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 12 August 2019

STATEMENT OF ENVIRONMENTAL EFFECTS – development application for alterations and additions to the existing Café in West Esplanade Manly known as “Sliderz Café” located adjacent to the water slides known as “Manly Surf N Slide” next to the Manly Pavilion Restaurant and Function Centre. The proposal involves internal rearrangement, kitchen, replacement of doors and windows, internal seating for 24, outdoor seating for 24 within lease boundary, new signs, fencing and landscaping. Existing operation hours remain being 7am to 10pm.

The property comprising the sub Lease is described as part Lot 1144101 located above mean high water and Part Lot 2 DP 1019352 opposite the former Manly Sea Life Sanctuary/Ocean World Manly which closed its doors early 2018 after approximately 40 years. Refer to Survey plan attached.

OWNER: Crown Land managed by Northern Beaches Council and in the process of being taken over by the NSW Roads and Maritime Service (RMS) - with a head lease to the Manly Bathing Pavilion held by the company Miramare Gardens (Manly Pavilion) Pty Ltd (Severino family) who has sub-leased the cafe premises Sliderz Cafe to Manly Surf N Slide Pty Ltd (Tracey and Mark O’Sullivan). It is the café only that relates to this application.

APPLICANT: Tracey and Mark O’Sullivan of Manly Surf N Slide Pty Ltd.

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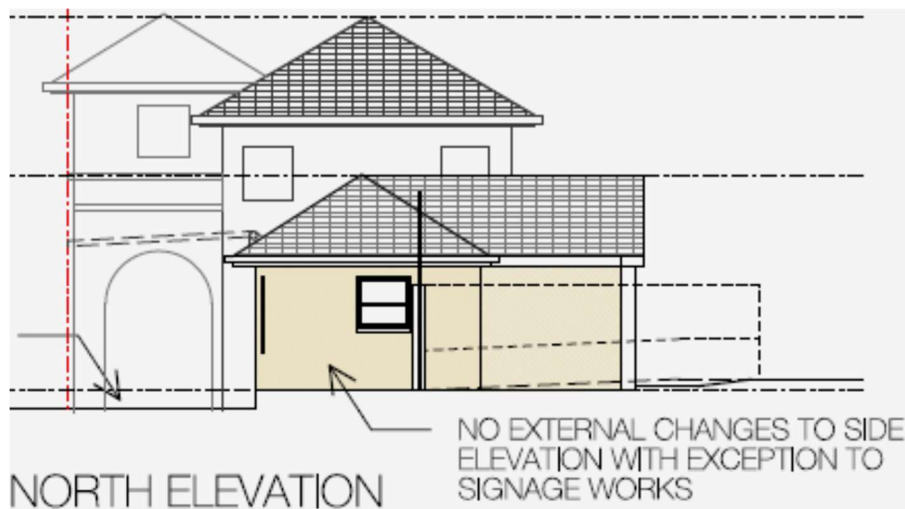
Above - Existing single storey Café Arrowed



Above - Proposed Front – East Elevation



Above - Proposed West Elevation (above)



Above - Proposed North Elevation

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STATEMENT OF ENVIRONMENTAL EFFECTS – development application for alterations and additions to the existing Café in West Esplanade Manly known as “Sliderz Café” located adjacent to the water slides known as “Manly Surf N Slide” next to the Manly Pavilion Restaurant and Function Centre. The proposal involves internal rearrangement, kitchen, replacement of doors and windows, internal seating for 24, outdoor seating for 24 within lease boundary, new sign, fencing and landscaping. Existing operation hours remain being 7am to 10pm.

1.0. Introduction and Documents

1.1. This Statement has been prepared to accompany a development application for alterations and additions as contained in architectural drawings prepared by Rich Carr Architects. The drawings and documents assessed in this Statement and those to be submitted with the development application are:

Document	Document Ref	Prepared By	Date
Cover Sheet and Notes	DA-1001A	Rich Carr Architects	02.08.19
Site Plan/Analysis Plan	DA-1051A	Rich Carr Architects	02.08.19
Existing Floor Plan	DA-1052A	Rich Carr Architects	02.08.19
Existing Roof Plan	DA-1053A	Rich Carr Architects	02.08.19
Existing Elevations	DA-1054A	Rich Carr Architects	02.08.19
Ground Floor Plan	DA-1101A	Rich Carr Architects	02.08.19
Roof Plan	DA-1102A	Rich Carr Architects	02.08.19
Section Sheet	DA-1201A	Rich Carr Architects	02.08.19
Elevations Sheet	DA-1301A	Rich Carr Architects	02.08.19
Signage Details	DA-1501A	Rich Carr Architects	02.08.19
Notification Plan	Notification	Rich Carr Architects	02.08.19
Waste Management Plan	DA-1801	Rich Carr Architects	02.08.19
Survey Plan – Detail	20095	Bee and Lethbridge Surveyors	01.06.16
Survey Plan – for Sub Lease	20095-Lease01	Copland C. Lethbridge	04.05.18
Statement of Environmental Effects – including Heritage		Colco Consulting Pty Ltd	12.08.19

1.2. This Statement assesses the proposal in relation to planning controls and related legislation applying to this property. In our opinion, this Statement of Environmental Effects (SEE) provides the consent authority with a reasoned basis upon which to assess the development application.

2.0. Property Description and Surrounding Locality Analysis

2.1. **The property comprising the sub Lease is described as part Lot 1144101 located above mean high water and Part Lot 2 DP 1019352** opposite the former Manly Sea Life Sanctuary/Ocean World Manly which closed its doors early 2018 after 55 years. Refer to Survey plans attached and architect’s site plan below. The proposal relates to the café area only at the northern part of the Manly Bathers Pavilion building. A café has operated in this building for very many years and is now known as “Sliderz Café”.

2.2. The site is located at the western end of Manly Cove adjacent to the Manly Art Gallery and Museum and the former Manly Sea Life Sanctuary/Manly Ocean World which closed early 2018. The café is part of a group of buildings with the café comprises the northern part of the former Bathers Pavilion. The site has pedestrian access along the public foreshore walkway known as Esplanade Park and a walkway from Commonwealth Parade being the street located above the subject site.

2.3. The locality is characterised by its foreshore locality and water and foreshore-based leisure and recreational facilities. The premises on the high side of the adjacent streets, West Esplanade and Commonwealth Parade, are residential in nature comprising multi-storey residential flat buildings. The Café is serviced by excellent public transport facilities including the Manly Ferry Service and the Bus transport interchange at Manly Wharf with bus routes throughout the Northern Beaches area and to the Sydney CBD, St. Leonards and Chatswood.



Above - Subject Café – “Sliderz” being primarily the single storey part – arrowed



Above - Architects Site Plan and Site Analysis Plan

3.0. Proposal

3.1. The purpose of this development application is to upgrade the existing Café facility operating under current consents. The application proposes minor alterations and additions to “Sliderz Café”; retains the existing café facility with minimal changes and will continue with current operations including hours of business, servicing arrangements, access, parking off West Esplanade as previously in current consents.

Refer to consents - Nos. DA118/2002; S96 118/2002; 188/2002; 520/2002 and DA381/06 for the café area. There are also numerous consents relating to the main Bathers Pavilion building including – DA 25/2009 approved by the NSW Land and Environment Court on Appeal; and DA Nos. 279/2003; 163/2005; 372/2010; 140/2016, some of which we understand included the Shop/Café.

3.2 The Café has existing use rights established (*). The proposal involves minimal changes which in our opinion, do not impact on heritage issues. Refer also to clause 7.0 of this report.

3.3. The development proposal involves (Refer to the development application drawings for details):

- Internal rearrangement.
- New kitchen and staff facilities.
- Replacement of existing timber bi-fold doors at the front with new aluminium bi-fold doors.
- Extension of outdoor seating with landscaping in planter boxes.
- Seating - internal seating for 24 and external seating for 24 within the lease area.
- One additional sign; fencing and landscaping.
- Existing hours unchanged – 7am to 10pm.

The proposal is an important upgrade of the existing Café with minimal alterations with the objective of ensuring the viability of this Café business and to meet customer expectations.

4.0. History of Café - Previous known consents; and Documents.

4.1. The following is a brief background; and details of consents since 2002 being the only information available on the Council web site with no information available prior to that year:

1. We understand from local enquiries that a cafe was approved in the former shop and office areas very many years ago; and the café has continued to operate as such with subsequent consents.
2. Development consent No. 118/2002, S96, and 188/2002 were issued for alterations in 2002.
3. On 20 December 2007 development consent No. 381/2006 was issued for “Internal refurbishment and change of use of existing office space to refreshment rooms to allow extension of existing café.”
4. On 6 June 2017 a covering letter addressed to Northern Beaches Council (NBC) and a package of the then proposed Development Application documents were delivered by Colco Consulting Pty Ltd to the Manly Branch of the NBC requesting they “expedite” the process of owner’s consent:
 - We were informed that Council would forward the package and letter to the RMS/ and Department of Primary Industries. However, we don’t know if that ever happened.
 - On 16 August 2017 Colco Consulting received a letter from Council - “I confirm that Council, as Reserve Trust Managers for the site, supports the proposals for your clients to obtain permission from Department for Primary Industries on behalf of the Crown to lodge the Development Application.” The letter also states “... the future use of this land is yet to be determined.”
 - *That proposed development application did not proceed; and no further correspondence was received from Northern Beaches Council (NBC) to our knowledge.*

4.2. We are now advised by the applicant’s representative Tracey O’Sullivan that:

- *She has been informed that the NSW Roads and Maritime Service(RMS) has agreed to take over full control of the Crown lands; however, in the meantime the land is still managed by Northern Beaches Council on a month-to-month basis whilst in the process of being handed over to the (RMS).*
- *The responsible parties have all agreed to provide owners consent to lodge the development application.*

5.0. Planning Controls and SEPPs Applicable

5.1. The Section 149 Planning Certificate No. 300008 dated 05/10/2016 issued by Northern Beaches Council which we understand remain current, states that the relevant planning instruments and development control plans that may apply are as follows:

Planning Instrument	Comments
Manly LEP 2013	YES - Assessed within this Statement (SEE)
SEPP 21 – Caravan Parks	NO - Does not apply to this proposal
SEPP 30 – Intensive Agriculture	NO - Does not apply to this proposal
SEPP 33 – Hazardous and Offensive Development	NO - Does not apply to this proposal
SEPP 50 – Canal Estate Development	NO - Does not apply to this proposal
SEPP 55 – Remediation of Land	NO - Does not apply to this proposal
SEPP 64 – Advertising and Signage	YES - Addressed in Manly DCP assessment
SEPP 65 – Design Quality of Residential Apartment Development	NO - Does not apply to this proposal
SEPP 70 – Affordable Housing	NO - Does not apply to this proposal
SEPP 71 – Coastal Protection	NO - Does not apply to this proposal
SEPP (Building Sustainability Index: BASIX) 2004	NO - Does not apply to this proposal
SEPP (Housing for Seniors or People with a Disability) 2004	NO - Does not apply to this proposal
SEPP (Major Development)	NO - Does not apply to this proposal
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO - Does not apply to this proposal
SEPP (Infrastructure) 2007	NO - Does not apply to this proposal
SEPP (Miscellaneous Consent Provisions) 2007	NO - Does not apply to this proposal
SEPP (Exempt and Complying Development Codes) 2008	NO - Does not apply to this proposal
SEPP (Affordable Rental Housing) 2009	NO - Does not apply to this proposal
SEPP (State and Regional Development) 2011	NO - Does not apply to this proposal
Sydney Regional Plan (Sydney Harbour Catchment) 2005 (Deemed State Environmental Planning Policy)	YES - Assessed in table within this Statement of Environmental Effects (SEE)

6.0. Environmental Effects Assessment – Statutory Planning

6.1. Planning Assessment – Applicable Controls:

1. Environmental Planning and Assessment Act
2. Manly Local Environmental Plan 2013
3. Manly Development Control Plan 2013
4. State Planning Instruments:
 - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP).
 - Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005.

6.2. Environmental Planning and Assessment Act 1979 as amended Section 4.15.

6.2.1. Section 4.15 of the EP&A Act details the relevant matters that a consent authority is to consider in determining a development application - 4.15 Evaluation (1) Matters for consideration.

6.2.2 Environmental Planning and Assessment Act Section 4.15 Assessment Table

Proposed: The purpose of this application is to upgrade the existing Café facility operating under current consents. The application proposes minor alterations and additions to “Sliderz Café”; internal rearrangement, kitchen and staff facilities, replacement of doors and windows, internal seating for 24, outdoor seating for 24 within the lease area, new signs, fencing and landscaping. The existing café is retained and will continue with current consent provisions including hours of business, servicing arrangements and access.

EP&A ACT 1979 SECTION 4.15		
Planning Control	Instrument/Zoning/Control	Comment
Any environmental planning instrument,	Manly LEP 2013. Land shown on Maps as RE1 Public Recreation.	The proposal is permissible; limited in extent with minor changes only to the building, continues existing café use and

	Sydney Regional Plan (Sydney Harbour Catchment) 2005 (Deemed State Environmental Planning Policy)	hours; and is compatible with the amenity of the surrounding areas. This is not a late-night trading venue.
Any proposed instrument that is or has been the subject of public consultation and notified to the consent authority	None applicable	
Any development control plan	Manly Development Control Plan 2013 (DCP) Sydney Regional Plan (Sydney Harbour Catchment) DCP	Relevant controls assessed in the accompanying tables.
Any planning agreement that has been entered into under s4.15(1)(a)(iiia)	None applicable	
The regulations (to the extent that they prescribe matters for the purposes of this paragraph) – s4.15(1)(a)(iv)	None applicable	
Any Coastal Zone Management Plan - Section 4.15(1)(a)(v)	Not applicable	Not applicable
The likely impacts of the development including environmental impacts on both the natural and built environments and social and economic impacts in the locality – s4.15(b)	MLEP 2013 and MDCP 2013 and SREPP (Sydney Harbour Catchment) 2005 – deemed SEPP.	1. The subject premises has operated as a café for many years in accordance with past consents. The proposal continues that use with updated facilities with no significant change to the appearance of the premises. Increased outdoor seating is proposed which has become the norm for cafés and restaurants in a cosmopolitan city. 2. The closure of Manly Se Life Sanctuary has resulted in a significant reduction in foot traffic to this area. 3. Experience indicates the business is well run and we are not aware of neighbour complaints. 4. The proposed modifications will have no apparent negative impacts on the natural or built environment, the amenity of the surrounding locality; or heritage items. Refer also to clause 7.0 of this report. 5. The modifications will further contribute to the social amenity of residents and visitor expectations.
Suitability of Site for the development –s4.15(1)(c)		The site is suitable for development proposed.
Any submission made in accordance with the Act or regulations - s4.15(d)		The consent authority will consider any submissions received following notification if notification is required.
The public interest - s4.15(e)		1. There are no apparent negative public issues. 2. The modifications respond to community demands, expectations, and business growth. Increased amenity. 3. The modifications will further contribute to the social amenity of residents and visitors and continue to ensure safety and a positive contribution to the day and night economy of the Manly CBD locality. 4. The modifications are minor and, in our opinion, do not impact on the heritage listed property or the nearby heritage items. Refer to clause 7.0 of this report.
Acid Sulphate Soils Planning map		No excavation proposed as all work is constructed on existing footings/slab.
Conclusion: 1. The proposal is permissible, involves minimal change, is considered to have no impact on heritage issues and is considered compatible with the provisions of Section 4.15 of The EP & A Act. 2. The proposal will further contribute to the social amenity of residents and visitors and expectations. 3. There are no apparent negative environmental impacts.		

6.3. Manly LEP 2013 –Assessment Table on Applicable LEP

Proposed: The purpose of this application is to upgrade the existing Café facility operating under current consents. The application proposes minor alterations and additions to “Sliderz Café”; internal rearrangement, kitchen and staff facilities, replacement of doors and windows, internal seating for 24, outdoor seating for 24 within the lease area, new signs, fencing and landscaping. The existing café is retained and will continue with current consent provisions including hours of business, servicing arrangements and access.

Planning Control		Com ply	Comment
Land use zone	The land is zoned in the Manly LEP 2013 as shown on the LEP Maps as RE1 Public Recreation (to mean high water). Permitted with consent Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Car parks; Charter and tourism boating facilities; Child care centres; Community facilities; Depots; Emergency services facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Information and education facilities; Jetties; Kiosks; Marinas; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Respite day care centres; Restaurants or cafes; Roads; Take away food and drink premises; Water recreation structures; Water recycling facilities; Water reticulation systems; Water storage facilities.	YES	Permissible and consistent with the MLEP zone objectives; present and past uses as a café/restaurant food premises in accordance with past and current development consent/s.
Zone Objectives summary	Zone RE1 Public Recreation Objectives of zone - enable land to be used for public open space or recreational purposes. - provide a range of recreational settings and activities and compatible land uses. - protect and enhance the natural environment for recreational purposes. - protect, manage and restore areas visually exposed to the waters of Middle Harbour, North Harbour, Burnt Bridge Creek and the Pacific Ocean. - ensure the height and bulk of proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.	YES	1. The proposal is permissible and consistent with the MLEP zone objectives; present and past uses as a café/restaurant food premises. 2. Additional outdoor seating relates to customer demands in a modern cosmopolitan city and enables appropriate public use for local residents and visitors. 3. The closure of Manly Sea Life Sanctuary has resulted in a considerable reduction in foot traffic to this area.
Zone RE1 Permissible Land Use	Permitted with consent Aquaculture; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Charter and tourism boating facilities; Community facilities; Depots; Emergency services facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Information and education facilities; Jetties; Kiosks; Marinas; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Respite day care centres; Restaurants or cafes; Roads; Take away food and drink premises; Water recreation structures; Water recycling facilities; Water reticulation systems; Water storage facilities.	YES	

Part 4 – Principal development standards: 4.1 minimum lot size; 4.3 Height of buildings; 4.4 Floor space ratio; and 4.6 Exceptions to development standards	Various objectives and controls – refer to MLEP 2013, of which the existing building complies.	YES	This is an existing building with no changes proposed that come within the parameters of these MLEP Part 4 controls.
5.10 Heritage conservation	1. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5. (1) Objectives The objectives of this clause are as follows: (a) to conserve the environmental heritage of Manly, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance. 2. This application involves listed items of heritage value including the adjoining former Manly Bathers Pavilion and nearby items.	YES	<u>1. Refer to clause 7.0 of this report for details and assessment comments.</u> 2. The use of the Café building doesn't change. The proposed external alterations are minimal. 3. Previous detailed heritage impact assessments undertaken for development consents for the Manly Bathers Pavilion, the subject café and adjacent waterslides concluded that the Shop/café area the subject of this application are much later additions to the Pavilion building and that existing uses do not negatively impact on the heritage items and values. 4. In our opinion a Statement of Heritage Impact is not required.
Part 6 – Additional local provisions; 6.1 Acid sulfate soils 6.2 Earthworks 6.3 Flood Planning 6.5 Terrestrial biodiversity. 6.6 Riparian land and watercourses 6.7 Wetlands 6.8 Landslip risk	Various objectives and controls – refer to MLEP 2013, of which the existing building complies or are not applicable.	YES	This is an existing building with no changes proposed that come within the parameters of these MLEP Part 4 clauses. Existing deemed to comply with current consents.
6.9 Foreshore Scenic Protection Area	(1) The objective of this clause is to protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore in Manly. (2) This clause applies to land that is shown as "Foreshore Scenic Protection Area" on the Foreshore Scenic Protection Area Map. (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters: (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore, (b) measures to protect and improve scenic qualities of the coastline, (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore, (d) measures to reduce the potential for conflict between land-based and water-based coastal activities	YES	1. The building and use are existing, and no significant change is to be made to the building envelope or its approved use as a Food Shop/Refreshment Room/café. The façade and streetscape remains primarily unchanged. 2 The proposal respects the nature of the sensitive locality on the Manly Foreshore.
6.10 Limited development on foreshore area	(1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.	YES	1. The building and use are existing, and no significant change is to be made to the building envelope or its approved use as a Food Shop/Refreshment Room/café. The

	(2) Development consent must not be granted to development on land in the foreshore area except for the following purposes: (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so, (c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors). (3) Development consent must not be granted under this clause unless the consent authority is satisfied that: (a) the development will contribute to achieving the objectives for the zone in which the land is located, and (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and (c) the development will not cause environmental harm.		façade and streetscape remains primarily unchanged. 2 The proposal respects the nature of the sensitive locality on the Manly Foreshore.
6.12 Essential; services	(1) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required: (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access.	YES	
6.13 Design excellence in designated areas.	Does not apply to this land	N/A	
Conclusion: 1. The proposal relates to an existing building and use for food premises/café operating under current consents; with minor improvements and upgrade of the café operational facilities and customer service expectations. The proposal is permissible; and is in accordance with the Manly LEP 2013 objectives and controls. 2. The former Manly Bathers Pavilion building is listed in the Manly LEP 2013 as an item of heritage value. Previous heritage assessments of the building conclude that the subject cafe area is a later addition to the original building. Refer to previous heritage Impact assessments for the overall site with previous development applications; and <u>also refer to clause 7.0 of this Statement of Environmental Effects.</u> 3. The proposal will further contribute to the social amenity of residents and visitors and their expectations. 4. There are no apparent negative environmental impacts.			

6.4. Manly Development Control Plan 2013 Compliance Table – Relevant controls and objectives only as applicable to the proposal to modify a consent condition.

6.4.1. What is a DCP? The purpose and authority of development control plans has been re-determined in recent years with the latest legislation effective from 1 March 2018 – Environmental Planning and Assessment Act 1979 (2018) - Division 3.6 – extracts below:

“Division 3.6 Development control plans (DCPs)”

3.42 Purpose and status of development control plans (cf previous s 74BA)

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

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

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

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

(3) Subsection (1) does not affect any requirement under Division 4.5 in relation to complying development.”

Note.

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

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

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

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

In summary - a development control plan is a second-tier planning document (non-statutory) that supports the Statutory planning document being the applicable Local Environmental Plan. Basically:

1. A DCP provides design guidelines to support the applicable LEP reflecting the local council expectations for development permissible in the applicable Local Environmental Plan (Statutory).
2. Development is to comply with the relevant LEP and LEP permissible variations; and generally, be consistent with the DCP controls and objectives. The DCP exists to provide guidance and to facilitate development that is permissible under the LEP - and is to be flexibly applied.
3. It is expected that development proposals will, by and large, comply with the numeric controls. Any departures must satisfy the DCP objectives and be sufficiently justified on environmental planning grounds.
4. A failure to strictly comply with the standards in a DCP is not, of itself, a reason for refusing an otherwise LEP compliant development. Instead, the consent authority should consider alternative solutions which generally achieve the objects of the DCP.

6.4.2. MDCP Assessment - Compliance Table – Applicable controls and objectives only

Proposed: The purpose of this application is to upgrade the existing Café facility operating under current consents. The application proposes minor alterations and additions to “Sliderz Café”; internal rearrangement, kitchen and staff facilities, replacement of doors and windows, internal seating for 24, outdoor seating for 24 within the lease area, new signs, fencing and landscaping. The existing café is retained and will continue with current consent provisions including hours of business, servicing arrangements and access.

MDCP	Control Objective	Com ply	Comment
PART 3 - GENERAL PRINCIPLES OF DEVELOPMENT			
3.1 Streetscapes and Townscapes	1. Minimise visual impact. 2. Ensure development generally viewed from the street complements the identified streetscape. 3. Assist in maintaining the character of the locality. 4. Recognise importance of pedestrian movements and the townscape design in the strengthening and promotion of retail centres.	YES	1. No visual apparent change to existing streetfront, waterfront or building envelope other than replacement of windows and provision of external seating and planter boxes. – these are all considered a positive improvement both visually and amenity. 2. Maintains the character of the area. 3. Recognises the importance of pedestrian traffic and maintains pedestrian access with an improved image.
3.1.3 Townscape Local Neighbourhood Centres 3.1.3.1 Design principles	1. Address individual character of an area and locality. 2. Local role of the site, scale, sense of place and sense of unity. 3. Scale, proportion, visibility, complements adjacent buildings. 4. Ground floor of premises must be at footpath level; where changes are unavoidable, complying ramps required.	YES	1. Retains existing character with a modernised image aimed at improving business and meeting customer expectations. 2. Scale and sense of place and unity is reflected in the design and materials.

3.2 Heritage considerations	Heritage management documents generally required to accompany a DA on land which is either heritage listed under the LEP Schedule 5; near listed heritage; or of potential heritage significance. Dependent on the extent of change proposed.	YES	1 The former Manly Bathers Pavilion is an Item of Heritage in the Manly LEP. Previous reports have established that the café premises are a much later addition to the Manly Bathers Pavilion. The proposal involves minimal change to the building façade. 2. Refer to clause 7.0 of this report for detailed assessment and comment
3.4.2 Privacy and Security	Not interfere in unreasonable invasion of privacy and maintain security.	YES	1. The proposal will not change the existing situation other than some additional patronage which is minor and may assist in maintaining security of the whole Bathers Pavilion area and forecourt. 2. Will have no negative impacts on the natural or built environment or privacy; or amenity of the surrounding locality which will be maintained.
3.5.6 Energy efficiency requirements-non-residential development	Non-residential development must comply with the energy efficiency requirements prescribed in Figure 17 in the MDCP: Retail, restaurant and café: 1. New or replacement hot water systems of domestic scale to be solar hot water. 2. Energy star rated electrical appliances must be supplied in accordance with paragraph 3.5.4 (requires star ratings from 1 to 4 stars depending on type of appliance).	YES	1. All appliances and lighting will be to the appropriate environmental star rating. 2. Solar hot water may be difficult due to the location of the café and the limited exposure to northern sun.
3.4.3 Maintenance of Views	Compliance with the requirements for view sharing.	YES	The proposal does not increase existing heights and retains existing envelope. Will not have an impact on any existing views.
3.4.4. Other Nuisances – Odour, fumes etc	No obnoxious odours or fumes to be released to the atmosphere. Comply with odour emission standards.	YES	The design of the kitchen and preparation areas will provide for appropriate control measures to comply with the relevant regulations.
3.5 Sustainability	1. Consider principles of ecologically sustainable development are implemented and energy efficiency. 2. Minimise waste generated and encourage recycling.	YES	Energy efficient lighting is used. Provision is made for separation of waste and commercial collection.
3.6 Accessibility	1. Have regard to all state and federal accessibility requirements. 2. Compliance with required building standards and the Building Code of Australia.	YES	The existing building, floor levels and use are retained with a compliant path access from Manly Wharf and around the West Esplanade foreshore walkway. The proposal does not require accessibility upgrading.
3.7. Stormwater Management	Comply with the consent authority stormwater policy and standards.	YES	There are no changes to the existing stormwater management and disposal.
3.8 Waste Management	1. Minimise waste generation. 2. Provide waste and recycling storage areas.	YES	1. Provision on site is made for separation of waste and regular contract commercial collection as part of the waste management plan for the premises. 2. Collection to continue as in the past by private waste contractors.
3.9 Mechanical plant and equipment	No excessive noise from the operation of mechanical plant.	YES	Plant and equipment to comply with appropriate noise emission limits and energy efficiency.
Geotechnical Hazard	The land is shown in Schedule 1 Map C as coloured green (Area G2) – Flanking slopes 15 to 25 degrees	N/A YES	No excavation proposed with all work being on existing slab footing. Therefore, no geotechnical assessment required.
PART 4 – 4.2. DEVELOPMENT CONTROLS IN BUSINESS CENTRES - LEP ZONES B1- NEIGHBOURHOOD CENTRES AND B2 LOCAL CENTRES. NOTE: It is noted the subject land is zoned RE1 Public Recreation and outside the central Manly business area. Presumably the consent authority may be guided by the DCP.			
General applicable issues	Townscape, design, diversity, interest and heritage values.	N/A	
4.2.4 Car parking and loading. 4.2.4.1 and 4.2.5.4 - Car parking. Loading bay	1. Compliance with Schedule 3 of MDCP 2013 = Retail, Restaurants and Cafes 1 space for every 40m2 of gross floor area of serviced area. 2. Council may allow exceptions to parking requirements on designated basis and merit assessment of older buildings and established uses.	YES	1. This is a long term existing business occupied and used for business activities as a shop/cafe/coffee shop serving the public generally and also patrons of the adjacent Water slides and the former Manly Sea Life Sanctuary/Manly Ocean World which closed in 2018 after 55 years. 2. The existing older style building was constructed approx. 1920/30s with no onsite parking provided or

	No S94 Contribution payable if there is no proposed increase in the floor area of an existing building		capable of being provided; as is the situation also with the adjacent Manly Art Gallery and Museum and later developments including the Water Slides and the Manly Ocean World/Manly Sea Life Sanctuary which closed in early 2018. 3. The closure of the Manly Sea Life Sanctuary has resulted in a significant reduction in foot traffic to this area. 4. The additional seating is minor and responds to increased and projected customer demand. 5. We are informed that substantial S94 parking contributions have previously been levied and paid for the overall site. 6. No loading bay is provided within the premises, nor required under the current consents and is not possible. Deliveries and servicing is managed on a responsible needs' basis during and after hours of operation - primarily the latter, as approved. Servicing will continue to be provided off West Esplanade in accordance with current consents. 7. The DCP provides that Council may allow exceptions to parking requirements on designated basis and merit assessment of older buildings and established uses and that no S94 Contribution is payable. 8. Current and prior consents for the café did not require the provision of parking or further contributions. 9. In our opinion, no further contributions are payable, and the consent authority should continue to grant exception in accord with current consents.
4.2.5.6 Noise - Late night venues – enjoyment, minimal disturbance, safety and security; noise control	1. Achieve a place of excellence in which all people can use and enjoy Manly's natural amenity and qualities as a place for leisure and entertainment; Minimum late-night disturbance; safety and security 2. Hours of operation- Restaurants and Food Outlets etc-normal maximum hours from 5am to 1am.	YES	1. The existing (proposed) hours are well within the DCP controls for Café/restaurants and food outlets. It is not a late-night venue. Proposed hours maintain existing consent hours of 7am to 10pm. 2. The modifications will be beneficial to the enjoyment of Manly as a place for leisure, fitness and entertainment and respond to customer and community demands and business growth. 3. Will result in increased amenity and safety and further contribute to the social amenity of residents and visitors and continue to ensure safety and a positive contribution to the day and night economy of the Manly CBD. 4. Noise control will be through good management ensuring consideration always to the amenity of neighbours.
4.2.5.6. Noise – General amenity	3. Noise control – La10* noise level emitted from the premises must not exceed the background of noise level in any Octaves Band Centre Frequency (31.5Hz to 8k Hz inclusive by more than 5dBa between 7am and midnight at the boundary of any affected residence. And not exceed the background noise level between 12 midnight and 7am. (*The La10 can be taken as the average maximum deflection of noise emission from licensed premises.)	YES	1. The business will continue to be well managed and operated in a sensible considerate manner with due consideration of customers enjoyment and the neighbourhood with noise levels not exceeding the DCP controls. 2. The proposal is little different to the existing long-established business. 3. The modifications will be beneficial to the enjoyment of Manly as a place for leisure, fitness and entertainment.
4.4 – OTHER DEVELOPMENT			
4.4.1 Demolition	To protect the environment during demolition, site works and construction phases.	YES	Minor only required.
4.4.2 Alterations and Additions	Existing buildings to be retained wherever possible and practical	YES	Existing building is being retained
4.4.3 Signage	Objectives summary as applicable: <u>Objective 1)</u> To ensure that advertising does not detract from the scenic beauty and amenity of the Municipality; harmonises with	YES	Refer to architect's drawings for new signage with other existing signage being retained.

	its surroundings and the buildings to which they are attached. <u>Objective 2)</u> To minimise the visual impact by unnecessary signage, visual clutter. <u>Objective 3)</u> To permit building and business identification signs which communicate the facilities (including tourist facilities), amenities, goods and services. <u>Objective 4)</u> Signs should enhance the distinctive urban character and scenic amenity of the Municipality and contribute to the atmosphere of the streets in local and neighbourhood centres. <u>Objective 5)</u> To prevent signage from impacting on the presentation of the heritage item or area to the public on heritage items and conservation areas. <u>Objective 6)</u> To ensure all signage is of high standards of graphic and textural content.		
4.4.5 Earthworks	Limit excavation; discourage alteration of the natural flow of ground & surface water.	YES	Work is contained within the existing building footprint and below the existing roofed area on the existing concrete slab. There are no earthworks required.
5.0 – Special Character Areas	Relevant DCP objectives in this plan in relation to these paragraphs include: <u>Objective 1</u> - To identify the characteristics of certain areas and sites in Manly and ensure protection and to develop standards that encourage that protection. <u>Objective 2</u> - To ensure protection of environmentally sensitive localities. <u>Objective 3</u> - To encourage a responsible development approach resulting in design of architectural merit that interprets and complements site characteristics, streetscape and the surrounding built and natural environment. <u>Objective 4</u> - To ensure the scale of development is consistent with the existing and desired character of the residential areas.	YES	1. The changes proposed in this application are minor only and relate only to the shop/café building at the northern end of the former Bathers Pavilion. This area is not part of the original heritage listed building. 2. The changes are minimal - the façade and streetscape remain primarily unchanged and retains the character of the building. are sympathetic to the existing character. 3. In our opinion, the proposal will have no impact on the heritage significance of the surviving fabric of the adjoining heritage listed building or impact on the character and continuity of the public space or conservation of the area. 4. Refer also to clause 7.0 of this report on heritage.
5.1.1 Manly Town Centre – Preservation of General Character	1. The Town Centre Urban Design Guidelines provide more detailed analysis of Manly Town Centre from an urban design point of view and provides more detailed guidelines for certain precincts and areas within the Town Centre. These precincts include v) - Manly Cove (East + West Esplanade). 2. The beautiful natural setting of the Manly Town Centre Conservation Area has provided a solid foundation for its picturesque qualities. The cultural landscape, including plantings, monuments and open spaces, reflects the continued enhancement of the Manly Town Centre Conservation Area over time, in order to attract and sustain visitors to the area, which in turn has provided great support to the local economy. The many historic vistas which remain to this day enhance the visitor experience of the Manly Town Centre Conservation Area and assist with providing an interpretation of the Manly Town Centre Conservation Area as it has changed over time. 3. The Manly Town Centre Conservation Area maintains a high level of social significance, as a popular destination for local, national and international tourists, as well as through its encapsulation of the Australian beach culture.	YES	1. Ditto as above. 2. The building is existing, and no significant change is to be made to the building envelope or its approved use as a Food Shop/Refreshment Room/café. 3. The beautiful natural marine setting will not change. The proposal will result in the retention of this appropriate use of the area which is beneficial to local residents and visitors and in keeping with the desired character of this part of the Manly Town centre.

5.4 Environmentally Sensitive Lands	Development must not detrimentally affect the visual aesthetic amenity and views to and from Sydney Harbour. The Pacific Ocean and the Manly foreshore.	YES	1. The building is existing, and no significant change is to be made to the building envelope or its approved use as a Food Shop/Refreshment Room/café. The façade and streetscape remains primarily unchanged. 2 The proposal respects the nature of the sensitive locality on the Manly Foreshore.
5.4.1.1 Foreshore Scenic Protection Area	1. Development must not detrimentally affect the visual aesthetic amenity and views to and from Sydney Harbour. The Pacific Ocean and the Manly foreshore. 2. Additional matters for consideration LEP clause 6.9(3)(a) to (d) lists certain matters to be taken into account in relation to all development within the Foreshore Scenic Protection Area. a) Further to matters prescribed in the LEP, the development in the Foreshore Scenic Protection Area must also: i) minimise the contrast between the built environment and the natural environment; ii) maintain the visual dominance of the natural environment; iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat; iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas; v) locate rooflines below the tree canopy; vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality. b) Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly.	YES	1. Ditto - as above 2. The existing nature of the foreshore is retained.
5.4.2 Threatened Species	Threatened Species and Critical Habitat Lands Any development of land with known habitat for threatened species must consider the likely impacts of the development and whether further assessment needs to be undertaken by a Species Impact Statement.	YES	1. No significant change is to be made to the building envelope or its approved use as a Food Shop Refreshment Room/Café. 2. The proposal will not intensify existing and long term uses; or impact on the environment; or existing species.
Conclusion: 1. The proposal retains the existing café with minimal changes; complies with the MDCP controls and objectives and current consents including service access from West Esplanade. 2. The existing trading hours are maintained - 7am to 10pm. 3. Independent assessments for biodiversity, threatened species, ecology are not considered necessary on the basis of the existing business and consent and the minimal nature of this application. 4. There are no apparent negative environmental impacts. 5. The proposed upgrade and outdoor seating will contribute to the social amenity of residents and visitor expectations; continue to ensure safety and a positive contribution to the day and night economy of the Manly CBD and the former Manly Bather's Pavilion area.			

6.5. State Planning Instruments:

- 6.5.1. Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP).
- 6.5.2. Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005.

6.5.1. Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP) – as applicable.

Control	Objective	Comment
Part 2 Planning principles		
12 Objective	(1) The objective of this Part is to provide a set of clear planning principles for land within the Sydney Harbour Catchment.	The proposal complies with the objectives.
13 Sydney Harbour Catchment (SHC)	The planning principles for land within the Sydney Harbour Catchment are as follows: (a) development is to protect and, where practicable, improve the hydrological, ecological and geomorphological processes on which the health of the catchment depends, (b) the natural assets of the catchment are to be maintained and, where feasible, restored for their scenic and cultural values and their biodiversity and geodiversity, (c) decisions with respect to the development of land are to take account of the cumulative environmental impact of development within the catchment, (d) action is to be taken to achieve the targets set out in Water Quality and River Flow Interim Environmental Objectives: Guidelines for Water Management: Sydney Harbour and Parramatta River Catchment (published in October 1999 by the Environment Protection Authority), such action to be consistent with the guidelines set out in Australian Water Quality Guidelines for Fresh and Marine Waters (published in November 2000 by the Australian and New Zealand Environment and Conservation Council), (e) development in the Sydney Harbour Catchment is to protect the functioning of natural drainage systems on floodplains and comply with the guidelines set out in the document titled Floodplain Development Manual 2005 (published in April 2005 by the Department), (f) development that is visible from the waterways or foreshores is to maintain, protect and enhance the unique visual qualities of Sydney Harbour, (g) the number of publicly accessible vantage points for viewing Sydney Harbour should be increased, (h) development is to improve the water quality of urban run-off, reduce the quantity and frequency of urban run-off, prevent the risk of increased flooding and conserve water, (i) action is to be taken to achieve the objectives and targets set out in the Sydney Harbour Catchment Blueprint, as published in February 2003 by the then Department of Land and Water Conservation, (j) development is to protect and, if practicable, rehabilitate watercourses, wetlands, riparian corridors, remnant native vegetation and ecological connectivity within the catchment, (k) development is to protect and, if practicable, rehabilitate land from current and future urban salinity processes, and prevent or restore land degradation and reduced water quality resulting from urban salinity, (l) development is to avoid or minimise disturbance of acid sulfate soils in accordance with the Acid Sulfate Soil Manual, as published in 1988 by the Acid Sulfate Soils Management Advisory Committee.	1. The proposal relates to an existing approved use as a café/Refreshment room and food premises and is consistent with the planning principles of the SHC: 2. Existing premises with minimal change proposed and mostly internal. No visual adverse impact when viewed from the harbour or locality. 3. Proposal will have no impact on existing harbour access or public access around the foreshore. 4. The building height remains unchanged and therefore no impact on views. 5. There is no increased stormwater collection area and no additional impact on the harbour or the ecology of the harbour.
14 Foreshores and Waterways Area	The planning principles for land within the Foreshores and Waterways Area are as follows: (a) development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores, (b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,	1. The proposal is consistent with the planning principles of clause 14: - The increased outdoor seating will be an improvement to the facility, to visitors and residents and will not interfere with existing public access around/through the site and foreshore. - The closure in 2018 of the Manly Sea Life Sanctuary has resulted in a

	(c) access to and from the waterways should be increased, maintained and improved for public recreational purposes (such as swimming, fishing and boating), while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation, (d) development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores, (e) adequate provision should be made for the retention of foreshore land to meet existing and future demand for working harbour uses, (f) public access along foreshore land should be provided on land used for industrial or commercial maritime purposes where such access does not interfere with the use of the land for those purposes, (g) the use of foreshore land adjacent to land used for industrial or commercial maritime purposes should be compatible with those purposes, (h) water-based public transport (such as ferries) should be encouraged to link with land-based public transport (such as buses and trains) at appropriate public spaces along the waterfront, (i) the provision and use of public boating facilities along the waterfront should be encouraged.	considerable reduction in foot traffic and bus traffic to this area. • The minor nature of the proposal will have no adverse impacts. • The proposal is consistent with long established uses and will continue to be an asset to the foreshore adding a sense of increased interest and vibrancy.
15 Heritage conservation	The planning principles for heritage conservation are as follows: (a) Sydney Harbour and its islands and foreshores should be recognised and protected as places of exceptional heritage significance, (b) the heritage significance of particular heritage items in and around Sydney Harbour should be recognised and conserved, (c) an appreciation of the role of Sydney Harbour in the history of Aboriginal and European settlement should be encouraged, (d) the natural, scenic, environmental and cultural qualities of the Foreshores and Waterways Area should be protected, (e) significant fabric, settings, relics and views associated with the heritage significance of heritage items should be conserved, (f) archaeological sites and places of Aboriginal heritage significance should be conserved.	1.The Café itself is not identified in the SREP as a heritage item; although the former Manly Bathers Pavilion is listed as a heritage item and Conservation in the Manly LEP 2013. Refer to clause 7.0 of this report. 2.Previous heritage assessments determine that the existing café is a later addition to the principal building. 3.The minor nature of the proposed works retain the features of the existing building and it will remain intact. 4. In our opinion, the proposal will have no adverse impact on the building; and no heritage impact statement is required. 5. Refer also to clause 7.0 of this report dealing with heritage.
3 Sydney Harbour Catchment (SHC)		
Objectives	The planning principles for land within the Sydney Harbour Catchment are as follows: (a) development is to protect and, where practicable, improve the hydrological, ecological and geomorphological processes on which the health of the catchment depends, (b) the natural assets of the catchment are to be maintained and, where feasible, restored for their scenic and cultural values and their biodiversity and geodiversity, (c) decisions with respect to the development of land are to take account of the cumulative environmental impact of development within the catchment, (d) action is to be taken to achieve the targets set out in Water Quality and River Flow Interim Environmental Objectives: Guidelines for Water Management: Sydney Harbour and Parramatta River Catchment (published in October 1999 by the Environment Protection Authority), such action to be consistent with the guidelines set out in Australian Water Quality Guidelines for Fresh and Marine Waters (published in November 2000 by the Australian and New Zealand Environment and Conservation Council), (e) development in the Sydney Harbour Catchment is to protect the functioning of natural drainage systems on floodplains and comply with the guidelines set out in the	The proposal is in accord with the SHC Objectives, retains the existing building and Café/Restaurant uses with minimal visual changes.

	document titled Floodplain Development Manual 2005 (published in April 2005 by the Department), (f) development that is visible from the waterways or foreshores is to maintain, protect and enhance the unique visual qualities of Sydney Harbour, (g) the number of publicly accessible vantage points for viewing Sydney Harbour should be increased, (h) development is to improve the water quality of urban run-off, reduce the quantity and frequency of urban run-off, prevent the risk of increased flooding and conserve water, (i) action is to be taken to achieve the objectives and targets set out in the Sydney Harbour Catchment Blueprint, as published in February 2003 by the then Department of Land and Water Conservation, (j) development is to protect and, if practicable, rehabilitate watercourses, wetlands, riparian corridors, remnant native vegetation and ecological connectivity within the catchment, (k) development is to protect and, if practicable, rehabilitate land from current and future urban salinity processes, and prevent or restore land degradation and reduced water quality resulting from urban salinity, (l) development is to avoid or minimise disturbance of acid sulfate soils in accordance with the Acid Sulfate Soil Manual, as published in 1988 by the Acid Sulfate Soils Management Advisory Committee. 14 Foreshores and Waterways Area The planning principles for land within the Foreshores and Waterways Area are as follows: (a) development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores, (b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation, (c) access to and from the waterways should be increased, maintained and improved for public recreational purposes (such as swimming, fishing and boating), while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation, (d) development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores, (e) adequate provision should be made for the retention of foreshore land to meet existing and future demand for working harbour uses, (f) public access along foreshore land should be provided on land used for industrial or commercial maritime purposes where such access does not interfere with the use of the land for those purposes, (g) the use of foreshore land adjacent to land used for industrial or commercial maritime purposes should be compatible with those purposes, (h) water-based public transport (such as ferries) should be encouraged to link with land-based public transport (such as buses and trains) at appropriate public spaces along the waterfront, (i) the provision and use of public boating facilities along the waterfront should be encouraged.	
17 Zoning objectives	(1) The objectives of a zone are set out in the Table to this clause. (2) Except as otherwise provided by this plan, the consent authority must not grant development consent to any development unless satisfied that it is consistent with the aims of this plan and the objectives of the zone in which it is proposed to be carried out. Table	1. The proposal is in accord with the Objectives, retains the existing building and Café/Restaurant uses with minimal visual changes – primarily represents a detailed fit-out. 2. The proposal is a continuation of an existing approved use and will have no negative environmental impacts on the immediate locality or the Sydney Harbour waterway.

	Zone No W1 Maritime Waters The objectives of this zone are as follows: (a) to give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally, (b) to allow development only where it is demonstrated that it is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations, (c) to promote equitable use of the waterway, including use by passive recreation craft. Zone No W2 Environment Protection The objectives of this zone are as follows: (a) to protect the natural and cultural values of waters in this zone, (b) to prevent damage or the possibility of longer term detrimental impacts to the natural and cultural values of waters in this zone and adjoining foreshores, (c) to give preference to enhancing and rehabilitating the natural and cultural values of waters in this zone and adjoining foreshores, (d) to provide for the long-term management of the natural and cultural values of waters in this zone and adjoining foreshores. Zone No W5 Water Recreation The objectives of this zone are as follows: (a) to give preference to and increase public water-dependent development so that people can enjoy and freely access the waters of Sydney Harbour and its tributaries, (b) to allow development only where it is demonstrated that the public use of waters in this zone is enhanced and will not be compromised now or in the future, (c) to minimise the number, scale and extent of artificial structures consistent with their function, (d) to allow commercial water-dependent development, but only where it is demonstrated that it meets a justified demand, provides benefits to the general and boating public and results in a visual outcome that harmonises with the planned character of the locality, (e) to minimise congestion of and conflict between people using waters in this zone and the foreshore, (f) to protect and preserve beach environments and ensure they are free from artificial structures, (g) to ensure that the scale and size of development are appropriate to the locality and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or from areas of public access. Zone No W6 Scenic Waters: Active Use The objectives of this zone are as follows: (a) to allow a range of public and private water-dependent development close to shore only where it can be demonstrated that such development minimises alienation of waters in this zone from public use and is not constrained by shallow water depth, navigational conflicts or severe wave action, (b) to minimise the number and extent of structures over waters in this zone through mechanisms such as the sharing of structures between adjoining waterfront property owners, (c) to ensure remnant natural features, aquatic habitat (including wetlands) and public access along the intertidal zone are not damaged or impaired in any way by development, (d) to minimise any adverse effect on views to and from waters in this zone and on the scenic values of the locality	3. The proposal is not a listed land/water interface development in the SREP. Accordingly, the proposal is permissible with the consent of the relevant consent authority being the Northern Beaches Council. 4. The proposed work and uses are minor and consistent with the objectives of the SREP and the Manly LEP. 5. There is no increase in the number of “artificial structures”. 6. The scale and size of structures remains unaltered when viewed from Sydney Harbour and locality.
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	because of the size of vessels capable of being accommodated within the development. Zone No W7 Scenic Waters: Casual Use The objectives of this zone are as follows: (a) to allow certain water-dependent development close to shore to meet casual boating needs and other water access needs, (b) to allow such development only where it can be demonstrated that it achieves a predominantly open and unobstructed waterway and does not dominate the landscape setting, (c) to restrict development for permanent boat storage in locations that are unsuitable due to the adverse visual impact of such development or to physical constraints such as shallow water depth, severe wave action or unsafe navigation, (d) to ensure that the scale and size of development are appropriate to the location and protect and improve the natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone and areas of public access, (e) to maintain and enhance views to and from waters in this zone, (f) to minimise the number and extent of structures over waters in this zone through mechanisms such as the sharing of structures between adjoining waterfront property owners, (g) to ensure remnant natural features, aquatic habitat (including wetlands) and public access along the intertidal zone are not damaged or impaired in any way by development. Zone No W8 Scenic Waters: Passive Use The objectives of this zone are as follows: (a) to give preference to unimpeded public access along the intertidal zone, to the visual continuity and significance of the landform and to the ecological value of waters and foreshores, (b) to allow low-lying private water-dependent development close to shore only where it can be demonstrated that the preferences referred to in paragraph (a) are not damaged or impaired in any way, that any proposed structure conforms closely to the shore, that development maximises open and unobstructed waterways and maintains and enhances views to and from waters in this zone, (c) to restrict development for permanent boat storage and private landing facilities in unsuitable locations, (d) to allow water-dependent development only where it can be demonstrated that it meets a demonstrated demand and harmonises with the planned character of the locality, (e) to ensure that the scale and size of development are appropriate to the locality and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or areas of public access.	
20 General	The matters referred to in this Division (together with any other relevant matters): (a) are to be taken into consideration by consent authorities before granting consent to development under Part 4 of the Act, and (b) are to be taken into consideration by public authorities and others before they carry out activities to which Part 5 of the Act applies.	To be considered by the consent authority.
21 Biodiversity, ecology and environment protection	The matters to be taken into consideration in relation to biodiversity, ecology and environment protection are as follows: (a) development should have a neutral or beneficial effect on the quality of water entering the waterways,	1. The proposed work is minor and contained within the existing building structure; no change of use; same business hours as existing; no increase in run-off; no increase in environmental impacts.

	(b) development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities), (c) development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities), (d) development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access, (e) development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation, (f) development should retain, rehabilitate and restore riparian land, (g) development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetative buffer to protect the wetlands, (h) the cumulative environmental impact of development, (i) whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance.	2. The proposal is consistent with the planning principles to be considered regarding biodiversity, ecology and environment protection and can have no greater impact than the existing consent. 3. The construction work is minor, some demolition work and no excavation required. During construction provision is to be made for storage and removal of all demolition material and construction waste and for sedimentation and siltation barriers to be in place to ensure protection of water quality discharging to the harbour.
22 Public access to, and use of, foreshores and waterways	The matters to be taken into consideration in relation to public access to, and use of, the foreshores and waterways are as follows: (a) development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation, (b) development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation, (c) if foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land, (d) the undesirability of boardwalks as a means of access across or along land below the mean high-water mark if adequate alternative public access can otherwise be provided, (e) the need to minimise disturbance of contaminated sediments.	1. Public access will not be hindered: 2. The increased outdoor seating will be an improvement to the facility, to visitors and residents and will not interfere with existing public access around/through the site and foreshore. 3. The closure of Manly Sea Life Sanctuary has resulted in a considerable reduction in foot traffic and bus traffic to this location. 4. The minor nature of the proposal will have no adverse impacts. 5. The proposal is consistent with long established uses and will continue to be an asset to the foreshore adding a sense of increased interest and vibrancy.
23 Maintenance of a working harbour	The matters to be taken into consideration in relation to the maintenance of a working harbour are as follows: (a) foreshore sites should be retained so as to preserve the character and functions of a working harbour, in relation to both current and future demand, (b) consideration should be given to integrating facilities for maritime activities in any development, (c) in the case of development on land that adjoins land used for industrial and commercial maritime purposes, development should be compatible with the use of the adjoining land for those purposes, (d) in the case of development for industrial and commercial maritime purposes, development should provide and maintain public access to and along the foreshore where such access does not interfere with the use of the land for those purposes.	The proposal involves minor changes to a long-established building and Food Premises/ café business activity. It cannot interfere with the maintenance of the harbour as a working harbour.
24 Interrelationship of waterway and foreshore uses	The matters to be taken into consideration in relation to the interrelationship of waterway and foreshore uses are as follows: (a) development should promote equitable use of the waterway, including use by passive recreation craft,	1. The proposal involves minor changes to a long-established building and business activity within the single storey building. 2. The interrelationship with the waterway and the foreshore will not change and the minor works cannot interfere with the maintenance of the

	(b) development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses, (c) development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore, (d) water-dependent land uses should have priority over other uses, (e) development should avoid conflict between the various uses in the waterways and along the foreshores.	harbour as a working harbour or the harbour/foreshore interface; or public access.
26 Maintenance, protection and enhancement of views	The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows: (a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour, (b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items, (c) the cumulative impact of development on views should be minimised.	The roof of the existing café will remain unchanged. There can be no impact on views.
Conclusion: The proposal complies with the objectives and provisions of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, involves primarily a re-fit of the existing café premises. The application should be approved with relevant conditions of consent.		

6.5.2. Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

Control	Objective	Comment
Introduction – Step 2	Ecological Assessment Determine the implications of the ecological controls for the site by referring to Part 2 of the DCP and the accompanying maps. Undertake any supplementary site-specific investigations. Note: Part 6 (clauses 61 to 63 inclusive) of SREP (Sydney Harbour Catchment) 2005 need to be addressed.	1.The proposal involves minor changes to a long-established building and business within the existing building. The business use is retained, and it is unlikely to have any negative impact. 2.The overall former Manly Baths Pavilion development is located on two portions of “land”. The property the subject of this application is located at the northern end and does not change the existing use or intensify the shop/café/food use operating under consent development consents. 3.We are advised that ecological studies were previously submitted to the consent authorities when consent was granted for major alterations and additions to the Manly Bathers Pavilion and other consents relating to this area. We are informed from past development consent considerations of the former Manly Council that the proposal would have no adverse aquatic or terrestrial ecology impacts – and we cannot see any reasons to now consider otherwise. 4. We are informed from records previously submitted to the former Manly Council that the location of the café is within the terrestrial ecology community of grassland and that this is identified as having low conservation significance. Indeed, most of the public reserve in this southern end is paved; and the proposal does not increase the amount of paving. 5. Accepting that the Shop/Café is an existing use operating under current consents and that the proposal involves only minor modifications, mostly an internal rearrangement of space and general upgrading; we conclude that: • An ecological assessment is not warranted. • The ecological studies previously submitted to the consent authorities when consent was granted for major alterations and additions to the Manly Bathers Pavilion adjoining were accepted. • Past development consent considerations of the former Manly Council accepted that this café area and use would have no adverse aquatic or terrestrial ecology impacts.

Step 3	Landscape Assessment Determine the implications of landscape controls for the site by referring to Part 3 of the DCP and maps.	The proposal will not change the landscape in the area – other than minor planting along the side of the building and movable planter boxes which are all considered positive.
Step 4	Design Guidelines Address the design These are outlined in Part 4 of the DCP iv. Local Environmental Plans or Development Control Plans Councils also have local environmental plans and development control plans. These must be considered in conjunction with SREP (Sydney Harbour Catchment) 2005 and the DCP when development applications are being prepared and assessed. Applicants should consult with their council to obtain details on applicable local controls. v. Other Approvals.	1. Building alterations are minimal and do not impact on the existing visual bulk or amenity of the area: • No increase in built form. • No increase in height. • No increase in stormwater collection or disposal – noting that the existing building sits on a large concrete base platform. • No vegetation is affected. • No change to Business hours. Minor potential increase in traffic generation to the café; however, it's noted that the closure of Manly Sea Life Sanctuary has resulted in a considerable reduction in foot traffic and bus traffic to this location 2. Most customers are pedestrian traffic with many arriving and departing on the Manly Ferries and from the main Manly CBD area and town parking stations; and public bus transport with the Manly Bus interchange being located nearby in front of the Manly Wharf. 2. The proposal will not impact on the existing visual bulk or amenity of the area.
	<u>Issues:</u> • visual impact having regard to the landscape character of the area and nature of the proposal; • amenity—details of hours of operation should be provided for non-residential development. With some proposals, it may be necessary to provide an acoustic assessment report; • soil erosion mitigation measures; • run-off and stormwater control measures; • vegetation protection measures	Ditto above. Most customers are pedestrian traffic with many arriving and departing on the Manly Ferries and from the main Manly CBD area and town parking stations; and public bus transport with the Manly Bus interchange being located nearby in front of the Manly Wharf.
	addressing the performance criteria outlined in Part 2 of this DCP; • parking and access—details of access and off-street parking; • transport and traffic impact—some developments may require a transport and traffic impact assessment report.	
	Built form	1. Minor physical changes only proposed to a long-established building and business activity - unlikely to have any negative impact. 2. The built form remains visually unchanged other than the replacement of the existing bi-fold door across the front with new bi-fold doors, and open-air dining.
Conclusion: 1. The Food Premises/Café is an existing use in an existing building. The proposal involves only minor modifications, mostly being an internal rearrangement of space, fit-out and general upgrading. 2. We conclude from past development consent considerations of the former Manly Council, which included consideration heritage studies and detailed ecological studies accepted by the consent authority, that the proposal will have no adverse aquatic or terrestrial ecology impacts. The existing use is retained in the existing premises. 3. The ecological studies previously submitted to the consent authorities when consent was granted for major alterations and additions to the Manly Bathers Pavilion building adjoining should be deemed to satisfy. An ecological assessment is not warranted. 4. Whilst it may be expected that foot traffic to the café will slightly increase, the closure of Manly Sea Life Sanctuary has resulted in a considerable reduction in foot traffic and bus traffic to this location. 5. In our opinion, the proposal complies with the objectives of the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005.		

7.0. Heritage and Conservation

7.1. The adjoining former Manly Bathers Pavilion and nearby facilities are listed as being of heritage value – as stated in paragraph 7.2 below.

The Manly Local Environmental Plan 2013 Clause 5.10 provides for Heritage conservation and specifically relates to heritage listed items listed and described in Schedule 5; and to any heritage conservation areas (if any) shown on the Heritage Map as well as being described in Schedule 5. The MLEP Objectives include:

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

MLEP clause 5.10 (4) requires that the consent authority must consider the effect of proposed development on heritage significance of a listed item and within a conservation area.

MLEP 2013 Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - (i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land: (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) When consent not required

Development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) Effect of proposed development on heritage significance. The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

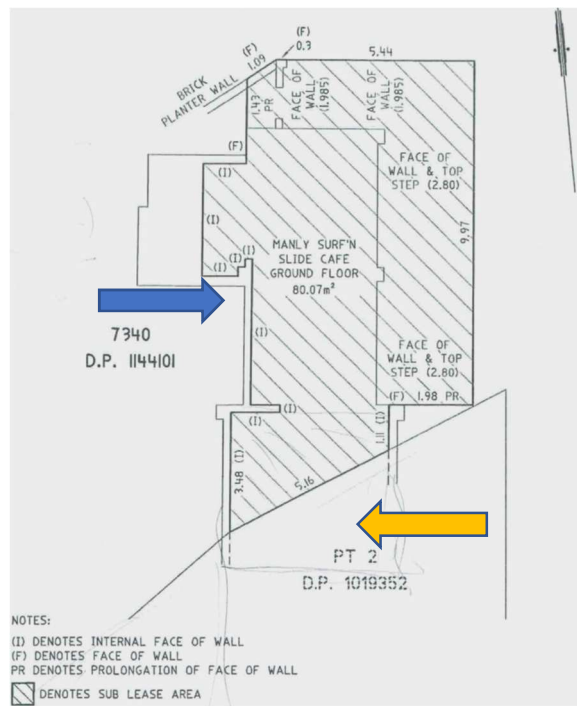
7.2. The former Manly Bathers Pavilion building and the Café Area – Heritage Classification.

Extract from Manly LEP 2013 Schedule 5 – Environmental Heritage:

Manly Cove Pavilion	West Esplanade	Lot 2, DP 1019352	State	I249
Manly Cove amenities block	West Esplanade		Local	I250
Park	West Esplanade		Local	I251
Governor Phillip Monument	West Esplanade Reserve		Local	I248

7.3. Comment:

1. The main building on the overall site, being the former Manly Bathers Pavilion located on Lot 2 in DP 1019352 is listed as State heritage significant. It's noted that only a small portion of Sliderz café included in that Item (Lot 2) as shown on the survey extract of the sub lease area identified with a yellow arrow. The main leased area is shown hatched and a blue arrow. The State listing is of higher level status than the others which are of local significance.



2. The other items above are listed in the Manly LEP as items of local significance and are located nearby.

3. Previous heritage impact assessments undertaken for development consents for the Manly Bathers Pavilion restaurant, other uses and the subject café **concluded, as we understand, that the Shop/café area the subject of this application are much later additions to the Pavilion building and that existing uses do not negatively impact on the heritage items and values.** It's apparent that the consent authorities, including the Land and Environment Court, accepted this opinion.

4. **We note that the State heritage listed Item (I249) refers to the property contained in Lot 2 in DP 1019352.** We note that the majority of the café area is not part of that Lot; and includes a small area located within the listed Lot 2 in DP 1019352 indicated by the yellow arrow above.

5. The proposed changes are minimal; the façade, streetscape and harbourfront remain unchanged with existing white timber and windows and bi-fold doors across the front being replaced with white commercial grade aluminium and glass bi-folds more appropriate to the harsh local environment. **The proposal retains the fabric and character of the building, is sympathetic to the nearby listed items and locality; and the existing use continues.** The use remains constant with a projected increase in customers. However, the closure in 2018 of the Manly Sea Life Sanctuary has resulted in a significant reduction in pedestrian and bus traffic to the area. The café customer usage will be significantly less than that which previously existed in the location.

6. In our opinion, the proposal will have no impact on the heritage significance of the surviving fabric of the heritage listed building; no impact on the character and continuity of the public space, or harbourfront and no impact on the nearby listed items or conservation of the area.

7. In our opinion a Statement of Heritage Impact is not required.

8.0. CONCLUSION

8.1 This statement assesses the application to modify the existing café building and café use, which are considered to be minor variations to existing consents. The proposal is assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, the Manly LEP 2013 and Manly DCP 2013 planning controls and applicable State Planning instruments – SREP (Sydney Harbour Catchment) 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005.

8.2. We conclude the proposal is permissible in the statutory zone/s; complies with and is consistent with development standards applicable for the site; has no impact on the heritage nature of the adjoining former Manly Bathers Pavilion building or other heritage items in the locality; and has no unacceptable or negative environmental impact on the natural and built environment or the amenity of the neighbourhood or Sydney Harbour.

8.3. In our opinion, the proposal succeeds when assessed against the Heads of Consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979; the Manly Local Environmental Plan 2013; Manly Development Control Plan 2013; Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP) and the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005. The application should be approved with normal and appropriate conditions of consent.

Colco Consulting Pty Ltd

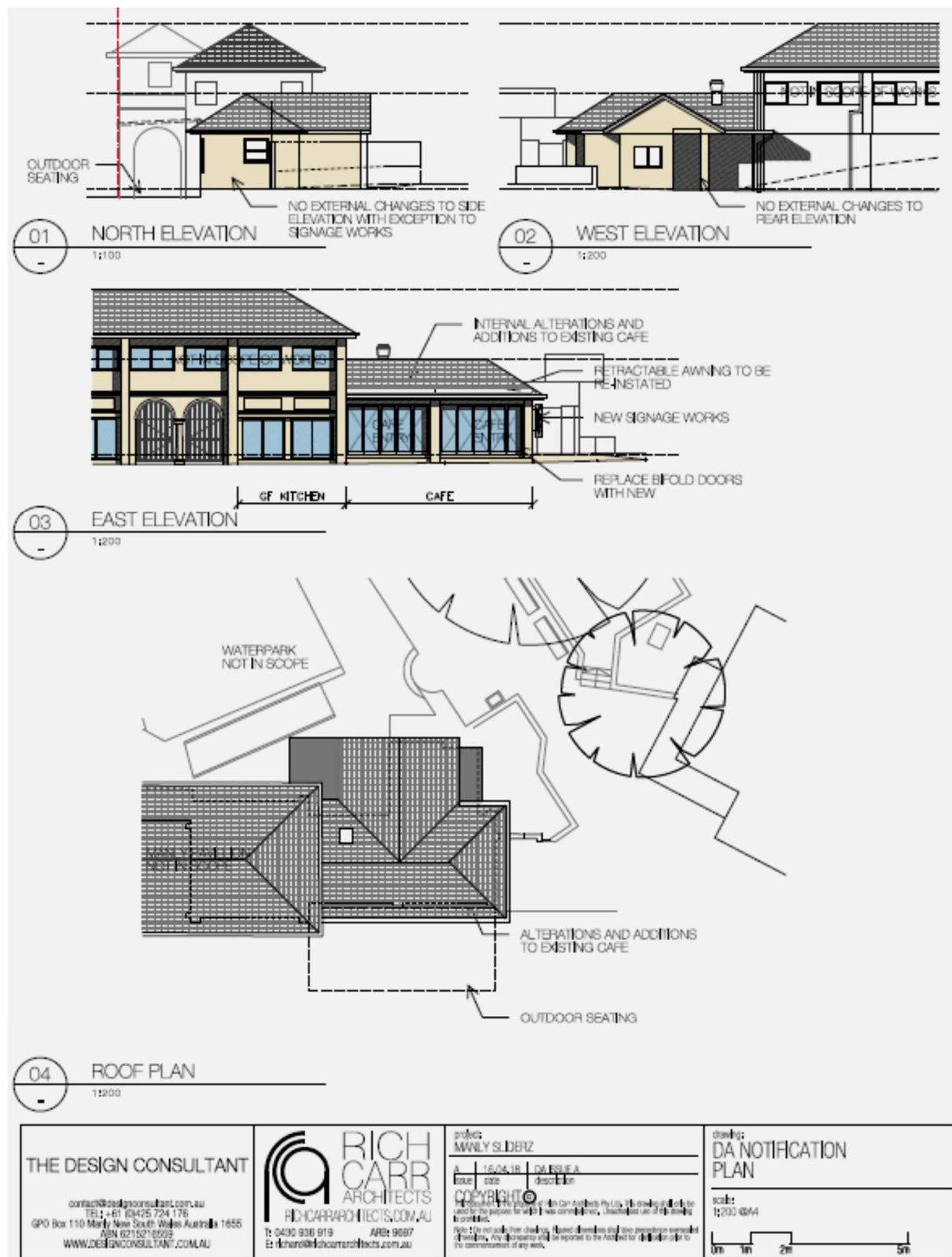
Wayne Collins
Director

12 August 2019

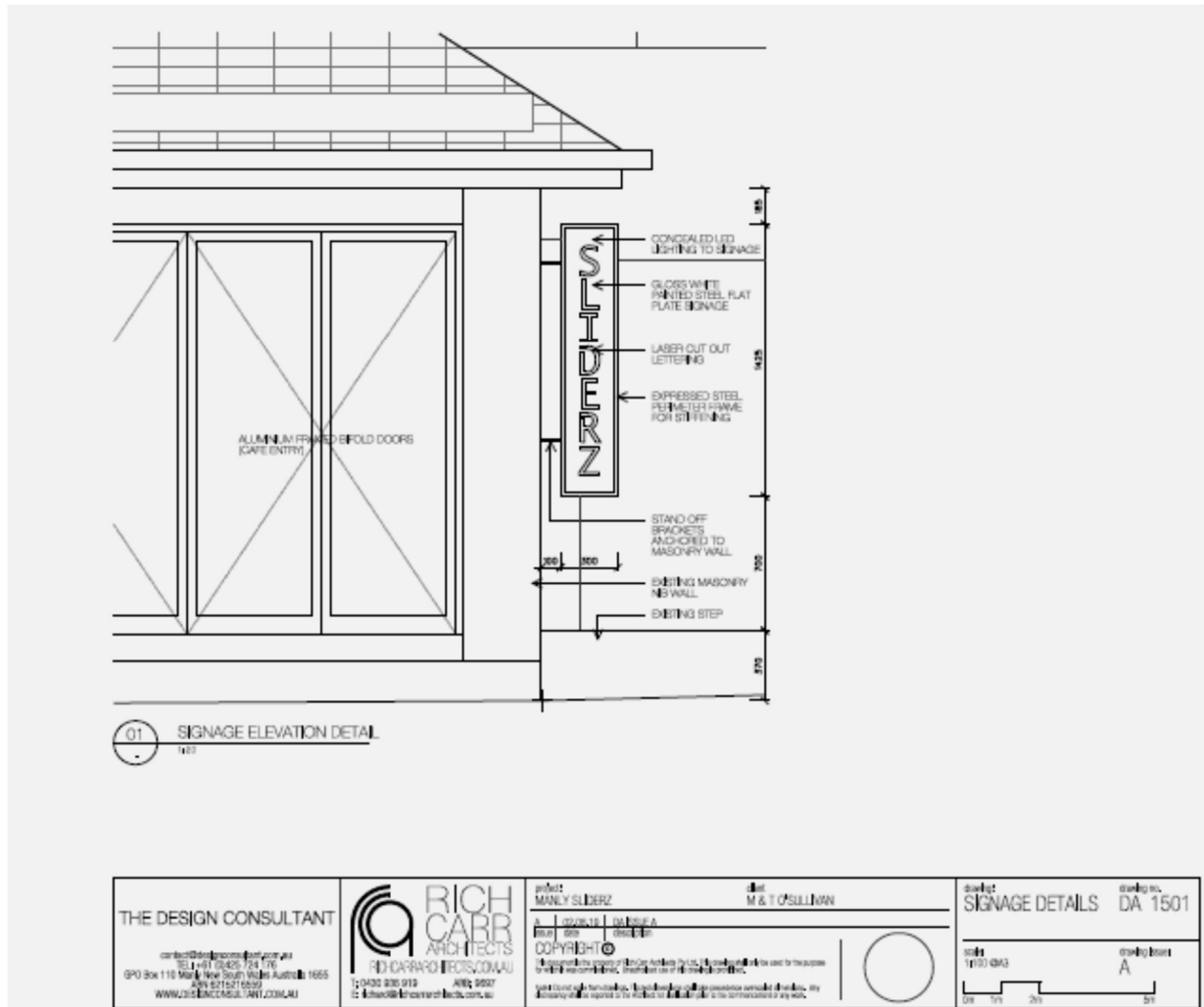
Attachments:

1. Notification Plan
2. Proposed Signage
3. Survey Plan – Overall site
4. Survey Plan – Sub lease area

1. Notification Plan – Proposal



2. Proposed Signage



4. Survey Plan – Sub Lease area

