of planning controls.

## 6.0 CONCLUSION

This document addresses the statutory regime applicable to the application and demonstrates that the proposed Recreation Facility (boutique Brazilian Ju Jitsu studio), is appropriate and will suit the site, the broader range of uses, and the locality generally.

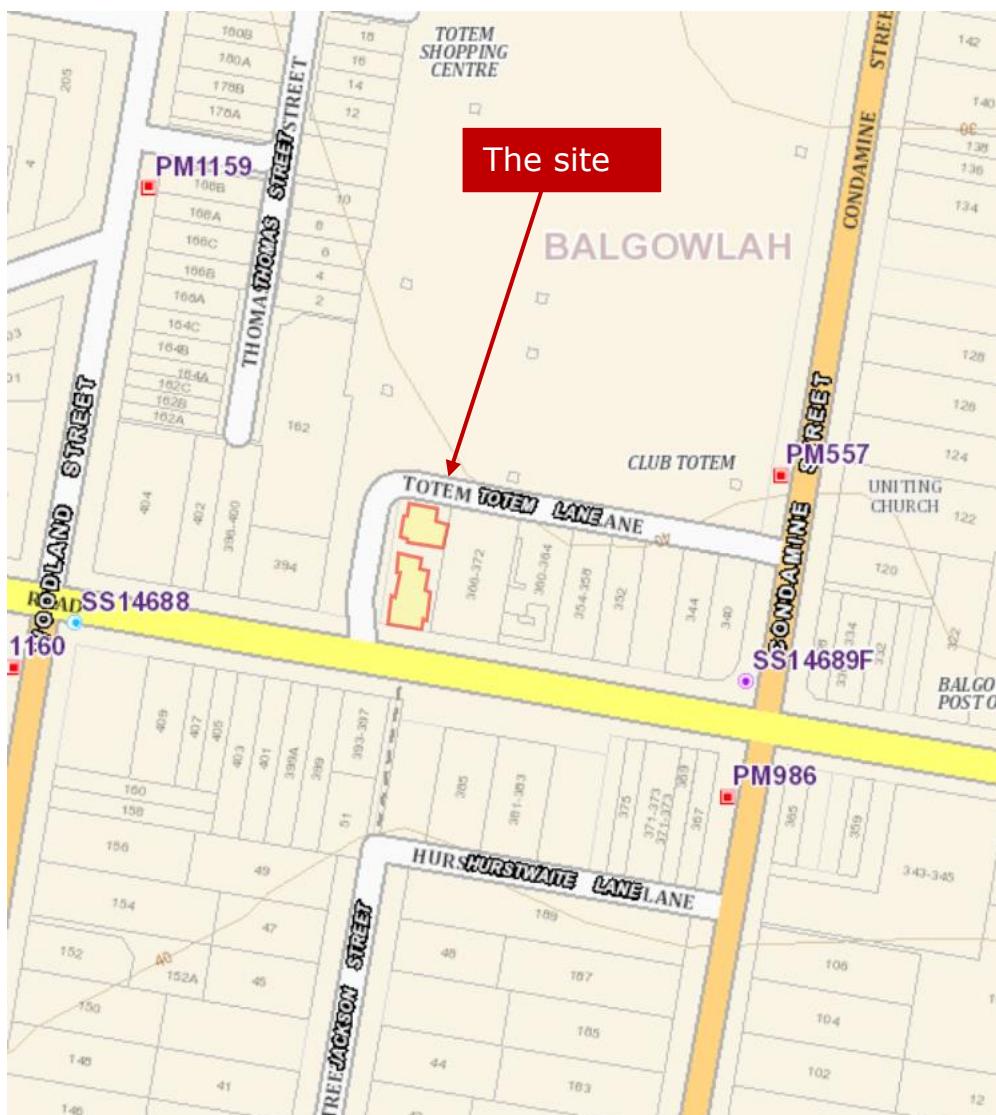
The proposal is appropriate in the business centre area and is consistent with the desired future character.

The heads of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979* have been considered and there are no matters which would prevent Council from granting consent to the proposal in this instance.

In our opinion the proposal merits support by the consent authority.

# ANNEXURE 1

LOCALITY PLAN



## LOCALITY PLAN

EXTRACT FROM SIX MAPS



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Annexure 1

2/378 Sydney Rd  
Balgowlah

## ANNEXURE 2

CADASTRAL DETAIL



## AERIAL PHOTOGRAPH

EXTRACT FROM SIX MAPS



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Annexure 2

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2/378 Sydney Rd  
 Balgowlah

## ANNEXURE 3

PHOTOGRAPHIC PALETTE





**Photograph 1** – View looking North East towards unit 2 from Totem lane.

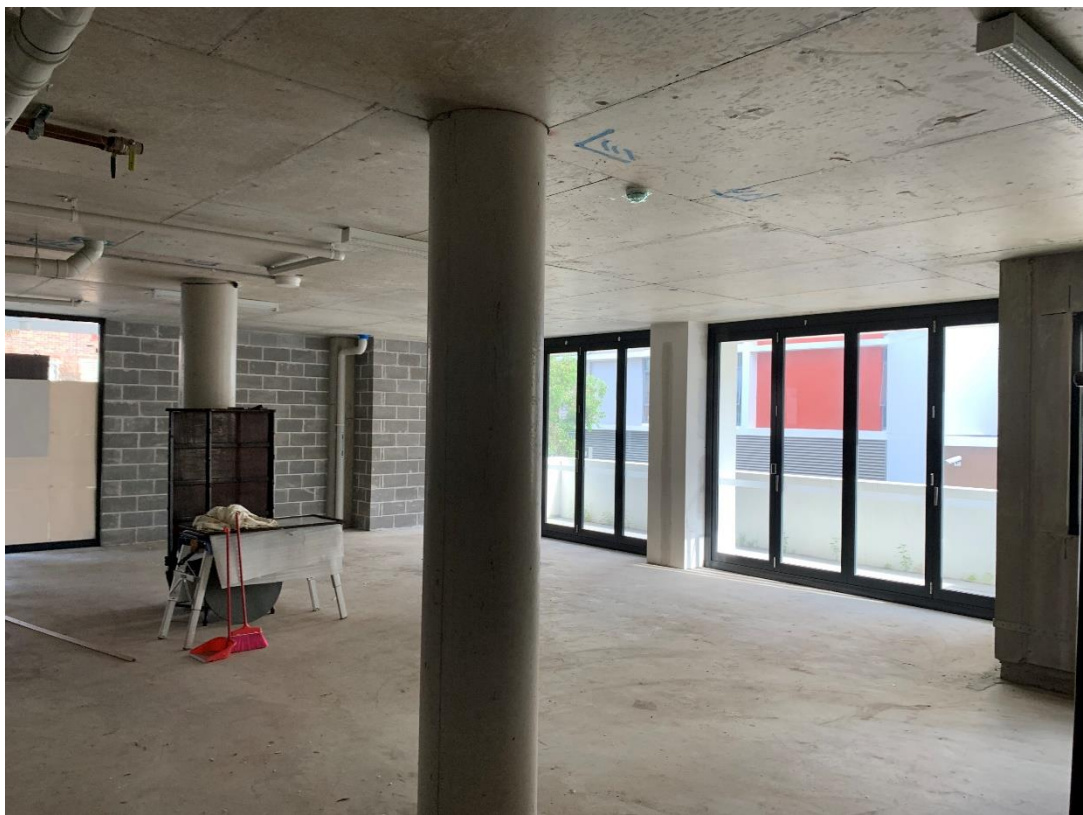


**Photograph 2** – View of internal area of shop 2.





**Photograph 3** – Photo showing mat location.



**Photograph 4** – Showing proposed location of reception and change rooms.



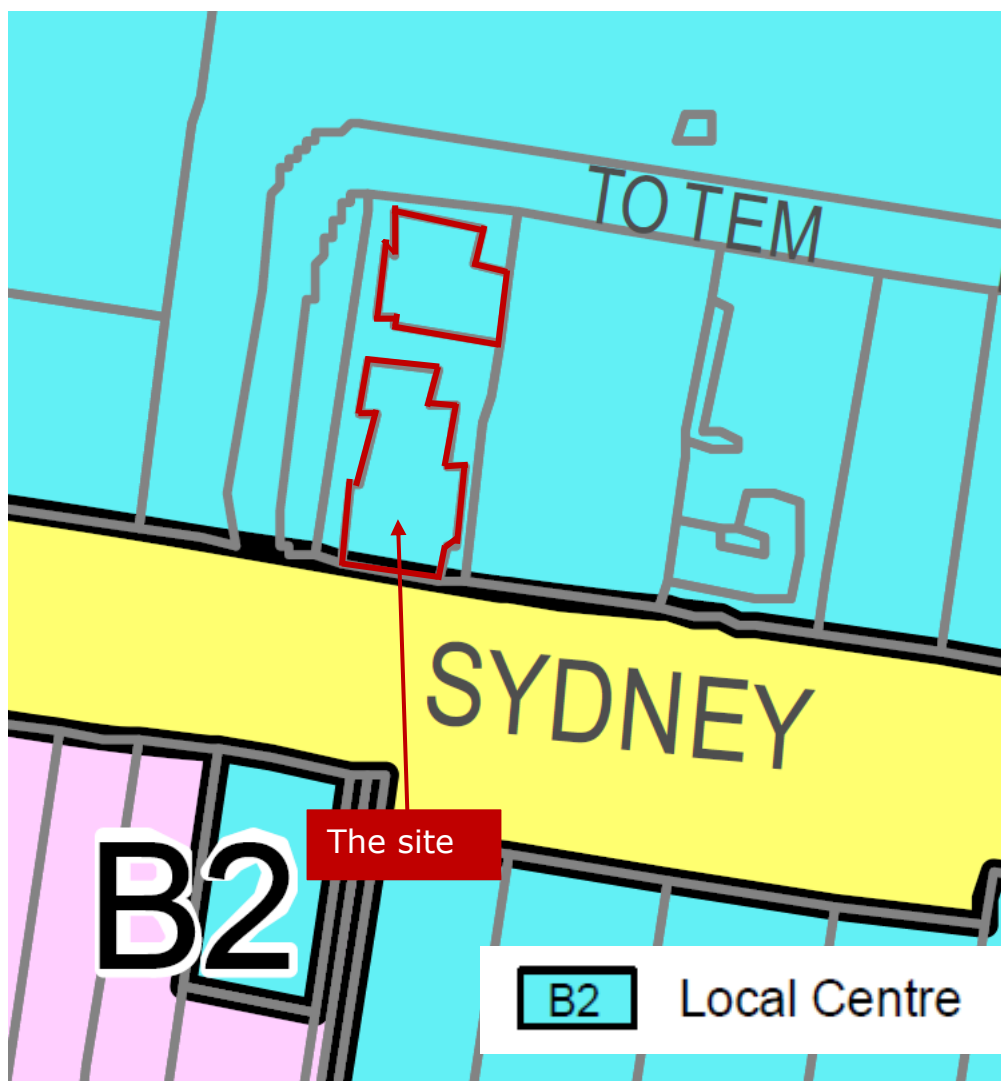
**Photograph 5** – From existing balcony, looking down totem lane.



**Photograph 6** – Internal area of shop 2.

## ANNEXURE 4

LAND ZONING MAP (EXTRACT FROM WLEP)



## LAND ZONING MAP

EXTRACT FROM WLEP



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