Item 3.

Development Application: 153 Redfern Street, Redfern - D/2024/1218

File Number: D/2024/1218

Summary

Date of Submission:	13 January 2025
Applicant:	SLR Consulting
Architect:	Webber
Developer:	McDonald's Australia Limited
Owner:	Michael Angel Gutierrez
Planning Consultant:	SLR Consulting
Heritage Consultant:	NBRS
Cost of Works:	$2,982,100
Zoning:	E1 Local Centre. The proposed 'take away food and drink premises' is permissible in the zone.
Proposal Summary:	Consent is sought for the alteration of the existing building for use as a take away food and drink premises with hours of operation of 24 hours, 7 days per week. The works include a new awning and signage. The application is referred to the Local Planning Panel for determination as it represents contentious development, with receipt of 25 or more unique submissions by way of objection. The application was notified and advertised for 21 days between 15 January 2025 and 6 February 2025. A total of 286 submissions were received. Of these submissions, 17 were in support and 269 were objections. Many of the objections received relate to the impacts of the proposed development on the heritage conservation area and the local character of Redfern. Other issues raised include traffic and parking, amenity concerns, waste

management, social impacts and concerns relating to the proposed operation of 24 hours, 7 days per week.

The proposed use is likely to generate a high volume of turnover given the scale of the kitchen and back of house areas (156 sqm of floor area). The proposal is not considered suitable for the site as it would be reliant upon on-street loading zones and the footpath for stock deliveries, waste collection and take-away food delivery operators.

Furthermore, the proposed 24 hours a day 7 days a week operation is also not consistent with the operational hours of late-night trading premises in Redfern Street and would likely have a significant detrimental impact on the amenity of the locality.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

(i) SEPP (Resilience and Hazards) 2021

(ii) SEPP (Industry and Employment) 2021

(iii) SEPP (Sustainable Buildings) 2021

(iv) SEPP (Transport and Infrastructure) 2021

(v) Sydney Local Environmental Plan 2012

(vi) Sydney Development Control Plan 2012

Attachments:

A. Selected Drawings

B. Submissions

Recommendation

It is resolved that consent be refused for Development Application Number D/2024/1218.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

(A) The application has been assessed in accordance with section 4.15(1) of the Environmental Planning and Assessment Act, 1979 ('the Act'). The proposed takeaway food and drink premises is not suitable for the site for the following reasons:

(i) The proposal does not demonstrate that the site can be safely and practically serviced, particularly in relation to site deliveries and waste collection. Inadequate provision for on-site servicing results in reliance on off-site loading in the public domain that are not suitably located or designed to accommodate the ongoing operational needs of the development.

(ii) The submitted Waste Management Plan is inadequate and does not provide sufficient detail to demonstrate that waste can be appropriately stored, collected, or managed on the site.

(iii) The proposal does not demonstrate safe and practical customer access to the site, particularly considering the mix of pedestrians and food delivery riders expected to use the premises. The proposal does not provide bicycle parking racks for visitors or delivery riders, which will likely result in parked bicycles obstructing the public domain.

(iv) The proposal to operate 24 hours a day, 7 days a week does not comply with the late night trading management objectives and provisions of the Sydney DCP 2012 and would likely have a significant impact on the locality.

(B) The proposal does not comply with the design excellence provisions under Clause 6.21C of the Sydney LEP 2012 and does not sufficiently respond to the heritage controls outlined in the Sydney LEP 2012 and Sydney DCP 2012. The site is located on a prominent corner and has high visibility within the surrounding context. The proposal would negatively impact the heritage significance of the surrounding conservation area.

(C) The proposal is not consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and does not satisfy the assessment criteria specified in Schedule 5.

(D) The proposal does not comply with the relevant objectives and provisions of the Sydney DCP 2012, including controls relating to signage, waste management, hours of operation, accessible design, active street frontage, heritage, transport and parking, and the public domain.

(E) The proposal has not adequately addressed crime prevention through environmental design, and several concerns have been raised by NSW Police in their objection to the development. The submitted Plan of Management does not adequately outline how the operation could be effectively managed.

(F) Matters raised by internal and external referrals have not been addressed and are unresolved. It is not possible to mitigate or minimise the unresolved impacts through conditions of approval.

(G) The development is unsatisfactory when assessed pursuant to the matters for consideration at section 4.15(1)(e) of the EP&A Act. The proposed development is not in the public interest.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 541387, known as 153 Redfern Street, Redfern. It is rectangular in shape with area of approximately 126.5 sqm. It has a primary street frontage of 14.2 metres to Redfern Street and a secondary street frontage of 8.9 metres to Cope Street/ Regent Street. The site falls from the east to the west along Redfern Street, and falls from the north to the south along Cope Street.

2. The site contains a 2-storey mixed-use building that is built to the site boundary. The building has a splayed corner at the north western corner. The existing building has been occupied by various commercial premises and currently comprises 2 retail tenancies on the ground floor, with a residential unit on the first floor. Pedestrian access to the site is via Redfern Street and no car parking or vehicle access is provided on site.

3. The surrounding area is characterised by a mixture of land uses, primarily being commercial and mixed use. Directly adjoining the site to the east on Redfern Street are 2-storey commercial premises. Directly adjoining the site to the south on Cope Street are 2-storey food and drink premises and retail shops. To the north opposite the site on Redfern Street is one and 2-storey commercial and retail developments. To the west opposite the site on Regent Street is recently constructed high density student accommodation development with ground floor retail uses. Further west is Redfern Train Station.

4. The site is located within the Redfern Estate heritage conservation area C56. The site is identified as a neutral building.

5. The site is located within the Redfern Street and Redfern Park locality and is identified as being subject to flooding.

6. A site visit was carried out on 21 February 2025. Photos of the site are provided below.

Figure 1: Aerial view of site and surrounds (site indicated in blue)

Figure 2: Site viewed from Redfern Street

Figure 3: Site viewed from the corner of Cope Street and Redfern Street

History Relevant to the Development Application

Development Applications

7. The following applications are relevant to the current proposal:

- **D/2014/1430** – Development consent was granted on 21 January 2015 for alteration to the existing building including demolition of awning and 2 wall signs, and construction of a new awning with associated signage and downpipe replacement.

- **D/2013/95** – Development consent was granted on 6 May 2013 for use of the first floor level of the building as a residential apartment.

Pre-Lodgement Advice

8. The following is a summary of pre-lodgement advice provided for this proposal:

- **PDA/2024/42** – On 28 February 2024 a pre-lodgement meeting request letter was submitted by the applicant. The letter outlined the proposed fit out of the existing building for use as a McDonald's food and drink premises.

  On 11 April 2024, the City of Sydney Council (the City) requested the preparation of concept plans and a heritage impact statement to assist in the assessment of the proposal.

  On 11 April 2024, the applicant confirmed they would proceed to DA preparation with the relevant documentation to be submitted to Council in the DA assessment process and that pre-DA advice was no longer required.

Amendments

9. Following an assessment of the proposed development by Council Officers, a request for withdrawal of the application was sent to the applicant on 25 March 2025. The following reasons were provided to the applicant:

- proposed use and impacts of the public domain
- design excellence, heritage conservation, signage and active frontages
- servicing of the site and waste management
- proposed hours of operation
- accessibility within the building
- social impacts, crime prevention and the public interest

10. The applicant responded to the request on 8 April 2025, confirming that the application would not be withdrawn and requested that Council determine the application.

11. The issues listed above remain unresolved and form the basis for the refusal of the application. Each of the issues are further examined in the 'Discussion' section below.

Proposed Development

12. The application seeks consent for alterations to the existing building for use as a 'take away food and drink premises'. Specifically, the following works are proposed:

    - demolition of existing fit out including internal walls, doors and shop fronts, flooring, entry awnings, internal stairs and glazing
    - internal fit out works including:
        - construction of new ground and first floor slabs
        - construction of goods lift with external and internal door connections
        - construction of vertical food lift between ground and first floor
        - dining room area including 12 seats, customer bins, kiosks, sales and pickup counter (total area 30 sqm)
        - ground floor back-of-house area including kitchen, washup area, and bin area (total area 62 sqm)
        - first floor back-of-house area including main kitchen, fridge and freezer storage areas, dry storage, main washup area; staff amenities, and managers office (total area 94 sqm)
    - external works including:
        - external cladding and painting
        - construction of a new awning around the extent of the building and a new building entry
        - reconstruction of roof to provide structure for mechanical plant
        - installation of skylights and mechanical plant
        - business identification signage including:
            - 2 internally illuminated under awning (2.3m x 0.5m) signs on Redfern Street and Cope/ Regent Street
            - 2 internally illuminated awning fascia (4.5m x 0.45m) signs on northern and western façade, facing Redfern Street and Cope/ Regent Street
            - internally illuminated 'McDonald’s M' wall sign (2m x 1.7m) on building corner splay above awning level
            - internally illuminated 'McCafe' wall sign (1.7m x 0.7m) on building corner splay situated above awning level

- The proposed operation includes:
  - hours of operation of 24 hours, 7 days per week
  - 12 seats within dining area
  - minimum 3 staff including one senior manager
  - use of loading zones on Redfern and Regent Streets

13. Selected drawings of the proposed development are provided below.

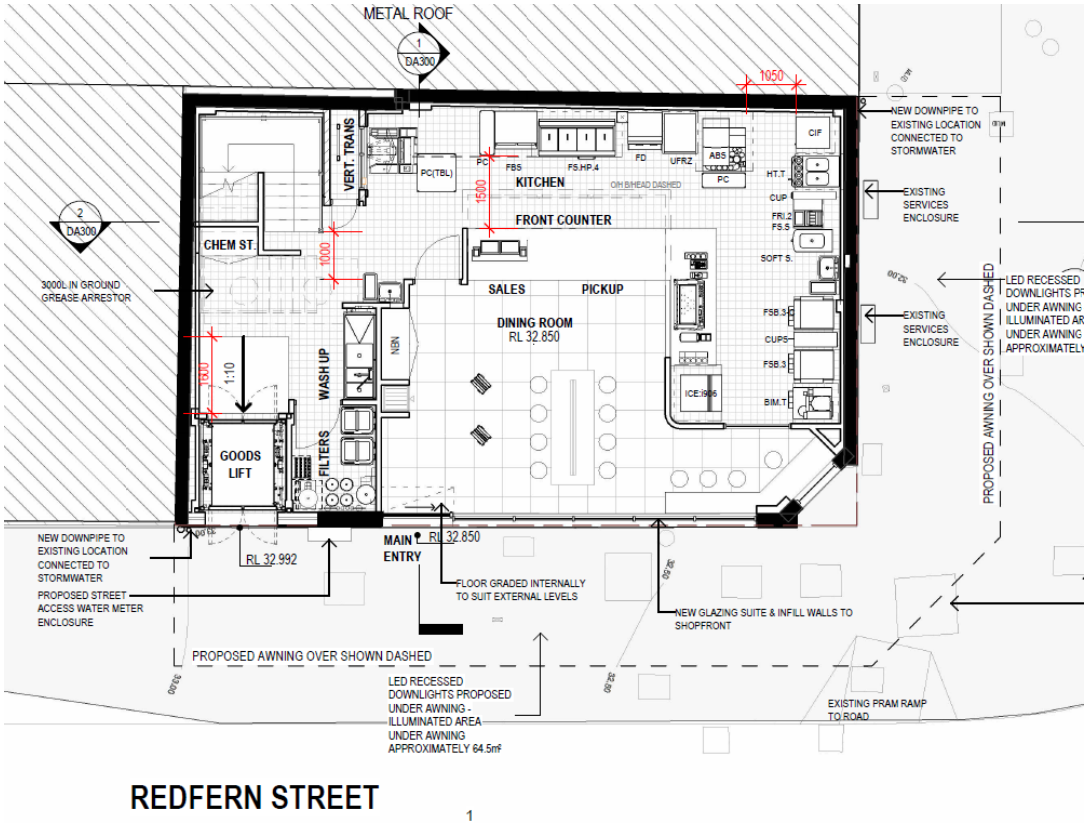

Figure 4: Proposed ground floor plan

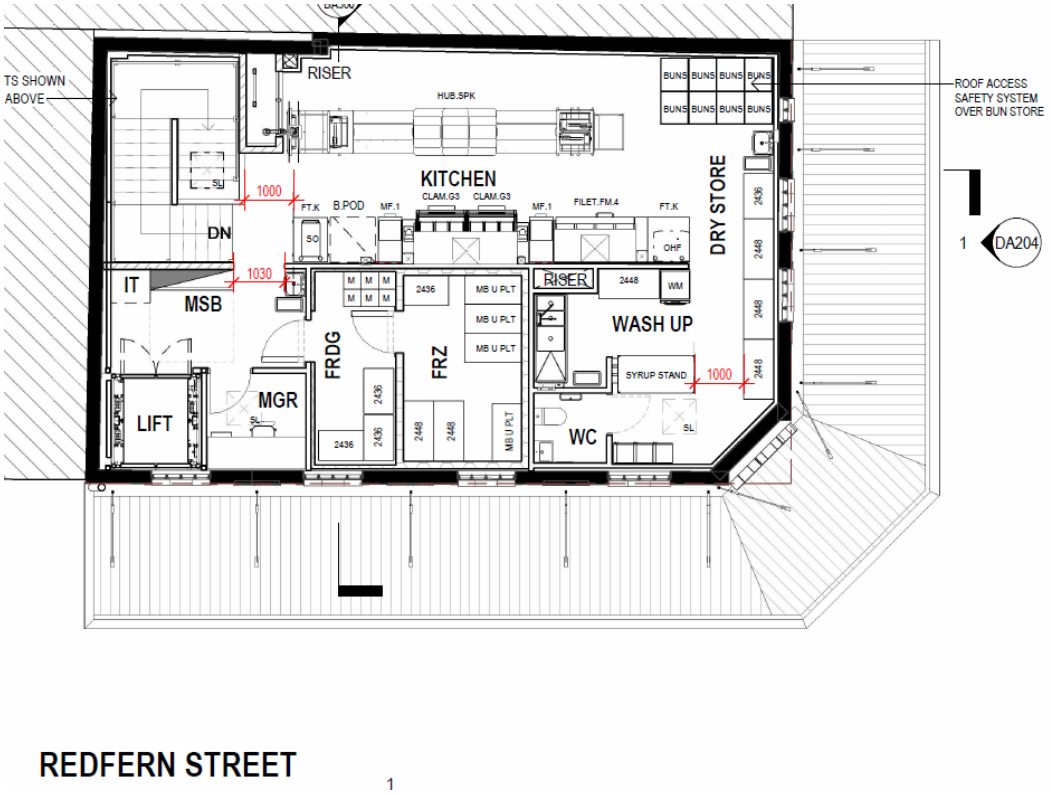

Figure 5: Proposed first floor plan

Figure 6: Proposed northern elevation plan (Redfern Street)

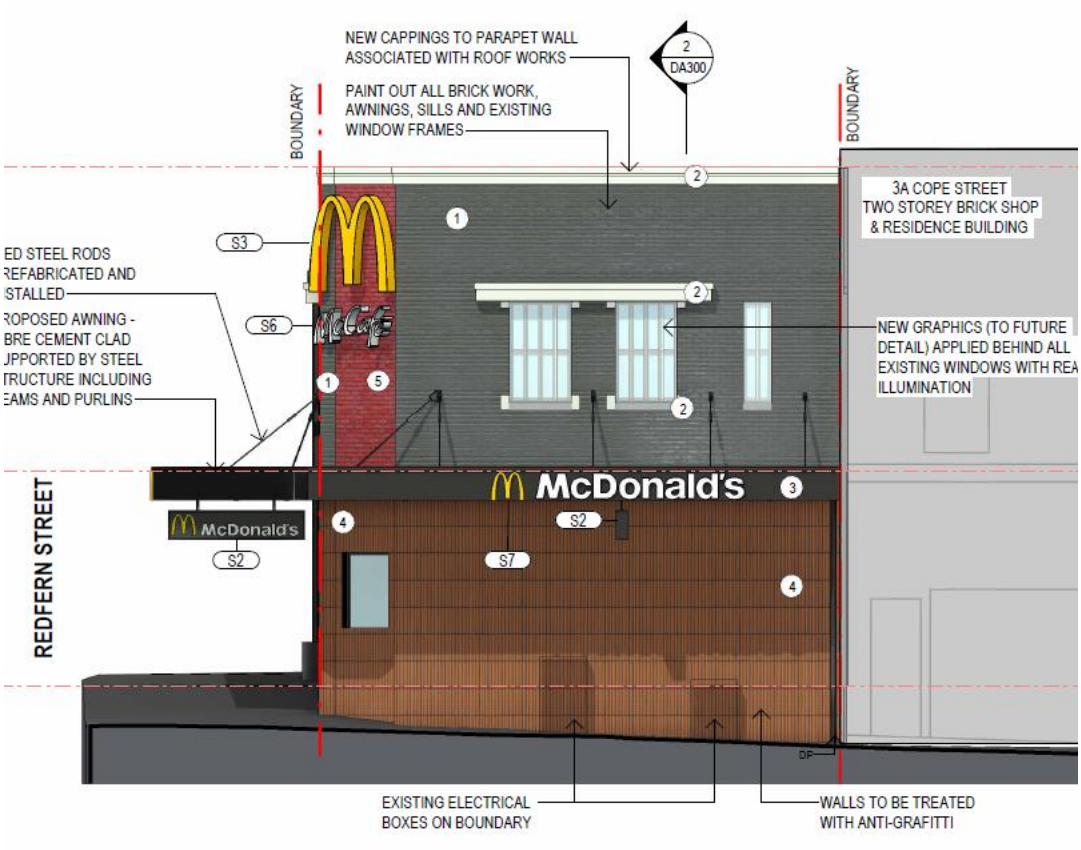

Figure 7: Proposed western elevation plan (Cope/ Regent Street)

Figure 8: Proposed photomontage as viewed from Regent Street

Assessment

14. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

15. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

16. Clause 4.6(1) of the SEPP requires the consent authority to consider whether land is contaminated prior to the consent of development on that land. As the proposed works are alterations to an existing building with no excavation proposed, the proposal satisfies Clause 4.6(1) of the SEPP.

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage

17. The aim of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.

18. The proposed signage has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 1 is provided in the table below.

Provision	Compliance	Comment
1. Character of the area	No	The site is located within the Redfern Estate heritage conservation area C56. The proposed above awning signs and window signs are not consistent with the Sydney DCP 2012 controls and could be conditioned if the application were to be supported.
2. Special areas	No	The proposed upper level and window signs detract from the amenity or visual quality of the locality and the Redfern Estate heritage conservation area.
3. Views and vistas	Yes	The proposed signage does not obscure or compromise any important views. It does not dominate the skyline and has

Provision	Compliance	Comment
		no impact on the viewing rights of other advertisers.
4. Streetscape, setting or landscape	Partial compliance	The proposed under awning and fascia signs are of an appropriate scale, proportion and form to the streetscape. The 2 above awning signs and window signs are not in keeping with the character of the area.
5. Site and building	Yes	The scale and proportion of the proposed signage is acceptable and the materiality is compatible with the finishes and colours of the building.
6. Associated devices and logos	N/A	Not applicable.
7. Illumination	Yes	If this application was to be supported, conditions of consent would be recommended to ensure that the illumination does not result in unacceptable glare and affect safety.
8. Safety	Yes	The proposed signage would not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

19. The proposed signage is not consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and does not satisfy the assessment criteria specified in Schedule 5.

20. This non-compliance is further assessed in the 'Discussion' section below.

State Environmental Planning Policy (Sustainable Buildings) 2022

21. The aims of this Policy are as follows:

    (a) to encourage the design and delivery of sustainable buildings

    (b) to ensure consistent assessment of the sustainability of buildings

    (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored

    (d) to monitor the embodied emissions of materials used in construction of buildings

    (e) to minimise the consumption of energy

    (f) to reduce greenhouse gas emissions

(g) to minimise the consumption of mains-supplied potable water

(h) to ensure good thermal performance of buildings

Chapter 3 Standards for non-residential development

22. Chapter 3 of the SEPP applies to development, other than development for the purposes of residential accommodation, that involves:

(a) the erection of a new building or

(b) alterations, enlargement or extension of an existing building, if the development has a capital investment value of $10million or more.

23. The proposal has an estimated cost of development less than $10 million, therefore Chapter 3 of the SEPP does not apply.

State Environmental Planning Policy (Transport and Infrastructure) 2021

24. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

Clause 2.119 – Development with frontage to classified road

25. The application is subject to Clause 2.119 of the SEPP as the site has frontage to Regent Street which is a classified road.

26. The proposed development satisfies the provisions of Clause 2.119 as access to the site is not provided from the classified road and the safety and ongoing operation of the classified road will not be affected by the development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

27. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the E1 Local Centre zone. The application proposes a 'food and drink premises'. The food and drink premises definition under the Sydney LEP 2012 includes a restaurant or cafe, take away food and drink premises, a pub, a small bar.

Provision	Compliance	Comment
		'Take away food and drink premises' means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises. The proposal is predominantly kitchen and food preparation areas (total floor area of 156 sqm), with a limited dining area and number of seats for consumption of food on the premises (floor area of 30 sqm). Therefore, take away food and drink premises is the appropriate land use definition. 'Take away food and drink premises' is permissible with consent in the zone. The proposal generally meets the objectives of the zone. See further details in the 'Discussion' section below.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 18m is permitted. A height of 9m is proposed. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 2.5:1 or 316.25 sqm is permitted. A floor space ratio of 1.7:1 or 221 sqm is proposed. The proposed development complies with the maximum floor space ratio development standard.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	No	The site is located within the Redfern Estate heritage conservation area C56. The building is identified as a neutral building.

Provision	Compliance	Comment
		The existing original Redfern Street shopfront is not retained or enhanced in the proposal. The proposed wide shopfront is not in keeping with the original shopfront pattern. The proposed design does not reinstate or reflect the traditional proportions or architectural detailing of the original shopfront. The current proposed design does not comply with the controls. See further details in the 'Discussion' section below.
5.21 Flood planning	Yes	The site is identified as being subject to the 1% AEP and Probable Maximum Flood (PMF) event. The City's Interim Floodplain Management Policy requires that a business premises comply with the 1% AEP level (32m). The proposed finished floor levels are 32.85m and are above the 1% AEP level, which complies with the Floodplain Management Policy.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	No	The proposed development does not demonstrate design excellence. See further details in the 'Discussion' section below.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.7 Retail premises	Yes	A maximum of 4 car parking spaces are permitted.

Provision	Compliance	Comment
		The proposal does not propose onsite car parking and complies with the development standard.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.

Development Control Plans

Sydney Development Control Plan 2012

28. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

The site is located within the Redfern Street and Redfern Park locality and the proposal is not in keeping with the unique character and the design principles of the locality. The development does not appropriately respond to the heritage conservation area and does not create active ground floor uses along Cope Street.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	No	The proposal does not provide bicycle parking spaces, racks or rails for visitors or delivery riders. The footpath at the corner of Redfern and Regent Streets, 2 of Redfern's main streets, are notably busy, given the proximity to Redfern train station. The proposed additional pedestrian movement from customers and delivery riders would exacerbate congestion in this area. Both the Redfern and Cope Street frontages are subject to active frontages controls. The proposal provides a blank brick wall to Cope Street and a portion of the Redfern Street frontage is occupied by a goods lift and services. Therefore, the proposal does not achieve an active frontage to Redfern and Cope Street.

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.
3.7 Water and Flood Management	Yes	The site is identified as being subject to the 1% AEP and Probable Maximum Flood (PMF) event. The City's Interim Floodplain Management Policy requires that a business premises comply with the 1% AEP level (32m). The proposed finished floor levels are 32.85m and are above the 1% AEP level, which complies with the Floodplain Management Policy.
3.9 Heritage	No	The site is located within the Redfern Estate heritage conservation area C56. The building is identified as a neutral building. The existing original Redfern Street shopfront (recessed storefront and access to the first floor) is not retained or enhanced in the proposal. The proposed wide shopfront is not in keeping with the original shopfront pattern. The proposed design does not reinstate or reflect the traditional proportions or architectural detailing of the original shopfront, resulting in a design that is inconsistent with the heritage controls.
3.11 Transport and Parking	No	The proposal does not provide bicycle parking space, racks or rails for visitors or delivery riders. No onsite loading is possible or provided. The nearest loading zones on Regent Street and Redfern Street are time limited and cannot guarantee consistent or reliable access for servicing vehicles. See further details in the 'Discussion' section below.
3.12 Accessible Design	No	The access report submitted with the application has identified a number of

Provision	Compliance	Comment
		issues with the layout of the dining area, including: • A 1000mm path of travel width is required, however a travel width of 576mm is proposed between the table and the shopfront window, and of 836mm between the table and the self order kiosks. • A turning space of 1540x2070mm is required to the end seating area which has not been provided. • A level landing of 1450mm in size is required at the building entry at the footpath, which currently has a steep gradient and does not comply. No works to the footpath are proposed. Therefore, the proposal does not provide equitable access for all people and does not comply with the accessibility provisions in the DCP.
3.13 Social and Environmental Responsibilities	No	The proposal has not adequately addressed crime prevention through environmental design, and several concerns have been raised by NSW Police in their objection to the development. The following key issues have been identified: • Police are concerned that patrons moving between late-night venues will likely pass through surrounding streets, causing disturbances beyond staff control, including noise and anti-social behaviour and will negatively impact the neighbourhood. • The proposed late-night hours would exacerbate an existing crime hotspot in South Sydney Police Area Command, potentially increasing violence and straining public safety resources in the area. The application has not addressed the social impacts upon the local Aboriginal

Provision	Compliance	Comment
		and Torres Straight Islander community, as reflected in the objection from the Aboriginal and Torres Straight Island Advisory Panel. The following concerns were raised by the Panel: • No community consultation was undertaken with the local Aboriginal community. • The Aboriginal and Torres Strait Islander Advisory Panel has been working to improve health outcomes in the local community, and the proposed takeaway food and drink premises would undermine these efforts.
3.14 Waste	No	The application proposes 2 bins within the kitchen and one bin within the dining area. This is insufficient for the size and scale of the premises. No recycling area or bulky waste areas have been indicated on the plans or in the Waste Management Plan (WMP). The submitted WMP does not adequately show the nominated waste collection points for the site and does not identify a path of access between the waste storage area and the waste collection vehicle. The WMP also does not detail how frequently waste will be collected, and who will be responsible for collecting the bins. Further, the WMP and Plan of Management do not clearly state who will be responsible for cleaning the premises. The 3 'litter patrols' noted in the Plan of Management is not considered sufficient for the proposed operation. In summary, the submitted WMP is inadequate and the City are not satisfied that waste can be suitably managed on the site or that waste and litter in the adjacent public domain can be managed.

Provision	Compliance	Comment
3.15 Late Night Trading Management	No	The premises is located in a Local Centre Area and the use is defined as a category B premises. The proposed trading hours are 24 hours a day, 7 days a week. The permissible trading hours are 7.00am to 8.00pm, with possible extended trading hours of 7.00am to midnight (subject to a 2 year trial). The proposal to operate 24 hours a day, 7 days a week does not comply with DCP requirements and would likely have a significant impact on the locality.
3.16 Signage and Advertising	No	The proposal includes the following business identification signage: • 2 internally illuminated under awning (2.3m x 0.5m) signs on Redfern Street and Regent/ Cope Street; • 2 internally illuminated awning fascia (4.5m x 0.45m) signs on northern and western façade, facing Redfern Street and Regent/ Cope Street; • internally illuminated 'McDonald's M' wall sign (2m x 1.7m) on building corner splay above awning level; • internally illuminated 'McCafe' wall sign (1.7m x 0.7m) on building corner splay situated above awning level. • graphics to the window signs applied behind the first floor rear windows with rear illumination. The details of the graphics have not been provided. A full assessment against the signage provision is provided below.

Provision	Compliance	Comment
3.16.3 General requirements for signage	Partial compliance	The proposed under awning and fascia awning sign will have no adverse impacts on the visual qualities of the site or the heritage conversation area. However, the proposed 'McDonald's M' wall sign logo and 'McCafe' wall signs will result in visual clutter and are therefore not supported.
3.16.4 Illuminated signage	Yes	All signs are proposed to be illuminated. This is consistent with other food and drink tenancy signage along Redfern Street. However, the above awning signage is located in a prominent position and would likely have detrimental impacts to the quality of the streetscape and is not supported.
3.16.6 Business identification signs and on-premises advertisements		
3.16.6.1 General requirements	No	Section 3.16.6.1(2) requires business identification signage to be located below the ground floor awning. The 2 wall signs proposed above the awning are not supported. Further, the above awning signs will create visual clutter to the street and building elevation.
3.16.6.3 Flat mounted wall signs	No	The proposed wall signs are located above the awning and have a height of 8.5m, which exceeds the 4.5m height requirement and are therefore not supported.
3.16.6.5 Under awning signs	Partial compliance	The proposed under awning signs are suspended at right angles and do not project beyond the awning fascia. The height to the underside of the under awning signs is 3.2m (complies). The under awning signs have a height of 500mm, which exceeds the maximum height requirement of 400mm.
3.16.6.6 Awning fascia signs	Yes	The design of the fascia awning sign is simplistic and does not propose third party advertisements. The sign is located within the front façade of the

Provision	Compliance	Comment
		building and will not project outwards of the fascia.
3.16.6.8 Window signs and top hamper signs	No	The proposed first floor window signs occupy the entire area of the window and does not comply. The window signs have a height above ground of 6.5m and exceed the 3.5m above ground height requirement.
3.16.11 Signage related to heritage items and conservation areas	No	As noted above, the 2 wall signs located above the awning are inconsistent with the character of the heritage conservation area and are therefore not supported. The proposal also includes graphics to the window signs applied behind the first floor rear windows with rear illumination. The signs will detract from the quality of the streetscape and are not supported.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	The site is permitted a maximum building height of 6 storeys. The proposed development is 2 storeys in height and complies.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Partial compliance	The proposal provides a floor to floor height of 3.7m at ground level (4.5m is required) and 3.7m for the first floor above (3.6m required).
4.2.2 Building setbacks	Yes	The proposed building alterations do not seek to modify the existing building setbacks. The existing building is built to boundary.
4.2.3.5 Landscaping	Yes	The proposed building alterations do not seek to modify the existing building

Provision	Compliance	Comment
		setbacks. The existing building is built to boundary.
4.2.3.6 Deep Soil	Yes	The existing building is built to boundary with no provision for deep soil planting. The proposed alterations to the existing building do not propose deep soil planting.
4.2.6 Waste and recycling Management	No	As noted above, the submitted Waste Management Plan is inadequate and the City is not satisfied that waste can be suitably managed on the site.

29. In summary, the proposal includes many non-compliances with the relevant provisions of the Sydney DCP 2012.

Discussion

Classification of use

30. The application proposes a 'food and drink premises'. The food and drink premises definition under the Sydney LEP 2012 includes a restaurant or cafe, take away food and drink premises, a pub, a small bar.

31. 'Take away food and drink premises' means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

32. The proposal is predominantly kitchen and food preparation areas (156 sqm floor area), with a limited dining area and number of seats for consumption of food on the premises (30 sqm floor area). Therefore, take away food and drink premises is the appropriate land use definition.

Use and impacts to the public domain

33. Customer access to the site is to be safe and practical, particularly considering the mix of pedestrians and food delivery riders expected to use the premises. A high volume of turnover of takeaway orders is expected given the scale of the kitchen area and the relatively small amount of customer seating which is below the threshold which requires the provision of toilets for visitors to the premises. The following issues relating to the use and impacts on the public domain are noted:

    - The pedestrian crossing at the intersection of Redfern and Regent Streets are notably busy, given the proximity to Redfern train station and surrounding retail development and services in 2 of Redfern's high streets. This intersection serves as a primary pedestrian route. The proposed additional pedestrian movement from customers and food delivery riders would exacerbate congestion in this area.

- The section of Redfern Street directly adjacent to the site is subject to a 'no stopping' zone, which prevents food delivery riders from legally stopping to dismount on the street which will result in food delivery riders traversing and parking on the footpath.

- The proposal does not provide bicycle parking areas, racks or rails for visitors or food delivery riders. The closest available bicycle parking options are located across in the next block along Redfern Street (approximately 70m away), and in Jack Floyd Reserve (approximately 30m away). These distances are impractical for visitors and food delivery riders who require a secure location to park their bicycles near the building entry.

34. Under the Road Rules (Clause 166, Part 12), bicycles must be parked at designated racks or rails. Parking bicycles directly in front of the building entry is unlawful and unsafe, obstructing pedestrian movement and impeding the public domain. The only available bicycle parking spaces are too far from the site to be considered practical for users. The lack of on-site bicycle parking contributes to the unsuitability of the site for the proposed development.

Design excellence, heritage conservation and active street frontage

35. In accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012 (Sydney LEP 2012), the proposed development is required to exhibit design excellence, particularly given its location on a prominent corner and its high visibility within the surrounding context.

36. The site is also located within the Redfern Estate Heritage Conservation Area, subject to heritage controls under Clause 5.10 of the Sydney LEP 2012 and Section 3.9 of the Sydney Development Control Plan (DCP) 2012.

37. As a neutral building, the proposal must respect the existing heritage fabric by removing unsympathetic alterations, minimising the loss of significant features, and using materials and finishes that are compatible with the character of the area.

38. The proposed development does not meet the required standards for design excellence or appropriately respond to the heritage controls due to the following key concerns:

- The existing original Redfern Street shopfront is not retained or enhanced in the proposal. The wide shopfront proposed is not in keeping with the original shopfront pattern.

- The proposed design does not reinstate or reflect the traditional proportions or architectural detailing of the original shopfront, resulting in a design that is inconsistent with the heritage conservation area.

- The proposed above awning wall signs and window signs do not comply with the relevant requirements of Section 3.16 of the Sydney DCP 2012 and detract from the streetscape.

- Both the Redfern and Cope Street frontages are subject to active frontages controls. The proposal retains a blank brick wall to Cope Street and a portion of the Redfern Street frontage is occupied by a goods lift and services. Therefore, the proposal does not achieve an appropriate active frontage to both Redfern and Cope Street.

- The location of the goods lift at the street level poses issues from a streetscape perspective. The lift doors encroach over the boundary when open, and the lifts prominent location (in the location of the existing original shop front and recessed access to the upper floor) disrupts the visual amenity and coherence of the facade.

- The proposed use of unglazed vertical porcelain tiles is considered an inappropriate material choice. These tiles do not reflect the original tile pattern of the building, which historically featured a more traditional material palette. The proposed first floor brick colour does not reflect the original colours of the building.

- The submitted architectural plans do not show how the rooftop plant will be screened.

39. The proposal does not comply with the design excellence provisions under Clause 6.21C of the SLEP 2012 and does not sufficiently respond to the heritage controls outlined in the Sydney LEP 2012 and DCP 2012. The proposal would negatively impact the heritage significance of the surrounding conservation area.

Servicing the site

40. The proposed development does not demonstrate that the site can be safely and practically serviced, particularly in relation to deliveries, food pick up and waste collection.

41. The proposal relies on loading zones that are not suitably located or designed to accommodate the ongoing operational needs of the development. The following servicing constraints are noted:

- No onsite loading is possible or provided.

- The nearest loading zones on Regent Street and Redfern Street are time limited and cannot guarantee consistent or reliable access for servicing vehicles.

- The most direct pedestrian route from the site entrance to the Regent Street loading zone traverses the pedestrian standing area at the intersection of Redfern and Regent Streets, raising safety concerns due to potential conflicts with high volumes of pedestrians.

- In their submission, Transport for NSW noted that new development should be self-sufficient and cater for all loading and servicing off-street. Transport for NSW also stated there is no commitment that loading zones on state roads will be maintained in perpetuity and the loading zone on Regent Street may be removed in the future.

- The section of Redfern Street in front of the site cannot be used for loading and servicing due to a continuous 'No Stopping' zone.

- The Redfern Street loading zone is approximately 40m from the site.

- Each trip to and from the offsite loading zones will conflict with high volumes of pedestrians on the footway and is not supported.

42. As a result, the proposed development does not provide an appropriate or safe servicing solution.

Waste management

43. The proposed waste storage provision including 2 bins within the kitchen and one bin for customers is considered inadequate given the size, scale, and intensity of use. Further, the application does not clearly identify areas for recycling or the management of bulky waste.

44. The submitted Waste Management Plan (WMP) does not adequately show the nominated waste collection points for the site and does not identify a path of access between the waste storage area and the waste collection vehicle.

45. The WMP does not specify the frequency of waste collection or identify the party responsible for placing bins out for collection and returning them to storage.

46. Further, the WMP and Plan of Management do not clearly state who will be responsible for cleaning the premises or the adjacent public domain. The proposed 3 daily 'litter patrols' to manage waste littered in the public domain is considered insufficient given the expected volume of waste associated with a takeaway food and drink premises of this scale in this location.

47. In summary, the WMP is inadequate and does not provide sufficient detail to demonstrate that waste can be appropriately stored, collected, or managed on the site.

Social impacts and crime prevention

48. The proposal has not adequately addressed crime prevention through environmental design, and several concerns have been raised by NSW Police in their objection to the development. The following key issues have been identified:

    - Police are concerned that patrons moving between late-night venues will likely pass through surrounding streets, causing disturbances beyond staff control, including noise and anti-social behaviour and will negatively impact the neighbourhood.

    - The proposed late-night hours would exacerbate an existing crime hotspot in South Sydney Police Area Command, potentially increasing violence and straining public safety resources in the area.

49. The application has not addressed the social impacts upon the local Aboriginal and Torres Straight Islander community, as reflected in the objection from the Aboriginal and Torres Straight Island Advisory Panel. The following concerns were raised by the Panel:

    - No community consultation was undertaken with the local Aboriginal community.

    - The Aboriginal and Torres Strait Islander Advisory Panel has been working to improve health outcomes in the local community, and the proposed takeaway food and drink premises would undermine these efforts.

    - Noted the close proximity between the site and key Indigenous services and facilities including the Aboriginal Medical Service.

50. These concerns are acknowledged by the City.

Hours of operation

51. The Sydney DCP 2012 sets out a hierarchy of late night trading areas, being Late Night Management Areas, City Living Areas and Local Centre Areas.

52. The site is located within a Local Centre Area. The DCP permits base hours of 7.00am to 11.00pm for Category B premises, with a potential 2 year trial until 12.00am.

53. The submitted Plan of Management does not adequately outline how the operation could be effectively managed.

54. Therefore the proposed hours of operation of 24 hours per day, 7 days a week are not supported.

Accessibility

55. The access report submitted with the application has identified a number of issues with the layout of the dining area, including:

    - A 1000mm path of travel width is required, however, a travel width of 576mm is proposed between the table and the shopfront window, and of 836mm between the table and the self order kiosks.

    - A turning space of 1540x 2070mm is required to the end seating area which has not been provided.

    - A level landing of 1450mm in size is required at the building entry at the footpath, which currently has a steep gradient and does not comply. No works to the footpath are proposed.

56. Therefore, the proposal does not provide equitable access for all people and does not comply with the accessibility provisions in the DCP.

Consultation

Internal Referrals

57. The application was discussed with Council's:

    (a) Environmental Health Unit

    (b) Licenced Premises and Late Night Trading Unit

    (c) Heritage and Urban Design Unit

    (d) Public Domain Unit

    (e) Surveyors

    (f) Transport and Access Unit

    (g) Tree Management Unit

    (h) Waste Management Unit

58. Council's internal referrals raised concerns with aspects of the proposed development, including urban design and heritage, the proposed hours of operation, waste management and servicing the site and social impacts and crime prevention.

59. Matters raised by internal referrals have not been addressed and are unresolved These issues are further explored in the 'Discussion' section above.

External Referrals

NSW Police

60. The application was referred to NSW Police for comment.

61. A response was received on 30 January 2025 raising objections to the proposed development:

- Police are concerned that patrons moving between late-night venues will likely pass through surrounding streets, causing disturbances beyond staff control, including noise and anti-social behaviour and will negatively impact the neighbourhood.

- The proposed late-night hours would exacerbate an existing crime hotspot in South Sydney Police Area Command, potentially increasing violence and straining public safety resources in the area.

62. These concerns are acknowledged by the City.

Transport for NSW

63. The application was referred to Transport for NSW (TfNSW) for comment.

64. Comments were received on 28 January 2025 and included the following concerns:

- No bicycle parking facilities have been provided. Bicycle parking and end of trip facilities should be provided in a secure and convenient area close to the main entry.

- No off-street loading zones are proposed for the development. The proposed development represents a notable increase in the requirement of deliveries and waste generation. All new developments should be self-sufficient and cater for all loading and servicing off-street.

- Transport for NSW makes no commitment that any loading zone on state roads will be maintained in perpetuity and the timed loading zone on Regent Street may be removed in future for additional bus services.

65. These concerns are acknowledged by the City.

Advertising and Notification

66. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 15 January 2025 and 6 February 2025.

67. A total of 149 properties were notified and 286 submissions were received (refer to Attachment B). Of these submissions, 17 were in support and 269 were objections. Two petitions were received, one with 1,074 signatures and one with 49 signatures.

68. The submissions raised the following issues:

    (a) **Issue**: The proposed McDonalds would impact local small businesses and affect the character of Redfern. The proposed design is not consistent with the heritage conservation area.

    Response: It is noted that the proposed takeaway food and drink premises is permissible with consent in the E1 Local Centre Zone and generally meets the objectives of the zone. However, the proposal does not comply with the design excellence provisions under Clause 6.21C of the SLEP 2012 and does not sufficiently respond to the heritage controls outlined in the Sydney LEP 2012 and DCP 2012. The proposal would negatively impact the heritage significance of surrounding conservation area.

    (b) **Issue:** The proposed 24/7 hours of operation will create a risk to public safety, will encourage antisocial behaviour and will create unacceptable noise impacts to surrounding streets.

    Response: The proposal has not adequately addressed crime prevention through environmental design, and several concerns have been raised by NSW Police in their objection to the development. NSW Police objected to the development as the proposed late-night hours would exacerbate an existing crime hotspot in South Sydney Police Area Command, potentially increasing violence and straining public safety resources in the area. The submitted Plan of Management does not adequately outline how the operation of the business could be effectively managed. The proposed 24/7 hours of operation do not comply with the Sydney DCP 2012 and are not supported.

    (c) **Issue:** The proposed use will create a large volume of waste from the takeaway packaging and the proposed waste management plan is inadequate.

    Response: The proposed waste storage provision is considered inadequate given the size, scale, and intended intensity of use of the premises. The submitted Waste Management Plan is inadequate and does not provide sufficient detail to demonstrate that waste can be appropriately stored, collected, or managed on the site.

    (d) **Issue**: The traffic from delivery drivers and servicing will conflict with pedestrians on Redfern Street and Cope Street.

    Response: The proposal does not provide bicycle parking racks or rails for visitors or delivery riders. The footpath at the corner of Redfern and Regent Streets is notably busy, given the proximity to Redfern train station, retail services and the high density of surrounding residential development. The proposed additional movement from customers and delivery riders would exacerbate congestion in this area and have a detrimental impact on the public domain.

    (e) **Issue**: The proposal conflicts with community health and is located in close proximity to schools and Indigenous health services.

- **Response**: The application has not addressed the social impacts upon the local Aboriginal and Torres Straight Islander community, as reflected in the objection from the Aboriginal and Torres Straight Island Advisory Panel. As noted by the Panel in their submission, no community consultation was undertaken with the local Aboriginal community and the site is located in close proximity to the Aboriginal Medical Service.

(f) **Issue**: The proposed use will create environmental impacts including odour from cooking and rubbish that will attract rodents.

Response: As noted above, the submitted Waste Management Plan does not provide sufficient detail to demonstrate that waste can be appropriately stored, collected, or managed on the site. The WMP does not specify the frequency of waste collection or identify the party responsible for placing bins out for collection and returning them to storage.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

69. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan.

70. A condition relating to this local infrastructure contribution and requiring the contribution to be paid prior to the issue of a construction certificate would be required if the application were to be considered for approval.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

71. As the development is development for purposes other than residential accommodation that will result in the creation of less than 60 square metres of gross floor area, the development is excluded and is not subject to a Section 7.13 affordable housing contribution.

Housing and Productivity Contribution

72. The development is subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

73. The site is located with the Greater Sydney region, and creates additional floor space and would trigger a contribution if the application were to be considered for approval.

Relevant Legislation

74. Environmental Planning and Assessment Act 1979.

Conclusion

75. The application has been assessed in accordance with section 4.15(1) of the Act. The proposed takeaway food and drink premises is not suitable for the site for the following reasons:

    (a) The proposal does not demonstrate that the site can be safely and practically serviced, particularly in relation to deliveries and waste collection. Inadequate provision for on-site servicing results in reliance on the adjacent footpath and off-site loading zones that are not suitably located or designed to accommodate the ongoing operational needs of the development.

    (b) The submitted Waste Management Plan is inadequate and does not provide sufficient detail to demonstrate that waste can be appropriately stored, collected, or managed on the site.

    (c) The proposal does not demonstrate safe and practical customer access to the site, particularly considering the mix of pedestrians and food delivery riders expected to use the premises. The proposal does not provide bicycle parking racks for visitors or delivery riders, which will likely result in parked bicycles obstructing the public domain.

    (d) The proposal to operate 24 hours a day, 7 days a week does not comply with DCP requirements and would likely have a significant impact on the locality.

76. The proposal does not comply with the design excellence provisions under Clause 6.21C of the SLEP 2012 and does not sufficiently respond to the heritage controls outlined in the Sydney LEP 2012 and DCP 2012. The site is located on a prominent corner and has high visibility within the surrounding context. The proposal would negatively impact the heritage significance of the site and the surrounding conservation area.

77. The proposal does not comply with the relevant provisions of the Sydney DCP 2012, including controls relating to signage, waste management, hours of operation, accessible design, heritage, transport and parking, and the public domain.

78. The proposal has not adequately addressed crime prevention through environmental design, and several concerns have been raised by NSW Police in their objection to the development. The submitted Plan of Management does not adequately outline how the operation could be effectively managed.

79. Matters raised by internal and external referrals have not been addressed and are unresolved. It is not possible to mitigate or minimise the unresolved impacts through conditions of approval.

80. The application was notified in accordance with the requirements of the EP&A Regulations 2021 and the City's Public Participation Plan. A total of 269 submissions by way of objection were received.

81. It is therefore concluded that the proposal is not suitable for the site and is not in the public interest.

82. The application is recommended for refusal.

ANDREW THOMAS

Executive Manager Planning and Development

Georgia McKenzie, Senior Planner