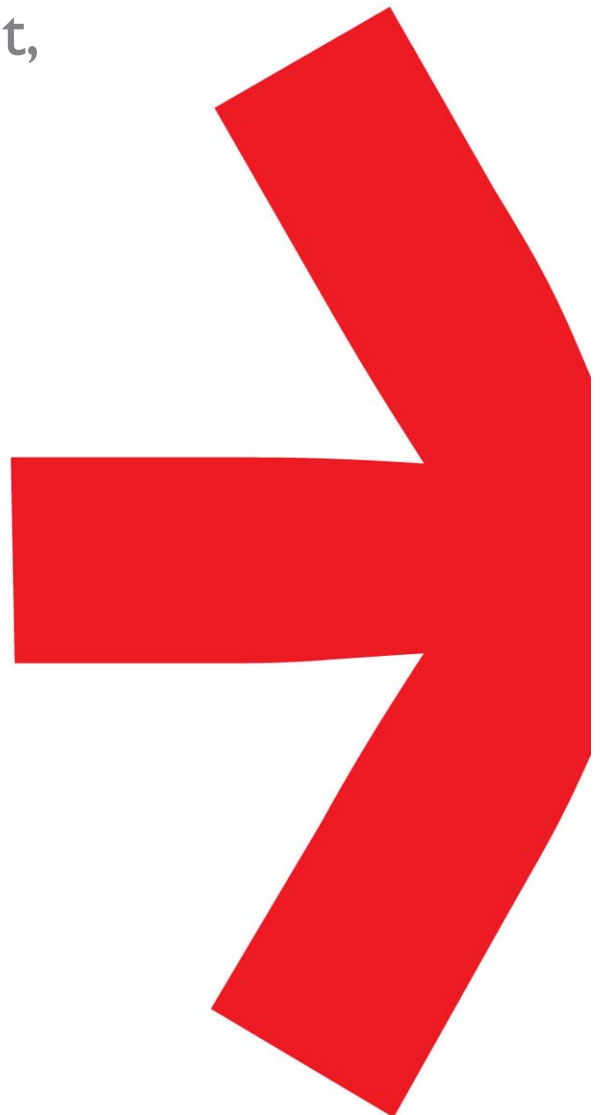


# Statement of Environmental Effects

Lot 1-2, 30 Belgrave Street,  
Manly

January 2023



### Document status

Revision	Revision date	Name	Signature
A	17 09 22	SU	
B	19 09 22	NL	
C	21 09 22	SU	
O	12 09 22	NL	
1	24 11 22	NL	
2	12 01 23	NL	

### Approval for issue

Name	Signature	Date
Nicole Lennon		18 01 23 (Rev 3)

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# 1 Introduction

Planik Pty Ltd has been engaged to prepare this Statement of Environmental Effects for “Recoverie” for the proposed development at Lot 1-2, 30 Belgrave Street, Manly. The proposal is for a change of use and associated alterations and internal fit out to an existing takeaway premises into a commercial premises for sports therapy and recovery services. It is noted that the only reason a DA is required is due to the overall floorspace of the entire building and a car parking requirement existing in the Manly DCP. These two circumstances exclude the Codes SEPP from applying. Refer to SEPP section for discussion. More detail on the classification of the use is provided in section 4.1.

The site is legally referred to as Lot CP in SP 67886 and has an approximate area of 131m<sup>2</sup> and an 8.5m frontage to Belgrave Street.

The site is located within the Northern Beaches Council area and is subject to the controls of the Manly Local Environment Plan 2013 (MLEP 2013) and the Manly Development Control Plan 2013 (MDCP 2013). The subject site is zoned B2– Local Centre and the proposed works are permissible with development consent within the zone.

## 1.1 Key Opportunities and Objectives

The main opportunities resulting from this proposal include:

- The proposed change of use and associated modifications of the existing premises will provide high-quality therapy and recovery services to the locality.
- The proposal will continue to provide an active street frontage consistent with the local provisions for the local centre.
- The proposed development will result in employment opportunities for the locality.
- The proposal will not negatively impact the amenity of the neighbourhood and will not impact the existing built form on the site, therefore keeping with the character of the locality.
- The proposal will not impact upon the quiet enjoyment of neighbouring dwellings as it is not a noise generator.

The proposal will also go towards achieving a number of objectives outlined in the Manly Local Environmental Plan 2013 (MLEP) as follows:

**Table 1** Manly Local Environmental Plan 2013 Objectives

Objectives	Response
(a) in relation to all land in Manly: (i) to promote a high standard of urban design that responds to the existing or desired future character of areas, and (ii) to foster economic, environmental and social welfare so that Manly continues to develop as an accessible, sustainable, prosperous, and safe place to live, work or visit, and (iii) to ensure full and efficient use of existing social and physical infrastructure and the future provision of	(a) (i) The proposed alterations and additions will not result in any significant changes to the existing external built form on the site. (ii) The proposed works will result in a high-quality commercial premises, providing employment opportunities and without negative impacts upon dwellings above or of the locality. (iii) The proposal will meet the needs of resident and visitors of the locality, including physical therapy and recovery services.

Objectives	Response
<p>services and facilities to meet any increase in demand, and</p> <p>(iv) to ensure all development appropriately responds to environmental constraints and does not adversely affect the character, amenity or heritage of Manly or its existing permanent residential population,</p>	<p>(iv) The proposal will not adversely impact upon the character or amenity of any nearby properties. The activity will not impact upon the significance of any nearby heritage items.</p>
<p>(b) in relation to residential development:</p> <p>(i) to provide and maintain a diverse range of housing opportunities and choices that encourages affordable housing to cater for an ageing population, changing demographics and all socio-economic groups, and</p> <p>(ii) to ensure high quality landscaped areas in the residential environment, and</p> <p>(iii) to encourage higher density residential development to be located close to major transport nodes, services and employment opportunities, and</p> <p>(iv) to maintain active retail, business and other non-residential uses at street level while allowing for shop top housing in centres and offices at upper floors in local centres,</p>	<p>(b)</p> <p>(i) N/A</p> <p>(ii) N/A</p> <p>(iii) N/A</p> <p>(iv) The proposal will continue to provide an active street frontage consistent with the local provisions for the local centre.</p>
<p>(c) in relation to business and the economy:</p> <p>(i) 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, and</p> <p>(ii) to recognise that tourism is a major industry and employer in Manly and to encourage its growth and continuing viability while protecting the needs of the local community,</p>	<p>(c) The proposal will result in a high-quality commercial premises, providing physical therapy and recovery services to locals and tourists which will support local employment.</p>
<p>(d) in relation to transport, infrastructure and amenities:</p> <p>(i) to reduce private car dependency, increase the viability of various public transport modes, minimise conflict between pedestrians and vehicular movement systems and encourage walking and cycling while concentrating intensive land uses and trip generating activities in locations most accessible to public transport and centres, and</p> <p>(ii) to provide for a range of recreational and community service opportunities to meet the needs of residents and visitors to Manly and promote the efficient and equitable provisions of public services, infrastructure and amenities,</p>	<p>(d)</p> <p>(i) The application does not seek any additional car spaces on the site. The services are both therapeutic and also enjoyable so meet the needs of the community for both health and wellbeing.</p> <p>(ii) While the service has health benefits it is also an “experience” that would attract both residents and tourists.</p>

Objectives	Response
(e) in relation to heritage—to identify, protect, sustain, manage and conserve all heritage, including archaeological relics, sites and resources, places of Aboriginal heritage significance, heritage items (and their curtilages), heritage conservation areas and the cultural (natural and built) environmental heritage of Manly.	(e) The subject site is not located within a heritage conservation area and will not negatively impact the significance of any nearby heritage items.
<p>(f) in relation to the natural environment:</p> <p>(i) to conserve and enhance terrestrial, aquatic and riparian habitats, biodiversity, wildlife habitat corridors, remnant indigenous vegetation, geodiversity and natural watercourses, and</p> <p>(ii) to promote energy conservation, water cycle management (incorporating water conservation, water reuse, catchment management, stormwater pollution control and flood risk management) and water sensitive urban design, and</p> <p>(iii) to protect, enhance and manage environmentally sensitive land with special aesthetic, ecological, scientific, cultural or conservation values for the benefit of present and future generations, and</p> <p>(iv) to protect existing landforms and natural drainage systems and minimise the risk to the community in areas subject to environmental hazards, particularly flooding, bush fires, acid sulfate soils, sea level rise, tsunami and landslip, and</p> <p>(v) to provide a framework that facilitates and encourages measures to assist the adaptation of the local environment to mitigate the impacts of climate change, and</p> <p>(vi) to give priority to retaining bushland for its own intrinsic value and as a recreational, educational and scientific resource,</p>	<p>(f)</p> <p>(i) The proposal does not impact on terrestrial, aquatic and riparian habitats, biodiversity, wildlife habitat corridors, remnant indigenous vegetation, geodiversity and natural watercourses, noting is primarily for internal alterations and additions.</p> <p>(ii) The proposal will continue to be consistent with local energy and environmental provisions. A Flood Information Inquiry has been lodged with Council. Informal liaison has inferred that the proposed change of use will not be required to implement any specific flood mitigation strategies.</p> <p>(iii) The proposal will not have any impact upon environmentally sensitive land.</p> <p>(iv) No excavation is proposed. No additions to external built form, fit – out only. A Flood Information Inquiry has been lodged with Council. Informal liaison has inferred that the proposed change of use will not be required to implement any specific flood mitigation strategies.</p> <p>(v) N/A</p> <p>(vi) N/A</p>
<p>(g) in relation to Manly's unique harbour, coastal lagoon and ocean beach setting:</p> <p>(i) to preserve and enhance the amenity of public places and areas visible from navigable water around Manly, and</p> <p>(ii) to retain open space, make more foreshore land available for public access and protect, restore and enhance riparian land along watercourses and foreshore bushland.</p>	<p>(g)</p> <p>(i) N/A – proposal does not impact on the Manly harbour, coastal lagoon and ocean beach setting.</p> <p>(ii) N/A</p>

**Table 2** Zone B2 Local Centre Zone Objectives

<b>B2 Objectives</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>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.</li> </ul>	The development proposal includes a change of use and associated alterations and additions to an existing premises to provide high-quality physical therapy and recovery services.
<ul style="list-style-type: none"> <li>To encourage employment opportunities in accessible locations.</li> </ul>	The proposal will result in a high-quality commercial premises, providing recovery services which will generate local employment opportunities that are easily accessible.
<ul style="list-style-type: none"> <li>To maximise public transport patronage and encourage walking and cycling.</li> </ul>	The central location of the site supports attendance by pedestrians or bike riders.
<ul style="list-style-type: none"> <li>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.</li> </ul>	The activity is not a noise generator. All clientele will be serviced inside the premises. The internal courtyard is only used by staff to access the staff toilet and will house pool coolers heaters that will meet acoustic requirements.

## 1.2 Manly Local Environment Plan 2013 Development Control Summary

**Table 3** Manly LEP 2013 Planning Control Summary

<b>Applicable LEP Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
Maximum Height	15m	No change	N/A
Floor Space Ratio	3:1	No change to existing FSR	N/A – no increase in GFA
Active Street Frontage	Active Street Frontage	Provided	Yes
Foreshore Scenic Protection Land	Foreshore Scenic Protection Land	No impact	Yes
Acid Sulfate Soils	Class 4	No impact	Yes
Flood Planning	Medium / High Risk Flood Precinct	No Increase to GFA, no external building works proposed. A Flood Information Inquiry has been lodged with Council. Informal liaison has inferred that the proposed change of use will not be required to implement any specific flood mitigation strategies.	Yes



### 1.3 Applicant and Ownership

The applicant for this Development Application is Planik Pty Ltd on behalf of the tenant Recoverie.

### 1.4 Consent Authority

The consent authority for this development is Northern Beaches Council.

### 1.5 Supporting documentation

This report should be read in conjunction with the following plans and documents below:

<b>Plan/Document Title:</b>	<b>Revision</b>	<b>Date:</b>	<b>Prepared by:</b>
Architectural Plans		January 23	North-North Pty Ltd
Statement of Environmental Effects		12 01 23	Planik Pty Ltd
Owners Consent Letter			Recoverie
Waste Management Plan			North-North Pty Ltd
Estimate Cost of Works		22 09 22	North-North Pty Ltd

### 1.6 Structure of the Report

This report is divided in to six sections detailing the nature of the development in the following manner:

- |           |   |
|-----------|---|
| Section 1 | Introduction.   |
| Section 2 | Examines the existing site conditions in terms of location, context, access and relevant planning controls.   |
| Section 3 | Describes the development proposal through development statistics, built form, materials and the site conditions.   |
| Section 4 | Assesses the development proposal against relevant planning controls.   |
| Section 5 | Summarises the environmental effects of the proposed development under the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act, which lists matters for consideration by a consent authority in determining a development application. |
| Section 6 | Concludes the statement of environmental effects.   |

## 2 Site and Context

### 2.1 Site Location and Description

The subject site is located at Lot 1-2, 30 Belgrave Street, Manly and is legally referred to as Lot CP in SP 67886 and has an approximate area of 131m<sup>2</sup> and a 8.5m frontage to Belgrave Street.

The site is located within the Northern Beaches Council area and is subject to the controls of the Manly Local Environment Plan 2013 (MLEP 2013) and the Manly Development Control Plan 2013 (MDCP 2013). The subject site is zoned B2– Local Centre and the proposed works are permissible with development consent within the zone.



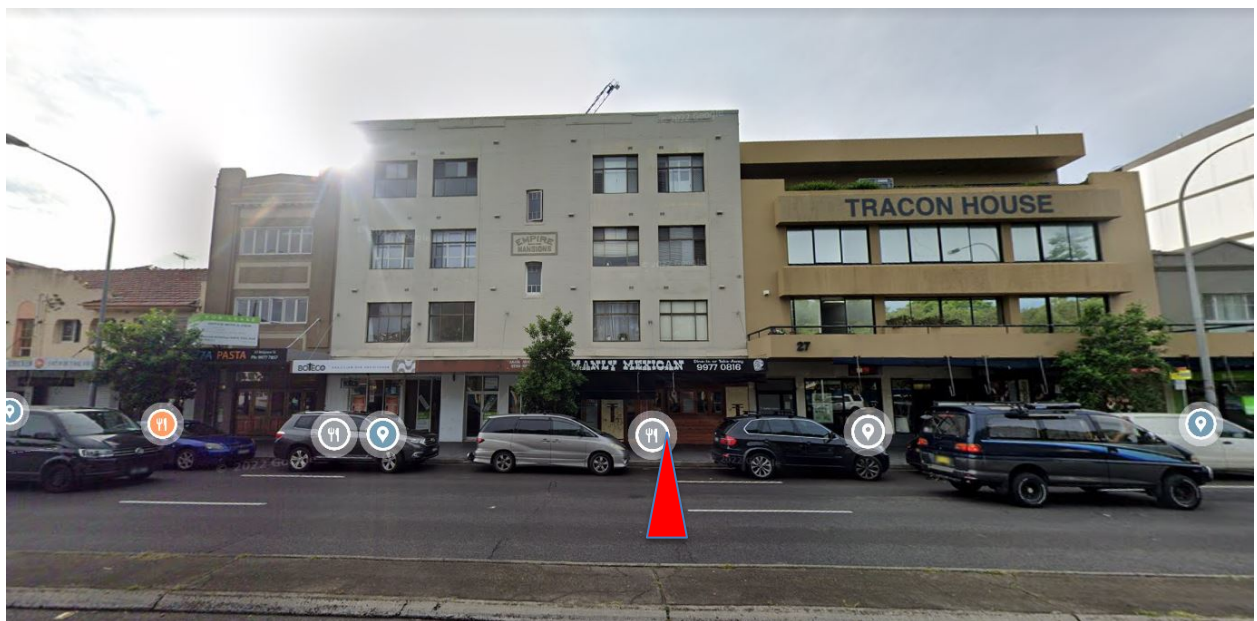
**Figure 1** Site Location Map. Source: SIX Maps

### 2.2 Locality and Surrounding Context

The site currently contains a takeaway premises and is surrounded by commercial properties to north, east and south and by recreational areas to the west.



**Figure 2** Site Context Map. Source: SIX Maps



**Figure 3** Street View – Site and context (Source: Google)

## 2.3 Relevant Legislation

The following assessment has been structured in accordance with Section 4.15(1)(a) of the *Environmental Planning & Assessment Act 1979 (EP&A Act)*.

The plans of the proposed development have been assessed in accordance with the relevant state, regional and local planning policies detailed below.

### 2.3.1 State

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Exempt and Complying Development) 2008

### 2.3.2 Local

- Manly Local Environmental Plan 2013
- Manly Development Control Plan 2013

This Planning Report demonstrates that the proposed development is generally consistent with the relevant statutory planning policies and achieves the objectives of the relevant provisions.

# 3 Development Proposal

## 3.1 Summary of Proposal

The proposal is for a change of use and associated alterations and additions to an existing takeaway premises into a commercial premises for therapy and recovery services.

### Proposed Works

The proposed works include:

#### Demolition

- Demolition of walls and toilet facilities to the east
- Demolition of central wall: structural beam to be retained
- Demolition of existing exhaust hood to the east
- Demolition of existing hob and bench to the west
- Demolition of shopfront elements.
- Removal of shopfront doors.

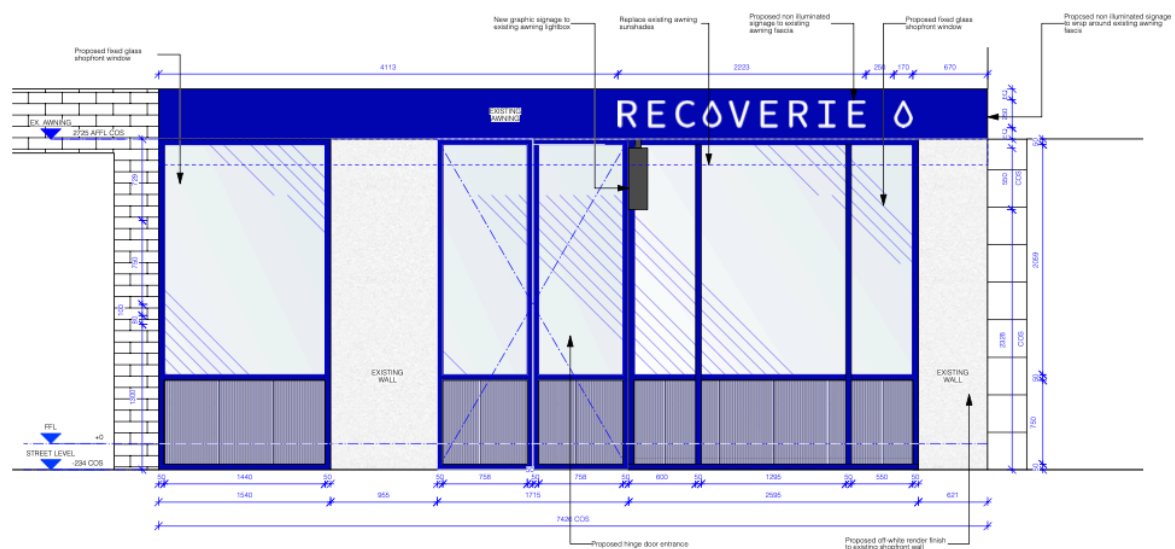
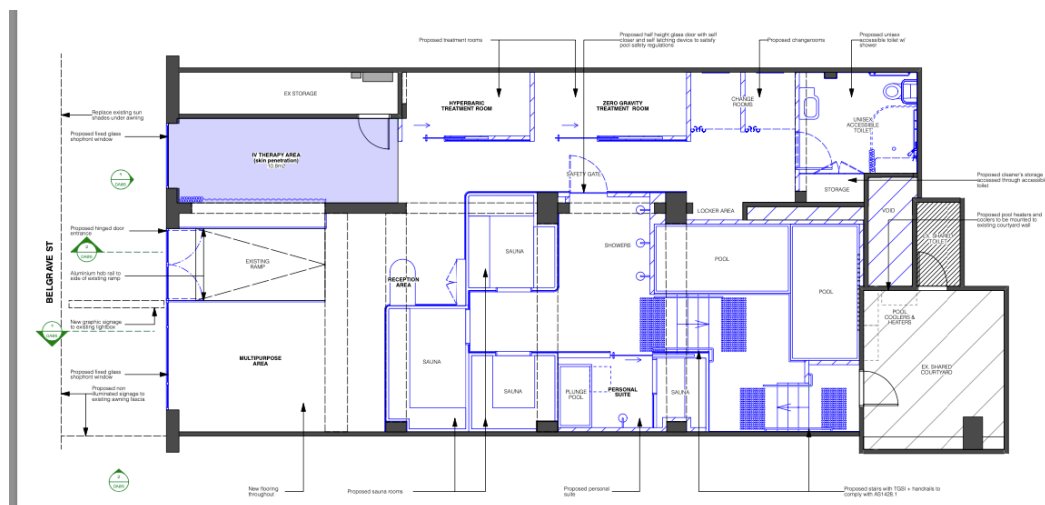
#### Internal fit out

- Installation of new reception area
- Installation of new tile flooring throughout
- Installation of new therapy area
- Construction of 4 sauna rooms and 1 personal suite + installation of showers
- Construction of 2 regular small pools + 1 plunge pool: proposed glass door with self closer and self latching device at 1500 AFFL to satisfy pool safety regulations and proposed stairs with TGSI + handrails to comply with AS1428.1.
- Installation of pool heaters and coolers to be mounted to existing courtyard wall (acoustic compliant)
- Implementation of new locker area and cleaner's storage
- Construction of new unisex accessible toilet with shower and 2 change rooms
- New hyperbaric and zero gravity rooms.

#### Shopfront and Signage alterations

- Replacement of existing sunshades under awning
- Installation of new fixed glass shopfront window
- Installation of new glass hob to side of existing ramp
- Ramp filling to match existing floor level
- Installation of external lights under awning
- Replacement of shopfront with hinged door entry
- New non illuminated signage lettering to existing awning fascia
- Installation of new graphic signage to existing lightbox
- Replacement of lettering to under awning sign.

Refer to Architectural Plans prepared by North-North submitted with this application.





- Clients on site: 30 max (average 15) at any time
- Courtyard is non accessible to clients - strictly used for maintenance of pool heaters/coolers only

*Capacity by Area*

- Hot and Cold Pools - Capacity 12 persons
- Infrared and traditional Saunas - 12 persons (4 ppl x 3 saunas)
- Normatec - 8 persons
- Zerogravity Experience - 1 person
- Hyperbaric Chamber - 1 person

# 4 Statutory Planning Assessment

## 4.1 Zoning and Permissibility

The site is subject to the controls of the Manly Local Environmental Plan 2013 and is zoned B2 Local Centre under the MLEP 2013. The proposed development is categorised as change of use from take away to commercial / business premises. The proposed development is permissible within the B2 Local Centre zone.

### 4.1.1 Definition of Use

The use most comfortably sits under the term **business premises** which is a type of commercial premises as the use provides a service directly to the public on a regular basis. It is considered that this premises would be similar to that of a hairdresser in that clients make appointments and come for a specific service on an occasional basis. While the staff are trained on the equipment and services, the majority are not required to be medical practitioners that would be expected to make up the greater part of service provision in say a medical centre. The proprietor describes the company as a membership model with appointment based recovery modalities offering - something along the lines of a recreational wellness facility.

It is noted that the IV treatments are provided by outside contractors who attend the premises to provide that aspect of the service provision which would be considered ancillary to the other services.

It is also noted that physiotherapy services currently offered at the Coogee premises are not part of the current proposal for this site.

Definition below:

**business premises** means a building or place at or on which—

(a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, **or**

(b) **a service is provided directly to members of the public on a regular basis,**

and includes funeral homes, goods repair and reuse premises and, **without limitation**, premises such as banks, post offices, **hairdressers**, dry cleaners, travel agencies, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Although there is a health focus to the business it does not strictly meet the definition of medical centre as the services are not principally provided by health care professionals.

**medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are **principally provided by health care professionals**. It may include the ancillary provision of other health services.

It also does not fit into the definition of health services facility because it doesn't meet any of a) through to e) and while the services provided by this proposal may be an adjunct to other services provided mostly elsewhere for diagnosis, disease prevention, treatment of injury etc, Recoverie mainly offers experiential saunas, percussive and hot and cold therapy, zero gravity experiences etc which espouse outcomes of relief, regeneration, relaxation, refresh etc.

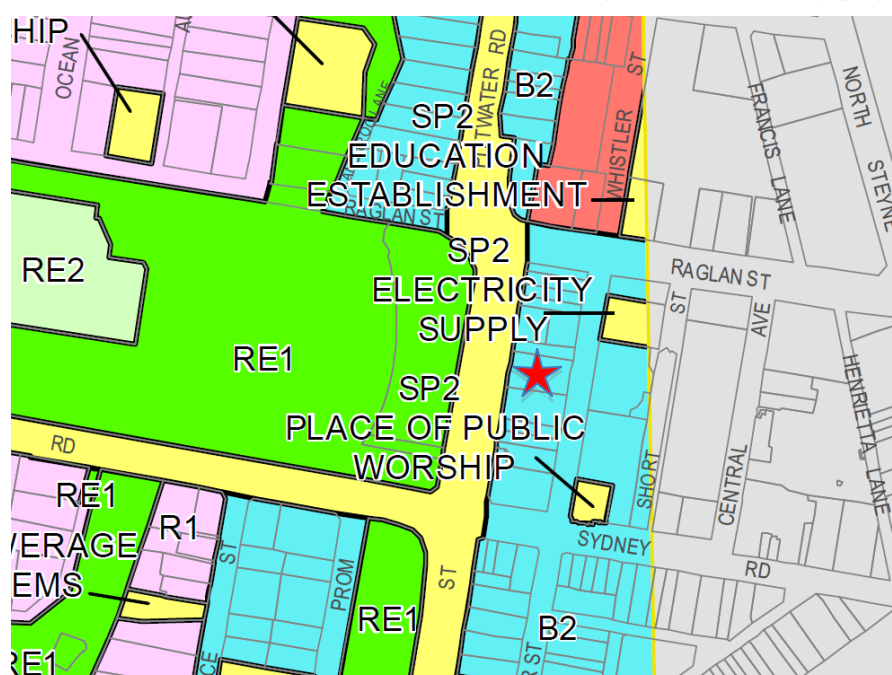


**health services facility** means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following—

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

While there is an element of recreation associated with “feeling good” the business does not fit the character of an indoor recreation facility, it is not a place of action or a gymnasium, the plunge pools are for sitting and relaxing in, not active swimming, it also does not offer classes like a health studio would. The patronage would be far less in terms of trip generation than any of the uses listed under indoor recreation and far quieter.

**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.



**Figure 6** Manly Environmental Plan 2013

**Table 4** Zone B2 Local Centre Land Use Table

<b>B2 – Local Centre Zone Land Use Table</b>	
<u>2 Permitted without consent</u>	Home-based child care; Home occupations
<u>3 Permitted with consent</u>	

## B2 – Local Centre Zone Land Use Table

Amusement centres; Boarding houses; Boat sheds; Car parks; Centre-based child care facilities; **Commercial premises**; Community facilities; Educational establishments; Entertainment facilities; Environmental protection works; Flood mitigation works; Function centres; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Information and education facilities; **Medical centres**; Oyster aquaculture; Passenger transport facilities; **Recreation facilities (indoor)**; Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Signage; Tank-based aquaculture; Tourist and visitor accommodation; Veterinary hospitals; Water recycling facilities; Water supply systems

### 4 Prohibited

Pond-based aquaculture Water treatment facilities; Any other development not specified in item 2 or 3

## 4.2 Environmental Planning and Assessment Act 1979

### 4.2.1 Section 1.3 – Objects

The Environmental Planning and Assessment Act, 1979 (the Act) is the principle planning and development legislation in New South Wales. In accordance with Section 1.3, the objectives of the Act are:

#### 1.3 Objects of Act

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

For the reasons set out below, it is considered that the proposed development satisfies the above stated objects of the Act:

- The proposed development will promote the social and economic welfare of the local community through changing the use of the site from take away to commercial premises providing high quality services.
- The proposal will result in the orderly and economic use and development of the site.

- Appropriate utility services are provided.
- There will be no unreasonable adverse impacts on the environment.

## 4.3 Environmental Planning and Assessment Regulation 2000

### 4.3.1 Clause 92 – Demolition

All demolition works will be undertaken in accordance with Clause 92 of the Regulation requiring the consent authority to consider AS 2601 - 1991: The Demolition of Structures.

### 4.3.2 Clause 98 – Compliance with the BCA

Pursuant to the prescribed conditions under Clause 98 of the Regulation, any building work must be carried out in accordance with the requirements of the Building Code of Australia.

## 4.4 State Environmental Planning Controls

### 4.4.1 State Environmental Planning Policy (Resilience and Hazards) 2021

The provisions of this SEPP have been considered in the assessment of the development application. The site does not have a history of a previous land use that may have caused contamination and there is no evidence that indicates the site is contaminated. Further, the proposal is unlikely to disturb the soil of the subject site or the surrounding area. Accordingly, the development application is satisfactory having regard to the relevant matters for consideration under SEPP (Resilience and Hazards) 2021.

### 4.4.2 State Environmental Planning Policy (Transport and Infrastructure) 2021

The Transport and Infrastructure SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.

The application is not subject to clause 2.48 of the SEPP as the development does not propose works within the vicinity of electricity infrastructure that trigger a written referral to the energy authority.

The application is not subject to clause 2.119 of the SEPP as the site does not have frontage to a state classified road.

The application is not subject to clause 2.120 of the SEPP as the proposed use is not likely to be adversely affected by road noise or vibration.

The proposal is not adjacent to a rail corridor and therefore Clause 2.100 of the SEPP does not apply.

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

#### *Chapter 3 Advertising and signage*

(1) This Chapter aims—

(a) to ensure that signage (including advertising)—

(i) is compatible with the desired amenity and visual character of an area, and

(ii) provides effective communication in suitable locations, and

- (iii) is of high quality design and finish, and
- (b) to regulate signage (but not content) under Part 4 of the Act, and
- (c) to provide time-limited consents for the display of certain advertisements, and
- (d) to regulate the display of advertisements in transport corridors, and
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

**(2) This Chapter does not regulate the content of signage and does not require consent for a change in the content of signage.**

The proposal includes upgrades to existing signage including change of lettering and business identification. These works are covered under SEPP (Exempt and Complying Development Codes) 2008

#### 4.4.4 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

##### *Change of Use*

The change of use proposed meets all the requirements of Complying Development except for the carparking provision as detailed below.

It is noted that the building is a mixed use building and collectively has a floor area over 500 m<sup>2</sup>, therefore 1A below applies. The Manly DCP has a car parking requirement for business zones but offers flexibility in certain circumstances. The Floor area is not increasing and the trips generated by this proposal is considered to be less than that of a take away Mexican restaurant. Refer to the DCP table for discussion.

##### *5A.6F Car parking and access*

*(1) For a building with a gross floor area less than 500m<sup>2</sup> in Zone E1, E2, MU1, B1, B2, B3, B4, B8, IN4, SP1, SP3, SP5 or W4 that existed before 1 February 2022—*

*(a) car parking must be provided in accordance with an existing condition relating to car parking that applies to the use of the land, or*

*(b) if there is no existing condition relating to car parking—the development must not reduce the number of car parking spaces on the land on which the development is carried out.*

*(1A) Otherwise, car parking must be provided—*

***(a) in accordance with any relevant requirements contained in an environmental planning instrument or development control plan applying to the land, or***

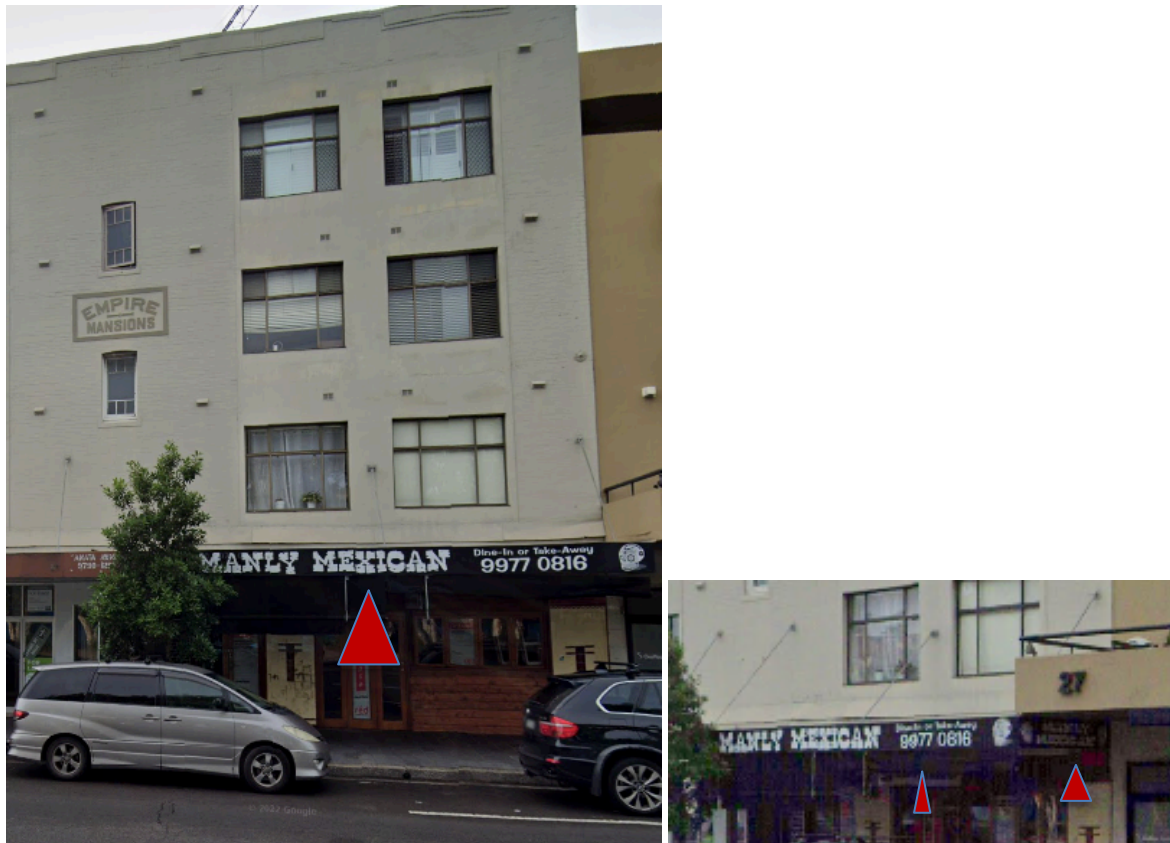
***(b) if there are no relevant requirements referred to in paragraph (a)—in accordance with the document entitled Guide to Traffic Generating Developments, Version 2.2, published by the Roads and Traffic Authority in October 2002.***

***(1B) If a contribution in relation to car parking in compliance with a contributions plan under the Act, Division 7.1 is imposed as a condition of approval under the Environmental Planning and Assessment Regulation 2021, section 156, the contribution may be made instead of complying with subclause (1) or (1A).***

## Signage

The proposed signage involves only upgrades and replacement of lettering to existing signage on site. Refer DA 05/

1. New graphic and business identification to under awning lightbox
2. Non Illuminated lettering of business at existing awning including wrap to south facing awning. to replace previous Mexican Restaurant signage.



**Figure 7** Existing Signage to be replaced

### Part 1 General

#### Division 2 Exempt and complying development

Clause 1.15 The proposal meets this standard

Clause 1.16 The proposal meets the requirements of this clause.

### Part 2 – Exempt Development Codes

#### Subdivision 8 Replacement of identification signs

##### 2.96 Specified development

The replacement of—

- (a) an existing building identification sign or the content of such a sign, or
- (b) an existing business identification sign or the content of such a sign,

is development specified for this code.

#### 2.97 Development standards

The standards specified for that development are that the development must—

- (a) replace a lawful sign, and
- (b) not be greater in size than the sign that it replaces, and
- (c) not be a sign that is animated, flashing or illuminated, unless the sign it replaces is the subject of a development consent to be an illuminated sign, and
- (d) not involve any alteration to the structure or vessel on which the sign is displayed, and
- (e) not obstruct or interfere with traffic signs.

The signage complies with the controls above.

## 4.5 Manly Local Environmental Plan 2013

Manly Local Environmental Plan 2013 (MLEP2013) is the primary planning instrument applicable to the subject site. The site is zoned B2 Local Centre under the MLEP 2013 which permits commercial developments with consent.

The following table provides applicable clauses from the MLEP 2013.

**Table 5** Manly Local Environmental Plan 2013 Applicable Controls.

<b>MLEP2013 Relevant Controls</b>	<b>Response</b>	<b>Compliant</b>
<b>Clause 1.2 Aims of Plan</b> (2) The particular aims of this Plan are as follows: (a) in relation to all land in Manly: (i) to promote a high standard of urban design that responds to the existing or desired future character of areas, and (ii) to foster economic, environmental and social welfare so that Manly continues to develop as an accessible, sustainable, prosperous, and safe place to live, work or visit, and (iii) to ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increase in demand, and (iv) to ensure all development appropriately responds to environmental constraints and does not adversely affect the character, amenity or heritage of Manly or its existing permanent residential population, (b) in relation to residential development: (i) to provide and maintain a diverse range of housing opportunities and choices that encourages affordable housing to cater for an ageing population, changing demographics and all socio-economic groups, and	Please refer to responses in Table 1.	Yes



MLEP2013 Relevant Controls	Response	Compliant
<p>(ii) to ensure high quality landscaped areas in the residential environment, and</p> <p>(iii) to encourage higher density residential development to be located close to major transport nodes, services and employment opportunities, and</p> <p>(iv) to maintain active retail, business and other non-residential uses at street level while allowing for shop top housing in centres and offices at upper floors in local centres,</p> <p>(c) in relation to business and the economy:</p> <p>(i) 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, and</p> <p>(ii) to recognise that tourism is a major industry and employer in Manly and to encourage its growth and continuing viability while protecting the needs of the local community,</p> <p>(d) in relation to transport, infrastructure and amenities:</p> <p>(i) to reduce private car dependency, increase the viability of various public transport modes, minimise conflict between pedestrians and vehicular movement systems and encourage walking and cycling while concentrating intensive land uses and trip generating activities in locations most accessible to public transport and centres, and</p> <p>(ii) to provide for a range of recreational and community service opportunities to meet the needs of residents and visitors to Manly and promote the efficient and equitable provisions of public services, infrastructure and amenities,</p> <p>(e) in relation to heritage—to identify, protect, sustain, manage and conserve all heritage, including archaeological relics, sites and resources, places of Aboriginal heritage significance, heritage items (and their curtilages), heritage conservation areas and the cultural (natural and built) environmental heritage of Manly,</p> <p>(f) in relation to the natural environment:</p> <p>(i) to conserve and enhance terrestrial, aquatic and riparian habitats, biodiversity, wildlife habitat corridors, remnant indigenous vegetation, geodiversity and natural watercourses, and</p> <p>(ii) to promote energy conservation, water cycle management (incorporating water conservation, water reuse, catchment management, stormwater pollution control and flood risk management) and water sensitive urban design, and</p>		

MLEP2013 Relevant Controls	Response	Compliant
<p>(iii) to protect, enhance and manage environmentally sensitive land with special aesthetic, ecological, scientific, cultural or conservation values for the benefit of present and future generations, and</p> <p>(iv) to protect existing landforms and natural drainage systems and minimise the risk to the community in areas subject to environmental hazards, particularly flooding, bush fires, acid sulfate soils, sea level rise, tsunamis and landslip, and</p> <p>(v) to provide a framework that facilitates and encourages measures to assist the adaptation of the local environment to mitigate the impacts of climate change, and</p> <p>(vi) to give priority to retaining bushland for its own intrinsic value and as a recreational, educational and scientific resource,</p> <p>(g) in relation to Manly's unique harbour, coastal lagoon and ocean beach setting:</p> <p>(i) to preserve and enhance the amenity of public places and areas visible from navigable water around Manly, and</p> <p>(ii) to retain open space, make more foreshore land available for public access and protect, restore and enhance riparian land along watercourses and foreshore bushland.</p>		
<p><b>Zone B2 – Local Centre Objectives</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• To encourage employment opportunities in accessible locations.</li> <li>• To maximise public transport patronage and encourage walking and cycling.</li> <li>• 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.</li> </ul>	Please refer to responses in Table 2.	Yes
<p><b>4.3 Height of buildings</b></p> <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the <u>Height of Buildings Map</u>.</p>	<p>The Height of Buildings Map lists the maximum height of buildings for the site as 15m.</p> <p>The proposed change of use and associated internal alterations would not result in any additional building height being beneath the existing dwelling.</p>	N/A
<p><b>4.4 Floor space ratio</b></p> <p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio</p>	The FSR map lists the maximum FSR for the site as 3:1.	N/A – no increase in GFA



MLEP2013 Relevant Controls	Response	Compliant
shown for the land on the <u>Floor Space Ratio Map</u> .	The proposed change of use and associated internal alterations would not result in any change to the external form or density of the dwelling on the site.	
<b>6.1 Acid Sulfate Soils</b> (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the <u>Acid Sulfate Soils Map</u> as being of the class specified for those works.	The site is identified as containing Class 4 ASS. The proposed change of use and associated internal alterations would not adversely impact upon the locality with regard to acid sulfate soils.	N/A
<b>6.4 Stormwater Management</b> (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.	No Change	Yes
<b>6.9 Foreshore Scenic Protection Area</b> (2) This clause applies to land that is shown as "Foreshore Scenic Protection Area" on the Foreshore Scenic Protection Area Map.	The subject site is identified as being within the "Foreshore Scenic Protection Area" on the Foreshore Scenic Protection Area Map. No Impact to the foreshore from a visual perspective	Yes
<b>6.11 Active street frontages</b> (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.	The subject site is identified as "Active Street Frontages" on the Active Street Frontages Map. The proposal is for a change of use from take away to commercial premises and will retain and improve its condition of active street frontage.	Yes

MLEP2013 Relevant Controls	Response	Compliant
<p>(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—</p> <ul style="list-style-type: none"> <li>(a) entrances and lobbies (including as part of mixed use development),</li> <li>(b) access for fire services,</li> <li>(c) vehicular access.</li> </ul> <p>(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.</p>		
<p><b>6.13 Design Excellence</b></p> <p>(2) This clause applies to development involving the erection of a new building or external alterations to an existing building— (a) on land in Zone B2 Local Centre, and (b) on land to which clause 6.19 applies.</p> <p>(4) In considering whether development exhibits design excellence, the consent authority must give consideration to whether the development—</p> <ul style="list-style-type: none"> <li>(a) contains buildings that consist of a form, bulk, massing and modulation that are likely to overshadow public open spaces, and</li> <li>(b) is likely to protect and enhance the streetscape and quality of the public realm, and</li> <li>(c) clearly defines the edge of public places, streets, lanes and plazas through separation, setbacks, amenity, and boundary treatments, and</li> <li>(d) minimises street clutter and provides ease of movement and circulation of pedestrian, cycle, vehicular and service access, and</li> <li>(e) encourages casual surveillance and social activity in public places, streets, laneways and plazas, and</li> <li>(f) is sympathetic to its setting, including neighbouring sites and existing or proposed buildings, and</li> <li>(g) protects and enhances the natural topography and vegetation including trees, escarpments or other significant natural features, and</li> <li>(h) promotes vistas from public places to prominent natural and built landmarks, and</li> <li>(i) uses high standards of architectural design, materials and detailing appropriate to the building type and location, and</li> </ul>	<p>2) The proposed works include the renovation of the shopfront area and external signage.</p> <p>4)</p> <ul style="list-style-type: none"> <li>a) Achieved – The development does not involve changes to bulk or massing and will not overshadow public open spaces.</li> <li>b) Achieved – The proposal continues to provide an active street frontage.</li> <li>c) N/A</li> <li>d)N/A</li> <li>e)Achieved</li> <li>f) Achieved</li> <li>g) N/A</li> <li>h)N/A</li> <li>i) Shop front maintained</li> <li>j) N/A</li> </ul>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p>

MLEP2013 Relevant Controls	Response	Compliant
(j) responds to environmental factors such as wind, reflectivity and permeability of surfaces, and (k) coordinates shared utility infrastructure to minimise disruption at street level in public spaces.	k) N/A	N/A

## 4.6 Manly Development Control Plan 2013

The Manly Development Control Plan (MDCP 2013) is used to provide comprehensive planning and design guidelines for development in the council area. Relevant clauses for the proposal are outlined in the table below.

**Table 6** Manly Development Control Plan 2013 Applicable Controls

MDCP2013 Relevant Controls	Response	Compliant
<b>Part 3 – General Principles of Development</b>		
<b>3.1 Streetscapes and Townscapes</b>		
<b>3.1.3 Townscape (Local and Neighbourhood Centres)</b>		
<b>3.1.3.1 Design Principles</b> <ul style="list-style-type: none"> <li>Maintain and enhance the <u>townscape</u> of the former Manly Council area's LEP Business Zones;</li> <li>Achieve the <u>townscape</u> objectives of this plan; and</li> <li>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)</li> </ul>	Achieved  Achieved  Achieved	Yes  Yes  Yes
<u>Design Details</u>  c) Design details of proposed developments must complement adjacent building in the locality with particular reference to: <ul style="list-style-type: none"> <li>(i) the scale, proportion and line of visible facades;</li> <li>(ii) the pattern of openings and the visual pattern of solids to voids on facades;</li> <li>(iii) both the overall wall and parapet height and the height of individual floors in relation to adjoining development and important corner buildings and the height of awnings. See also paragraph 4.4.4; and</li> <li>(iv) materials, textures and colours;</li> </ul>	c)  i) Achieved  ii) Achieved  iii) Achieved  iv) Achieved	  Yes  Yes  Yes  Yes
<i>Note: In general the use of reflective glass and curtain walling as a facade treatment is not favoured in terms of being consistent with townscape objectives. See also paragraph 3.4.c regarding reflectivity and amenity.</i>		

MDCP2013 Relevant Controls	Response	Compliant
(v) architectural style and the degree of architectural detail; and (vi) the scale of the building footprint. (See Figure 4)	v) Achieved  vi) N/A- No changes are proposed	Yes  N/A
<b>3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)</b>		
<b>3.4.1 Sunlight Access and Overshadowing</b>		
<b>3.4.1.1 Overshadowing Adjoining Open Space</b> In relation to sunlight to private open space of adjacent properties: a) New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June) ; or  b) Where there is no winter sunlight available to open space of adjacent properties from 9am to 3pm, the calculations for the purposes of sunlight will relate to the equinox in March and September from 9am to 3pm.	The proposal would not overshadow any adjoining open space noting no change is proposed to the external built form on the site.	Yes
<b>3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties</b> In relation to sunlight to the windows or glazed doors to living rooms of adjacent properties: a) for adjacent buildings with an east-west orientation, the level of <u>solar access</u> presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9am to 3pm on the winter solstice (21 June);  b) or adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 4 hours from 9am to 3pm on the winter solstice (21 June);  c) for all adjacent buildings (with either orientation) no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours specified above.	No change to built form. No Impact.	Yes
<b>3.4.2 Privacy and Security</b>		

MDCP2013 Relevant Controls	Response	Compliant
<p><b>3.4.2.1 Window Design and Orientation</b></p> <p>a) Use narrow, translucent or obscured glass windows to maximise privacy where necessary.</p> <p>b) When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy.</p>	<p>New windows proposed at lower level will not impact upon privacy of adjoining properties.</p>	<p>Yes</p>
<p><b>3.4.2.3 Acoustical Privacy (Noise Nuisance)</b></p> <p>a) Consideration must be given to the protection of acoustical privacy in the design and management of development.</p> <p>b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.</p>	<p>The proposal would not result in any acoustic privacy impacts noting all services respect clients privacy and are quiet and do not emit any noise or vibrations, there will be background conversational noise, and only ambient music playing in the background.</p> <p>Any plant associated with pool filtration / heating / cooling will meet acoustic requirements.</p>	<p>Yes</p>
<p><b>3.4.3 Maintenance of Views</b></p> <p>a) The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.</p> <p>b) Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.</p> <p>c) Templates may be required to indicate the height, bulk and positioning of the proposed development and to assist Council in determining that view sharing is maximised and loss of views is minimised. The templates are to remain in place until the application is determined. A registered surveyor will certify the height and positioning of the templates.</p>	<p>The proposal will not impact upon any views.</p>	<p>Yes</p>
<p><b>3.4.4 Other Nuisance (Odour, Fumes ect)</b></p> <p>Consideration must be given to the protection and maintenance of public health and amenity in relation to any proposed development that involves the emission of odours to ensure compliance with legislation, for example food</p>	<p>The proposed development will not result in the emission of odours, noting the previous premises was a take away food store which would have had potential odour impact, this use does not create odours.</p>	<p>Yes</p>


MDCP2013 Relevant Controls	Response	Compliant
premises near residential accommodation. Council may require a report to be prepared by an air pollution consultant specifying odour control and other air impurity control methods.		
<b>3.5 Sustainability</b>	Not Applicable – floor space below 500 m <sup>2</sup> – 131 m <sup>2</sup>	Yes
<b>3.6 Accessibility</b>	Existing access retained – ramped entry.  Accessible toilet included in works	Yes
<b>3.7 Stormwater Management</b> The following consideration and requirements apply to the management of stormwater: a) In support of the purposes of LEP clause 6.4(3), all developments must comply with the Council's 'Stormwater Control Policy' (see Council Policy Reference S190). The standards to achieve the controls contained in the Stormwater Control Policy are provided in Council's "Specification for On-site Stormwater Management 2003" and "Specification for Stormwater Drainage". Stormwater management measures are to be implemented and maintained in accordance with the Specification for Stormwater Management; b) Stormwater disposal systems must provide for natural drainage flows to be maintained; c) Pervious surfaces and paving will be used for driveways, pathways and courtyards where practical; d) Notwithstanding the prevailing BASIX water conservation targets, the collection of rainwater/run-off for non-potable uses exceeding the target is encouraged; and e) A qualified drainage/hydraulic engineer will design all stormwater controls, devices and water storage systems; and	Stormwater will be managed as currently arranged on the site noting no external additions to the building proposed and no additional impermeable surfaces are proposed on the site.	Yes
<b>3.8 Waste Management</b> All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.	A Waste Management Plan prepared by NorthandNorth is submitted with the development application addressing the Northern Beaches Waste Management Guidelines. It is noted that operational waste will be largely papers and cardboard with some beverage containers from health and performance drinks sold on the premises.  IV therapy on site will be managed by an independent third party provider who will be responsible for all equipment and any generated wastes to be handled and	Yes

MDCP2013 Relevant Controls	Response	Compliant
	removed by that contractor each. No sharp waste will be stored on site.	
<b>3.10 Safety and Security</b>		
<b>3.10.1 Safety</b> a) Vehicular Access is to be designed and located to achieve safety by: i) locating car park entry and access on secondary streets or lands where available; ii) minimising the number and width of vehicle access points; iii) providing clear sight lines at pedestrian and vehicular crossings; and iv) separating pedestrian and vehicular access. This separation is to be distinguishable and design solutions in this regard may include changes in surface materials, level changes and use of landscaping for separation.	No change is proposed to existing vehicular access. No car park is proposed	Yes
<b>Part 4 Development Controls and Development Types</b>		
<b>4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)</b>		
<b>4.2.3 Setbacks Controls in LEP Zones B1 and B2</b> 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	No changes are proposed to setbacks on the subject site.	Yes

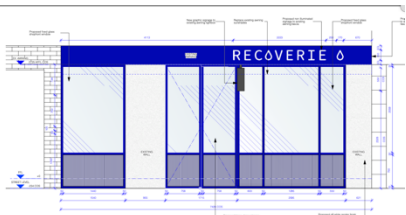


MDCP2013 Relevant Controls	Response	Compliant
<p>length of the site boundaries either side of the site corner.</p> <p>See also paragraph 5.5 Road Widening and Realignment and the former Manly Council's Corner Splay Policy for instances where the corner splay may be acquired by Council at intersections in the public interest and in the circumstances of the particular case.</p>		
<p><b>4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor</b></p> <p>4.2.4.1 Car Parking</p> <p>a) The Council may be prepared to allow exceptions to the parking rate/requirements required in this DCP in the following circumstances:</p> <p>(i) where it can be demonstrated that particular activities in mixed use developments have car parking demands which peak at different times;</p> <p>(ii) where visitors are likely to use more than one facility per trip;</p> <p>(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</p> <p>(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).</p> <p>See also paragraph 4.2.5.4.b. regarding section 94 Contributions for onsite parking requirements in Manly Town Centre.</p>	<p>The parking requirements for the subject site are the following:</p> <p><b>Commercial Premises</b></p> <ul style="list-style-type: none"> <li>• 1 parking space for every 40sqm of gross floor area.</li> </ul> <p><b>Restaurants or Cafes and Take Away Food and Drink Premises:</b></p> <ul style="list-style-type: none"> <li>• 1 parking space for every 40 sqm of gross floor area of serviced area,</li> </ul> <p><i>Note: Where (Commercial Premises and) Restaurants or Cafes and Take Away Food and Drink 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).</i></p> <p>No Car parks are allocated to this tenancy.</p> <p>It is noted the previous use for take away food store operated with no carparking allocated and this use will generate less parking demand as there will be less patrons on site with sessions generally taking approximately 30 minutes each and trips will be spread over the entire day and not at peak meal times</p> <p>Due to the central location of the premises, and the length of time of treatments, the clients can either find local public parking or attend the premises while attending to other business in the Manly Town Centre.</p> <p>There is no ability to retrofit car parking for this centre as it supports CBD pedestrian dominant environments.</p> <p>Refer to 4.2.5.4 Car Parking and Access: Exceptions to parking rates/ requirements in Manly Town Centre</p>	<p>Exceptions apply</p>
<p><b>4.2.5 Manly Town Centre and Surrounds</b></p>	<p>The site is identified as part of the Manly Town Centre</p>	



MDCP2013 Relevant Controls	Response	Compliant
<p>4.2.5.1 Design for Townscape</p> <p>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.</p> <p>b) Maintain existing setbacks.</p> <p>c) New development to enhance townscape characteristics, disregarding existing unsympathetic buildings.</p> <p>d) Step back development around the intersection of Sydney Road and Whistler Street to reveal the historic building (church) at this intersection.</p> <p>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.</p> <p>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).</p> <p>4.2.5.3 Security Shutters</p> <p>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.</p> <p>4.2.5.4 Car Parking and Access</p> <p><u>Exceptions to parking rates/ requirements in Manly Town Centre</u></p> <p>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:</p> <p>(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;</p>	 <p>a) Achieved</p> <p>b) Achieved</p> <p>c) N/A</p> <p>d) N/A</p> <p>e) N/A</p> <p>f) N/A – No changes are proposed</p> <p>Achieved</p> <p>a)</p> <p>i) N/A</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>

MDCP2013 Relevant Controls	Response	Compliant
<p>(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</p> <p>(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.</p> <p><u>Application of Manly Section 94 Contributions Plan</u></p> <p>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.</p> <p><i>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.</i></p> <p><u>Location of Driveways</u></p> <p>c) No driveway crossover should be less than 10m from a major street intersection and vehicular crossovers should be minimal in size.</p>	<p>ii) This is an existing shop top housing development close to the centre, no carparking is available on site.</p> <p>iii) Achieved</p> <p>b) Noted</p> <p>Noted</p>	<p>Yes</p> <p>Noted</p> <p>Noted</p>
<b>4.4 Other Development (all LEP zones)</b>		
<p><b>4.4.1 Demolition</b></p> <p>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:</p> <p>a) Meet ecologically sustainable development principles by conserving resources and energy and reducing waste from any demolition process; and</p> <p>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.</p>	<p>The proposed demolition works will not contravene ecological sustainable development principles and will not result in negative impacts to any nearby heritage item or conservation area</p>	<p>Yes</p>

MDCP2013 Relevant Controls	Response	Compliant
<p>See also paragraph 3.2.1 Consideration of Heritage Significance.</p> <p><i>Note: Where more than half of the building is to be demolished, then the provisions of this plan will apply to the whole building including both existing and new development. See paragraph 4.4.2 regarding the extent to which this plan applies to alterations and additions and regarding the extent to which alterations and additions may demolish a building before it is considered to be new work.</i></p>		
<p><b>4.4.2 Alterations and Additions</b></p> <p>Manly Council promotes the retention and adaptation of existing buildings rather than their demolition and replacement with new structures.</p> <p>See also paragraph 3.2.2 Alterations and Additions to Heritage Items and Conservation Areas.</p> <p>See also paragraph 4.1.7 First Floor and Roof Additions (for Residential Development).</p> <p>See also paragraph 4.4.1 Demolition.</p> <p><u>Extent to which this Plan Applies to Alterations and Additions</u></p> <p>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.</p> <p>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.</p>	<p>The proposed works do not involve the demolition of more than half of the existing building and thus are considered alterations and additions.</p>	<p>Yes</p>
<p><b>4.4.3 Signage</b></p> <p><u>Maximum number of Signs</u></p> <p>a) In relation to shopfronts, a maximum of 2 identification signs will be permitted per frontage (for example 1 fascia and 1 hamper sign), in any 2 of the following preferred locations:</p> <ul style="list-style-type: none"> <li>• Under awning;</li> <li>• Awning fascia;</li> <li>• A transom sign above the door or shopfront (top hamper);</li> <li>• Inside the display window;</li> <li>• Below the window sill; and</li> <li>• Flush wall signs.</li> </ul>	<p>Reference DA 05</p> <p>a) Replace lettering on existing awning fascia and existing awning lightbox.</p> 	<p>Yes</p>

MDCP2013 Relevant Controls	Response	Compliant
<p><u>Excessive signage</u></p> <p>b) Excessive signage usually has an opposite effect to its original intention. The cluttering causes visual pollution and confusion to the observer. Having fewer, but clearer advertising assists not only the advertiser, but also the appearance of the building and the overall streetscape. Excessive signage tends to have a “domino effect”, by competing with neighbouring premises in order to gain the advantage in exposure. Advertising Content</p> <p>c) Advertising content must relate to the building or goods sold on the premises to which it is attached. Any third party advertising of goods sold on the premises must not dominate the advertising of the building or premises. Where the maximum number of signs is achieved in locations in accordance with a) above, further signs, particularly above the awning are not permitted.</p> <p>d) <u>Design Integration</u></p> <p>i) The design of signs is to be integral to the architectural style and finishes of the building to which they are attached, rather than a “tack on” appearance. In this regard, above awning signs level of a projecting nature are restricted. See also paragraphs 4.4.3.3.c &amp; d.</p> <p>ii) Applicants designing new buildings or alterations and multi-tenant buildings refurbishment of existing buildings are strongly encouraged to take into account advertising requirements at an early stage, as an integral part of the building. In this regard a Sign Concept Plan is required for the co-ordinated identification and advertising for the development with the DA. Note: Submission of signage details in conjunction with development for new buildings is preferable to the submission of a separate DA for signs to ensure any issues can be resolved in the initial design of the development.</p> <p><u>Streetscape</u></p> <p>e) Signs must not have an adverse impact on the streetscape in terms of unobtrusive design, colour, height, size and scale in proportion to building and other urban elements. Not only should a sign be simple, clear and efficient (with a reasonable degree of visibility), but a well-designed sign inspires and promotes confidence in the business or product advertised without impacting on the streetscape.</p> <p>f) <u>Maintenance</u></p>	<p>b) The signage is discreet and not excessive.</p> <p>c) content relates to the business being carried out on site.</p> <p>d) the design of signs is fully integrated into the aesthetic, treatment and colour scheme of the tenancy.</p> <p>e) Signage is discreet and will not impact the streetscape.</p> <p>f) The buildings architecture is not spoilt by the proposed sign package</p>	

MDCP2013 Relevant Controls	Response	Compliant
<p>i) Building facades should not be visually spoiled by electrical conduits to illuminated signs or spot lights, and should therefore be taken directly into the building or otherwise concealed by chasing into external walls.</p> <p>ii) Signs should be located at a height which avoids impact from footpath maintenance vehicles and discourages vandalism.</p> <p>g) <u>Safety</u></p> <p>i) Council will give due attention to all applications with respect to possible distraction of motorists due to illumination, position, colours, design and proximity to traffic lights. Signs facing roads with high traffic volumes, traffic lights or major intersections may be referred to other relevant authorities such as the NSW Roads Agency for comment.</p> <p>ii) Signs must be maintained in good and substantial repair and in a clean and tidy condition at all times. Council will not favour signs which are prone to deterioration in appearance and condition, and may order removal of objectionable or unsightly advertisements.</p> <p>h) <u>Illumination</u></p> <p>i) In considering the illumination of signage care is be given to avoid nuisance from glare and spillage of light which may impact on both residents, particularly in the Residential LEP Zones (including E3 &amp; E4) as well as to passing traffic. Depending on the location, and its relationship to residential premises, Council may require that illumination be controlled by automatic time clocks extinguishing illumination between 10pm and 6am, or as appropriate in the circumstances.</p> <p>ii) A floodlit sign which projects over a public road must not be illuminated by a lighting medium which is less than 2.6m above the ground. Lighting must not cause distraction or nuisance to neighbouring properties or traffic.</p>	<p>g) the signs are not flashing and will not distract motorists.</p> <p>Maintenance noted.</p> <p>Not in a residential zone, however , light spill and glare will not result from the signs. Signs to be turned off after hours.</p>	
<p><b>4.4.3.3 Controls for Particular Development Types</b></p> <p><u>Signs above awning height</u></p> <p>c) Signs, including projecting wall signs are not generally allowed above awning height and are to be located below the awning height rather than on the building facade above the awning, or if there is no such awning, signs are to be within 2.5m of the footpath level below.</p>	<p>c) Existing under awning sign to be re lettered</p>	<p>Yes</p>

MDCP2013 Relevant Controls	Response	Compliant
<p>d) Council will consider on merit, exceptions for signs above awning height applications which are:</p> <ul style="list-style-type: none"> <li>i) flush to the wall;</li> <li>ii) proportionate to the scale, size and height of the host building and adjoining buildings;</li> <li>iii) in keeping with the architectural design and finish of the building; and</li> <li>iv) considerate of the form and appearance of existing advertising and the shape and compactness of the proposed signage.</li> </ul>	d) N/A	N/A
<p>e) Under-awning signs</p> <ul style="list-style-type: none"> <li>i) are to be limited to 1 under awning sign per site;</li> <li>ii) must be positioned at least 3m from any other awning sign to which this item applies, measured at the centre of each sign to allow for fair exposure and usability;</li> <li>iii) When a site has an exceptionally wide shopfront(s), more than one under-awning sign may be considered, but must in this instance be at least 4m apart;</li> <li>iv) must be at least 2.6m at any point above the ground (footpath level) and erected approximately horizontal to the ground</li> <li>v) must not exceed 2.5m in length and be offset a minimum of 0.6m behind the kerb;</li> <li>vi) are not to project beyond the edge of the awning;</li> <li>vii) must not be wider than 0.18m when not illuminated and 0.4m when illuminated;</li> <li>viii) must not exceed 0.5m in depth (the distance between the top and bottom edges of the structure);</li> <li>ix) must be erected at right-angles to the building to which the awning is attached; and</li> <li>x) must be securely fixed to the awning by means of suitable metal supports not exceeding 50mm in width or diameter.</li> </ul>	e) Achieved – 1 under-awning sign exists and is being re lettered	Yes
<p>i) <u>Fascia signs</u></p> <ul style="list-style-type: none"> <li>i) must not project above or below the fascia or return end of the awning to which it is attached;</li> <li>ii) must not extend more than 0.3m from the fascia end of the awning; and</li> <li>iii) unless the council otherwise approves, must not extend or project beyond a point 0.6m within the vertical projection of the kerb line.</li> </ul>	<p>i) sign wrapping around the awning fascia.</p> <ul style="list-style-type: none"> <li>i) Achieved</li> <li>ii) Achieved</li> <li>iii) Achieved</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

MDCP2013 Relevant Controls	Response	Compliant
<b>5.4 Environmentally Sensitive Lands</b>		
<p><b>5.4.1 Foreshore Scenic Protection Area</b></p> <p>5.4.1.1 Additional matters for consideration</p> <p>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.</p> <p>a) Further to matters prescribed in the LEP, the development in the Foreshore Scenic Protection Area must also:</p> <ul style="list-style-type: none"> <li>i) minimise the contrast between the built environment and the natural environment;</li> <li>ii) maintain the visual dominance of the natural environment;</li> <li>iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;</li> <li>iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;</li> <li>v) locate rooflines below the tree canopy;</li> <li>vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and</li> <li>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.</li> </ul> <p>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.</p>	<p>The proposal would not result in any adverse impacts upon the natural environment noting it is primarily for internal alterations and additions and shopfront and signage renovation.</p>	<p>Yes</p>

## 5 Environmental Effects

Under the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act), in determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development subject of the development application.

**Table 7** Section 4.15(1) Provisions to consider

<b>EPA Act 1979 - Section 4.15(1)</b>	
<b>a) The Provisions of</b>	
	Response
i) any environmental planning instrument	The key relevant planning instrument is the Manly Local Environmental Plan 2013. The proposal supports the aims of the LEP and is in accordance with all other relevant provisions of the documents, as discussed in section 4. The proposal has been assessed against all the relevant planning instruments and complies.
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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	N/A
iii) any development control plan	The proposal has been assessed against the Manly Development Control Plan 2013 and complies, as outlined in section 4.
(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	There is no planning agreement
iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	There are no relevant matters prescribed by the regulations
v) (Repealed)	N/A

The environmental impacts of the proposal have been considered throughout this SEE. The table below provides further assessment of all potential impacts considered within Section 4.15(1)(b) of the EPA Act 1979.



**Table 8** Response to Potential Environmental Impacts

Potential Impacts	Response
<i>Context and Setting</i>	<p>The proposal is for the change of use and associated alterations and additions of an existing premises in an area zoned B2 – Local Centre. The proposal is permissible in the zone.</p> <p>The proposed alterations and additions are considered to be compatible with adjacent land uses. The proposal is considered to have no impact on the environment and is consistent with the approved use of the site and is therefore considered to be compatible within its context and setting.</p>
<i>Access, Transport and Traffic</i>	No private car parking currently exists for the tenancy and the use proposed is considered to generate less trips than a take away food premise and restaurant.
<i>Public Domain</i>	The proposed façade and sign alterations and additions have been designed to conform to the local character and will not negatively impact the public domain.
<i>Utilities</i>	Utilities will serve the site as prior to development and will be upgraded where necessary.
<i>Heritage</i>	The proposal would not impact upon the significance of any nearby heritage item or conservation area.
<i>Other Land Resources</i>	No other land resources will be impacted by the proposal.
<i>Water Quality</i>	Stormwater runoff will not be increased noting no additional impermeable areas are proposed on the site.
<i>Air and Microclimate</i>	The air and microclimate will be maintained as a result of this proposal.
<i>Ecological</i>	The principles of ecologically sustainable development will be continued. The proposal will not impact any existing ecological areas in the vicinity of the site.
<i>Waste</i>	<p>Any waste generated during the construction/demolition process will be disposed of to a registered waste facility by the contractor as detailed on the waste management plan submitted with this development application.</p> <p>Ongoing waste shall be managed according to the waste management plan.</p>
<i>Energy</i>	Energy saving devices will be utilised wherever possible.
<i>Noise and Vibration</i>	Noise and vibration is not expected to increase as a result of the development.
<i>Natural Hazards</i>	The site is not subject to any natural hazards.
<i>Technological Hazards</i>	All installations at this facility will be best practice and comply with relevant Australian Standards.
<i>Safety, Security and Crime Prevention</i>	The proposal is not expected to result in any security issues.

Potential Impacts	Response
<i>Social Impact in Locality</i>	The proposal will not have a negative social impact in the locality.
<i>Economic Impact in Locality</i>	The development will positively impact the locality during the construction phase by providing potential employment to trades people during the build.
<i>Site Design and Internal Design</i>	The alterations and additions have been designed to sit within the existing building footprint and to comply with local design quality standards.
<i>Construction</i>	A construction management plan will be implemented to ensure there are no off site impacts resulting from construction activities on the site.
<i>Cumulative Impacts</i>	No negative cumulative impacts are expected to be created by this development.

## 6 Conclusion

The proposed development has been assessed against the provisions of the Manly LEP 2013 and Manly DCP 2013 and is consistent with the overall aims and objectives of the plans. The development represents a sustainable design solution for the subject site that is within the public interest. The following reasons warrant the proposal worthy of approval:

- The proposed change of use and associated modifications of the existing premises will provide high-quality therapy and recovery services to the locality.
- The proposal will continue to provide an active street frontage consistent with the local provisions for the local centre.
- The proposed development will result in employment opportunities for the locality.
- The proposal will not negatively impact the amenity of the neighbourhood and will not impact the existing built form on the site, therefore keeping with the character of the locality.
- The proposal will not impact upon the amenity of adjoining dwellings or the neighbourhood with regards to overshadowing, privacy, or existing views.