

Tenancy 5 - 39 East Esplande, Manly Change of use to gym

Statement of Environmental Effects – October 2020



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INTRODUCTION

1. Overview

This Statement of Environmental Effects has been prepared by Mod Urban Pty Ltd to support a development application on behalf of the owners of 39 East Esplanade and relates to the proposed change of use from commercial tenancy to recreation facility (indoor) at Tenancy 5, 39 East Esplanade, Manly. The site is legally described as Lot A & B DP 163283.

The proposed change of use to Tenancy 5 to a gym is highly compatible with the existing development and use of the site as well as surrounding land uses. The proposal will ensure that the premises do not impact on the amenity of surrounding occupiers.

The provisions of the Manly LEP 2013 apply to the site, and the proposal is considered to be consistent with its objectives. The site is also located within the Northern Beaches Council area.

This SEE provides an assessment of the proposal against the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000 (as amended).

SITE ANALYSIS

2. The Subject Site

The site is located at Tenancy 5, 39 East Esplanade, Manly and is legally described as Lot A & B DP 163283.

2.1 Site Details

- The site is a six storey building on the corner of East Esplanade and Wentworth Street. Entry to the subject tenancy is from Wentworth Street via an internal lobby and the tenancy is located on the ground floor.
- The subject tenancy is vacant, however was formerly used as a commercial tenancy. A beautician, a Pilates Studio, Dentist and restaurant are located on the ground floor.
- The top four floors of the building are residential.
- The site is flat in topography.
- The building is not a locally listed heritage item and is located within a conservation area.

The site is identified in **Figure 1** of this SEE.

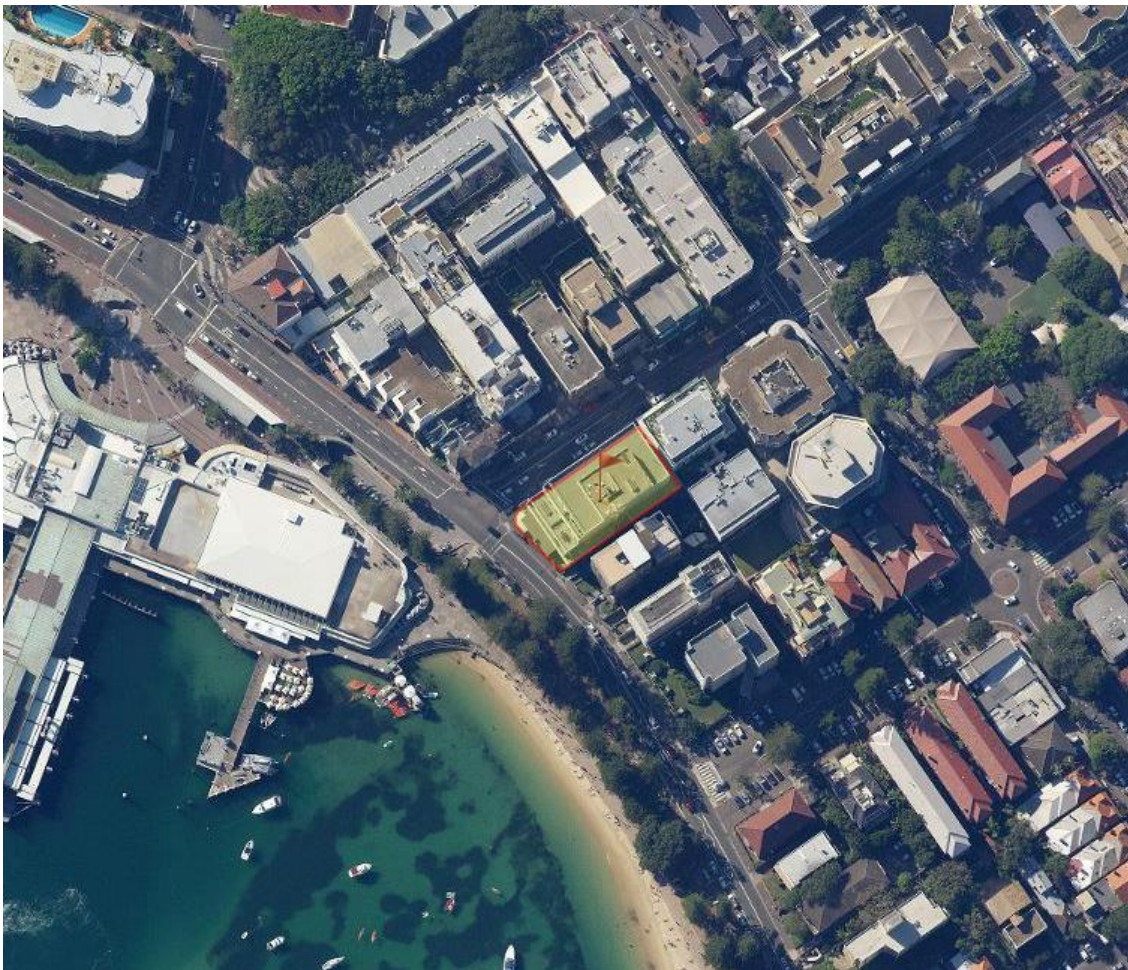


Figure 1: The site (Source: Six Maps)



2.2 Site Surrounds

- Surrounding land uses are predominantly commercial and residential.
- The site is within 500m of Manly Beach and 100m of Manly Wharf.



PROPOSED DEVELOPMENT

3. Overview

The proposal relates to the proposed use ground floor of Tenancy 5 at 39 East Esplanade, Manly as a fitness studio (*'recreation facility – indoor'*). The proposal is outlined in the plans provided at **Appendix A**.

3.1 Proposed Use and Works

- The proposal seeks the use of the ground floor of Tenancy 5 at 39 East Esplanade, Manly as a fitness studio (*'recreation facility – indoor'*).
- Typical Fitness Studio activities will involve mainly functional movement exercises using very small free weights (up to a maximum of 2 kg), as well as aerobic exercises and stretching on floor mats.
- Number of staffs at premises at any one time will be one (1) whilst the number of visitors to the premises at any one time will be eighteen (18).
- Primary access to the tenancy will be from the lobby of the building off Wentworth Street.
- Hours of operation proposed will be:
 - Monday to Friday 5.30am – 9pm
 - Saturday – 6.00am – 4.00pm
 - Sunday 6.00am – 1pm

Internal Works

- The demolition of existing partitions and make good with new flooring.

3.2 Cost of Works

The proposed cost of works is \$40,000.00

LEGISLATIVE FRAMEWORK

4. Overview

This Part of the SEE assesses and responds to the legislative and policy requirements for the project in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act).

The following current and draft State, Regional and Local planning controls and policies have been considered in the preparation of this application:

State Planning Context

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy 64 – Advertising and Signage

Local Planning Context

- Manly Local Environmental Plan 2013 (MLEP)
- Manly Development Control Plan 2013 (MDCP)

This planning framework is considered in detail in the following sections.

4.1 Environmental Planning and Assessment Act 1979

Section 4.15 of the Environmental Planning and Assessment Act 1979, requires that in determining a development application, a consent authority is to take into consideration the following matters as are of relevance to the development:

Section 4.15 Matters for Consideration	Comment
(a) <i>the provisions of:</i> (i) <i>any environmental planning instrument, and</i>	See relevant sections of this report.
(ii) <i>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 Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i>	Nil
(iii) <i>any development control plan, and</i>	The proposal generally satisfies the objectives and controls of the Manly DCP 2013. See table below and where necessary key issues section of this report.

Section 4.15 Matters for Consideration	Comment
(iia) 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	Not applicable
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and	The relevant clauses of the Regulations have been satisfied.
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. The proposal will not result in detrimental social or economic impacts on the locality.
(c) the suitability of the site for the development,	The proposed development is suitable for the site.
(d) any submissions made in accordance with this Act or the regulations,	No submissions have been raised at this stage, and the applicant has notified each adjoining neighbor of this proposal.
(e) the public interest.	The proposal is in the public interest as it recreational facilities for surrounding residents and visitors to Manly, and will not impact upon the streetscape character and not result in detrimental amenity impacts to neighbours.

4.2 State Environmental Planning Policy 64 – Advertising and Signage

SEPP 64 applies to all signage:

- (a) that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and
- (b) is visible from any public place or public reserve.

The proposal does not include any signage, and any future signage for the tenant will form part of a separate development application.



4.3 Manly Local Environmental Plan 2013

Use and Zoning

The Manly Local Environmental Plan 2013 (MLEP2013) was prepared to meet new State Government guidelines for local planning documents.

The subject site is located in B2 Local Centre Zone under Manly LEP, 2013 and the change of use to '*recreation facilities – indoor*' are permissible within the zone.

Height of Buildings

No change to height to the building.

FSR

No additional GFA is proposed as part of the application.

Earthworks

The proposal does include earthworks.

Heritage

The site is not a heritage item and is not located within a heritage conservation area.

Foreshore Scenic Protection Area

Clause 6.9 of the MLEP gives provision that development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

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

The proposal will continue to maintain the visual and scenic qualities and appearance of the foreshore. No conflicts between the use of the site and the ocean and harbour will occur.

4.4 Manly Development Control Plan 2013

The Manly Development Control Plan 2013 (the DCP) was adopted by Manly Council in 2013.

The Environmental Planning and Assessment Amendment Act 2012, which commenced on 1 March 2013, has clarified the purpose and status of development control plans, being to '*provide guidance*' to proponents and Councils in achieving land use zone objectives and facilitating permissible development under an environmental planning instrument.

Furthermore, to assist in the assessment of development applications, the amended legislation states that where a proposal does not comply with DCP controls, the consent authority is to be *'flexible in applying those provisions'* and allow for *'reasonable alternative solutions'* that achieve the objectives of those standards for dealing with that aspect of the development.

It is important to recall these revisions to the status and application of DCPs in development assessment.

Section 97C, subsection (3A) of the EP&A Act provides the following:

(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.*

The review of the Manly Development Control Plan is applicable to the proposed change of use. As the Tenancy subject of this development application is internal to the building and does not have direct frontage to the street scape, there are no relevant Manly Development Control Plan controls related to the proposed use.

Manly DCP 2013 Control	Compliance Y/N	Comment
3.1 Streetscapes Townscapes	Y	The proposed change of use of the premises will maintain the character and appearance of the building and the character of the surrounding area. No impacts will occur to the streetscape or the scale or the bulk of the building.
3.4.4 Amenity – Other Nuisance	Y	No significant noise is anticipated in relation to the use of the premises. Noise associated with construction/demolition will be monitored by Council and will be subject to any development consent conditions.
Clause 5.4.1 – Foreshore Scenic Protection Area	Y	The proposed development is not considered to detract from the scenic amenity of the

Manly DCP 2013 Control	Compliance Y/N	Comment
		Foreshore Scenic Protection Area when viewed from its immediate environs, subject to conditions. Further, the proposed development is considered to satisfactorily address the matters for consideration in relation to all development within the Foreshore Scenic Protection Area as set out under Clause 5.4.1.1 of the MDCP 2013 (Amendment 6)



LIKELY IMPACTS OF DEVELOPMENT

5. Overview

The likely environmental impacts of the proposed development that have been assessed include:

- Land Use
- Context and Setting;
- Design and Appearance;
- General Amenity;
- Traffic Impacts;
- Social, Environmental and Economic Impacts; and
- Suitability of Site for Development.

5.1 Land Use

- The proposal is consistent with the objectives of the B2 Local Centre zone in that it is compatible land use with the zones surrounding land uses, and 'recreational facility – indoor' as the land use is best described is permitted with development consent within the B2 Zone.

5.2 Context and Setting

- The proposed site use as a gym is appropriate within the locality, and is considered suitable for the local context. The proposed low intensity use of the premises will maintain the character of the neighbourhood.
- The proposed use will not impact on the character or integrity of the streetscape or the wider area.
- The proposal is considered acceptable on the site.

5.3 Design and Appearance

The proposal does not include any external alterations or additions. As such no impact to the building's appearance will occur.

5.4 General Amenity

In summary, the proposal will not exhibit any significant environmental impacts and will not adversely impact on the amenity of any adjoining sites. The proposal will preserve neighbouring amenity including with respect to visual amenity and noise.

The proposal will not impact upon any levels of privacy or have a visual impact, and will maintain the environmental amenity of adjacent development and the locality.

The general amenity of nearby residents will be maintained.



5.5 Traffic and Parking

- The traffic review indicates that sufficient on-site parking and on street parking is provided.
- The location of the site within walking distance of the Manly Wharf interchange area also allows good access by public transport to the site.
- In light of the above, the proposed gym would not result in increases in traffic generation or traffic effects compared to the approved development

5.6 Waste

- The proposed use is considered a very low waste generating use.
- A waste management plan will be maintained and implemented by the builder during fitout works.
- Any waste will be removed by staff into the main waste management storage areas of the overall building.

5.7 Social, Environmental and Economic

The proposal will continue to enable the use of the site for commercial purposes, contributing to providing diversity to recreational facilities in the locality. The proposal also ensures employment generation on the site, and will benefit the local economy.

The proposal will not have any adverse economic or environmental impacts.

5.8 The Suitability of the Site for Development

Located within the B2 Local Centre zone, the proposed use of the tenancy is consistent with the zone objectives, the provisions of relevant statutory and strategic documents and the surrounding context.

The proposal is of a nature in keeping with the overall function of the site. The premises are in predominantly commercial surroundings.

The proposed development is also compatible with surrounding land uses and will achieve a good level of amenity for adjoining land owners and operators.

Accordingly, the site is considered to be suitable for the development.

5.9 Any Submissions Made in Accordance with the Act

No submissions are apparent at the time of writing.

5.10 The Public Interest

The proposed development will have no adverse impact on the public interest.



CONCLUSION

This SEE provides an assessment of the proposal against the relevant environmental planning framework.

The assessment finds that the proposal is consistent with the objectives and controls of the relevant statutory and policy framework. No adverse environmental, economic or social impacts have been identified as resulting from the proposed development.

No additional significant adverse impacts have been identified as likely to arise from the proposed development which has been favourably assessed against the relevant provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

It is therefore considered that the proposal responds to site constraints and provides a suitable outcome. Accordingly, it is requested that Council grant consent to the proposal.



Appendix A – Survey



Appendix B – Plans



Appendix C – Cost of Works



Appendix D – Heritage Impact Statement



Appendix E – Waste Management Plan