

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2025/0416
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 1 DP 1170245, 0 East Esplanade MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2024/1249 granted for Alterations and additions including internal fit-out for use of premises as a pub and artisan food and drink industry
Zoning:	SEPP (Biodiversity and Conservation) 2021 – Zone 2 Environment Protection
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Manly Landlord Operations Pty Ltd

Application Lodged:	31/07/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	14/08/2025 to 11/09/2025
Advertised:	14/08/2025
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification seeks to:

- Amend selected operational parameters imposed by the *NSW Police* as reflected in Condition 3 (External referrals) pursuant to DA2024/1249;
This includes clarification of details that the venue has a capacity of 700 (not 794) and seating is not needed for every person due to the adaptable layout of the "Barrel Hall". Additionally, there will be limited entertainment events, such as live acoustic, stand-up, family trivia, movie / sports / special event screenings or broadcasts (as per the approved DA Operational Management Plan). The Barrel Hall is able to be closed (by door / air-locks) for acoustic

protection and business operations staff / security will manage service of alcohol, noise, patron movement between bar spaces, including limited 'takeaway' sales of artisan beer packs.

- The modification also provides for a revised kitchen arrangement to incorporate solid fuel cooking and venting required. Due to kitchen arrangement also incorporating solid fuel cooking and this necessitates additional mechanical exhaust ventilation to ensure adequate ventilation and airflow. The existing roof mounted exhaust outlets therefore require augmentation to accommodate the proposed cooking method, but are integrated and co-located with some current exhaust roof ducts and are not readily visible from the the public domain by screening provided. Exhaust outlets will be subject to screening details (concurrent approval) already provided by the requirements of Condition 9 imposed under the separate DA2024/1375 (for the refit of the 'Wharf Bar' and outside areas) which reads as:.

"9. Mechanical Exhaust

The new mechanical exhaust is to be relocated to be less visible from the public domain or, if relocation is not feasible, screening measures are to be implemented to minimise the visual impact of the exhaust. Details demonstrating compliance with this condition are to be submitted to Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To ensure the proposed works are sympathetic to the heritage significance of Manly Wharf."

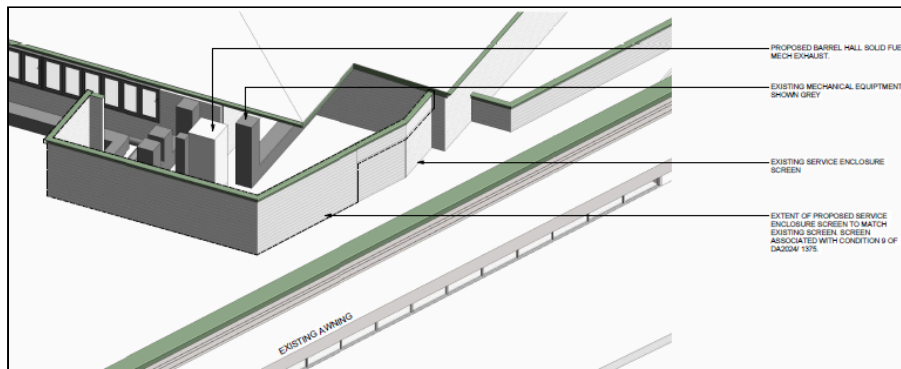


Image: New vent shown in dark grey co-located with the approved vents and roof screening.

The modifications are partly administrative in nature with some associated works (kitchen vents) and operational management details as minor changes to the parent consent.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant

Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 2.4 Unzoned land

SITE DESCRIPTION

Property Description:	Lot 1 DP 1170245 , 0 East Esplanade MANLY NSW 2095
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Detailed Site Description:

The whole of the land area is legally described as Lot 1 in DP 1170245 and is commonly known as Manly Wharf. The site is located within Manly Cove and is located at the junction of East Esplanade and West Esplanade, Manly. This site is irregular in shape and has an area of 9,614.5m² for the entire lot area. The particular relevant element of the site is identified as tenancy 24.1 and includes the Manly Wharf building which is a Heritage Item but has undergone numerous internal fit-outs and business use changes in recent decades and hosts various food and beverage and retail outlets within the commercial parts of wharf. The proposed modification works do not have any impact on the ferry terminal access or operations along the pedestrian approaches to the adjacent transport terminals.

The subject site is located adjacent the RE1 Public Recreation zone under the Manly Local Environmental Plan 2013, and in zone 2 Environment Protection under the State Environmental Planning Policy (Biodiversity and Conservation) 2021. The site (Manly Wharf) is listed on the State Heritage Inventory.

The site has multiple pedestrian access points from East and West Esplanades, and functions as a ferry terminal and has commercial (leased) premises within the various parts of the main building. The site is oriented east to west, with the northern and southern boundaries fronting East and West Esplanade and Manly Cove, respectively. The wharf is surrounded by sheltered marine environment. The surrounding waters and nearby harbour foreshore is known to provide habitat for Little Penguins.

Detailed Description of Adjoining/Surrounding Development

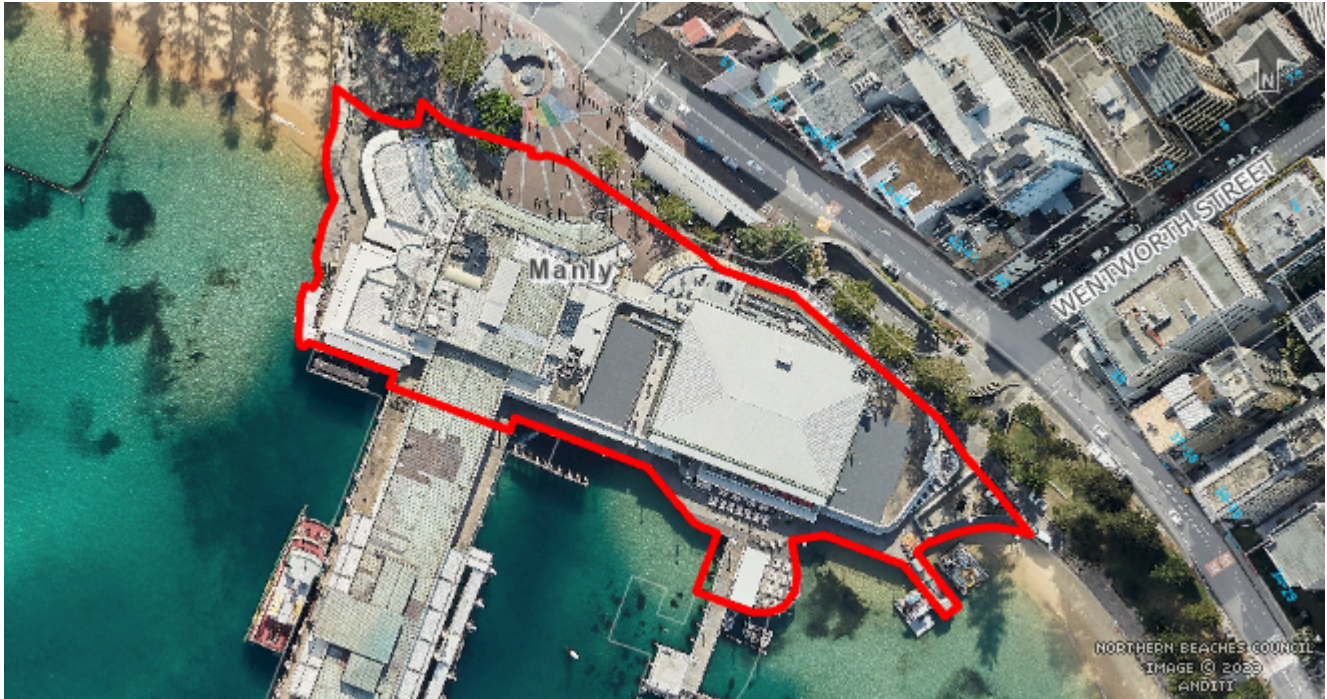
Opposite the site to the north is The Corso, a pedestrian promenade and public open space between Manly Beach and Manly Wharf and provides street furniture, public art and a focal point for the Manly Town Centre. Commercial uses including shops, offices, restaurants, cafes, licensed premises and services and amenities dominate the frontages of The Corso.

The scale of development along The Corso is varied between two to four storeys. East and West Esplanades are characterised by mixed-use developments consisting of ground floor commercial uses such as shops, offices, restaurants and cafes, with residential above. Some of the building along East Esplanade consist primarily of multi-storey commercial developments. The scale of development along East Esplanade

is predominately between three to six storeys. The scale of development along West Esplanade is predominately between three to eight storeys.

The site (proposed "Barrel Hall") was previously used as an Aldi supermarket until operations ceased in 2022, however is currently vacant.

Map:



SITE HISTORY

Development Application DA2024/1249 for alterations and additions, including internal fit-out for use of the premises as a pub and artisan food and drink industry, was approved by the *Sydney North Planning Panel* on 5.2.2025.

More detailed history of approvals are provided within the assessment report of DA2024/1249. *Felons Brewing* as part of HSW Nominees P/L have taken a commercial lease over the whole of the commercial area of Manly Wharf. The former ALDI supermarket space has been vacant since 2022.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are: The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;

- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2024/1249, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons: • The proposal does not alter the overall height, adversely impact views or amenity of the surrounding area. • Installation is required to upgrade and manage venting systems for the kitchen cooking facilities and the need for some changes were predicted at the DA stage however exact exhaust capacity was not fully realised (condition 12 of DA2024/1249) at the time for compliance with Australian Standard (AS1668). • The vents are screened and are not readily visible from the main pedestrian areas and the element above the roof is partly shielded by higher elements of the main central roof area and other existing roof installations. • Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005: The subject land has been included on the Foreshore and Waterways Area and hence is subject to the objectives and clauses of the DCP 2005. The proposal is consistent with the DCP 2005. • On internal assessment, the objectives of the DCP are satisfied in the Modification Statement of Environmental Effects (SEE). In particular, heritage considerations and clause 6.32 Rocky Foreshore and significant seagrasses (Division 3 Development in Foreshore and Waterways Area) in the vicinity. • The proposed modification of the development is limited to minor alterations and will have no impact to the seagrass, marine environment or coastal processes assuming appropriate design and conditions are followed. As such, the modification complies with the DCP. • The minor works proposed with the modification are consistent with the <i>Manly Development Control Policy for Manly Cove 1996</i>.

Section 4.55(1A) - Other Modifications	Comments
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2024/1249 for the following reasons: • The proposal is co-located with other vents and does not adversely materially alter the appearance of the work granted for fitout of the F&B area in the eastern Wharf Bar bar area. • The proposal does not diminish / or seek to 'undo' any existing conditions of consent.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining a modification application made under Section 4.55, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Section 4.15(1) is addressed in the table below.

The reasons given by the consent authority for the grant of the consent that is sought to be modified is discussed as follows:

Comment on reasons for determination of DA2024/1249

- The minutes of the NBLPP dated 5.2.2025 have been reviewed and the modification vent and shielding system in the for the wharf bar area and refit to the former "aldi" supermarket as new bar area for "felons brewing" is not inconsistent with existing conditions or reasons for granting of consent provided by the panel.
- The parent DA was principally concerned with views, noise, operational management, access, capacity, ancillary uses (events), historic character of the outer building area, refitting to the new "barrel hall", and BCA compliance.

The reasons for the granting of the original consent have been considered in the assessment of this modification application. The proposed changes will result in a modified development that will not conflict with the original reasons for the granting of consent.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report. (Namely SEPP (B&C) 2021 as the site is outside Manly LEP boundaries)
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal - Development Policy for Manly Cove, Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition on the parent consent. <u>Clauses 62</u> and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition on the parent consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition on the parent consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the referral responses, Manly Development Control Plan section, SEPP requirements and Development Policy for Manly Cove, and Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005. (ii) Social Impact The proposed development modification will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development modification will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed modification of the development. Heritage NSW have not raised any objection to the modification.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 14/08/2025 to 11/09/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development. Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.
Environmental Health (Industrial)	General Comments The proposal seek approval in part to amend select operational parameters contained within the NSW Police referral, which relate in part, to noise, amplified music and patron management. In order to ensure that such parameters are modified, if approved, in accordance with the best outcomes for the surrounding receivers and the wider community, Environmental Health considers that documentation such as an updated acoustic report and plan of management would be required for further consideration. 18/08/2025 - Updated referral comments Upon review it was been determined that the modification seeks to remedy inconsistencies between the original consent and referral response from NSW Police. The proposal is supported Recommendation APPROVAL - without conditions

Internal Referral Body	Comments
Environmental Health (Food Premises, Skin Pen.)	General Comments The proposal seeks approval for revised a kitchen arrangement to incorporate solid fuel cooking. Environmental Health supports the proposal and recommends a number of conditions of consent. 15/09/2025 - Amended referral comments A review of the above comment has revealed that subject conditions previous recommended on this modification are already part of the parent Consent. Recommendation APPROVAL - no conditions
NECC (Coast and Catchments)	The proposed modifications are minor in nature and do no impact the assessment of coastal matters considered for DA2024/1249

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	The proposal has been referred to Heritage as the subject site is a heritage item with state significance, and in the vicinity of the Manly Town Centre Conservation Area and a number of heritage items with local significance:
	SHR No 01434 - Manly Wharf
	Item I143 - Park/Reserve - East Esplanade
	Item I251 - Park - West Esplanade
	Item I1 - Harbour foreshores - Manly municipal area boundary adjacent to the Harbour

Internal Referral Body	Comments		
	SHR No 01434 - Manly Wharf		
	<u>Statement of Significance</u>		
	Of environmental significance as a visually prominent man-made feature. Of historical significance for its associations with the maritime activities at Manly as a tourist destination and suburb of Sydney, dependent on the ferry link to the CBD. (Anglin 1990:2033) Together with Circular Quay, the wharf is the only substantial older style ferry wharf surviving in Port Jackson: association with Manly's history as a recreational centre. (Blackmore, Ashton, Higginbotham, Rich, Burton, Maitland, Pike 1985)		
	<u>Physical Description</u>		
	A broad wharf supported on timber piers and with a concrete platform. The superstructure is constructed of steel and timber. The facade and side walls form an important architectural design, similar to the Circular Quay ferry terminals. (Blackmore, Ashton, Higginbotham, Rich, Burton, Maitland, Pike, 1985). The original part of the wharf was built in a modernistic transport idiom, with typical stylistic features of era including play of circular and rectangular geometric terms, bayed facade to the water (marine connotations), wide arc plan at entrance, clock tower with "fins", flat roofing marked by wide fascia board. The current entrance was originally designed as a tram terminus and turning area. Timber clad framed structure opening and large internal spaces, concrete deck to west enclosed by "ship" railing. Some original shop fittings, signage etc. Subjected to major alterations to the wharf wings involving a T-shaped clerestorey (Stapleton, 1981). Additions to the wharf include the hydrofoil pontoon c1968, and the more recent elevated platforms for new ferries. (Blackmore, Ashton, Higginbotham, Rich, Burton, Maitland, Pike 1985) Extensive refurbishment in 1990. (Anglin 1990:2033)		
	Item I143 - Park/Reserve		
	<u>Statement of Significance</u>		
	Belongs to similar treatment as West Esplanade as early cultural landscape to emphasise arrival by ferry.		
	<u>Physical Description</u>		
	Open space, part beach, sandstone retaining wall and park railing, pavings and split stone edging, raised planting beds, grassed surfaces and cultural planting of Norfolk Island pine and Port Jackson figs. All items substantially intact.		
	Item I251 - Park		
	<u>Statement of Significance</u>		
	Part of earliest cultural treatment of Manly landscape and provision of designed open space. High visual significance.		
	<u>Physical Description</u>		
	Open space, beach, sandstone retaining wall, pavings, grassed surfaces, monument, structures and cultural plantings of Norfolk Island pine, Moreton Bay Figs, Port Jackson figs and Canary Island Palms. Raised planting beds, with split stone edging of Edwardian period characterise the eastern part of the Park. Recent paving detracts from the Edwardian character.		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	Yes	
	Australian Heritage Register	No	

Internal Referral Body	Comments		
	NSW State Heritage Register	Yes	
	National Trust of Aust (NSW) Register	Yes	
	RAIA Register of 20th Century Buildings of Significance	Maybe	
	Other	Yes	
	Consideration of Application		
	The proposal seeks consent to modify the approved DA 2024/1249, to amend the operational parameters imposed by the NSW Police as per Condition 3 of the consent; and to provide for a revised kitchen arrangement to incorporate solid fuel cooking.		
	The Statement of Modifications provided by Architectus Australia Pty Ltd, dated 7 July 2025, states the following:		
	"Existing roof mounted exhaust outlets will require augmentation to accommodate the proposed cooking method, however are not considered to result in any perceptible impact from the public domain.		
	Exhaust outlets are proposed to be located with other existing mechanical plant within the roof form and will be screened from the public domain. However, screening is not proposed under this modification, with screening details subject to an alternate approval process in response to Condition 9 of DA2024/1375, ..." While the statement claims screening is not part of this modification, the submitted architectural drawings show a type of screening that differs from what was previously approved under Condition 9 of DA2025/1375. Consequently, the requirements of Condition 9 will be retained for this application.		
	Given that the application affects a State heritage listed item, it is classified as Integrated Development and requires consultation with Heritage NSW and eventual approval under Section 60 of the Heritage Act 1977. Heritage NSW responded with a letter dated 27 August 2025, providing its General Terms of Approval for this integrated development application. These comments have been reviewed, and all required terms of approval (conditions) are agreed with.		
	Therefore, no objections are raised on heritage grounds, subject to all terms of approval (conditions) required by Heritage NSW being included in any consent and an additional condition.		
	<u>Consider against the provisions of CL5.10 of MLEP 2013.</u>		
	Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No		
	Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes		

Internal Referral Body	Comments
Waste Officer	MOD does not affect any of the waste storage provision as approved within DA2024/1249 for the development. Conditions as approved in original DA to apply. No further conditions.

External Referral Body	Comments
Foreshore and Waterways Planning and Development Advisory Committee	The subject site is within the Sydney Harbour Catchment and Sydney Harbour Foreshores and Waterways Area, and is within Zone 2 Environment Protection, per Chapter 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 ('the SEPP'). The proposed pub and artisan food and drink industry land uses are permissible with consent under the SEPP. The modification only relates to roof and venting systems for cooking / kitchen fit-out within the building that require modification from the original approval for the ducting installations intended. These were principally addressed already under DA2024/1249. Therefore no further detailed consideration is required by the FWPDAC. Environmental and planning considerations are addressed pursuant to Manly Development Control Policy for Manly Cove which specifically applies to the wharf area.
NSW Police - Crime Prevention Office (Local Command matters)	<u>CPTED and Licensed Premises</u> The modification was referred to NSW Police for comment regarding crime prevention and local command policing matters associated with licensed premises. A referral response was received on 21 August 2025 and conditions are included as recommended as per condition No.3 <i>Compliance with Other Department, Authority or Service Requirements</i>.
Nominated Integrated Development - Heritage NSW - Heritage Act 1977	The modification was referred as integrated development to <i>Heritage NSW</i> for comment pursuant to the Heritage Act 1977. A referral response was received on 2 September 2025 and conditions are included as recommended as per condition No.3 <i>Compliance with Other Department, Authority or Service Requirements</i>. (Note: Heritage NSW referral response mistyped the plan date references and provided corrective note)

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Transport and Infrastructure) 2021

The proposal was not required to be referred to Ausgrid and no change is required to previous Ausgrid requirements imposed under DA2024/1249 which remain in place on the parent consent.

Other Service Authorities

TfNSW has provided owners consent to the modification work and no special requirements or conditions are applied in variation to the parent consent conditions. Requirements for Sydney Water assets are managed directly by Sydney Water.

No further detailed consideration is required for the modification pursuant to SEPP.

SEPP (Biodiversity and Conservation) 2021

The subject property is located within the Sydney Harbour Catchment and Sydney Harbour Foreshores and Waterways Area therefore the provisions of Chapter 6 Water catchments of State Environmental Planning Policy (Biodiversity and Conservation) 2021 apply to modification. The installation of the roof vents and screening components have been considered pursuant to part 6.2 (Catchments) and part 6.3 (Foreshore and Waterway area). The proposal does not create any adverse impact or require further assessment to that outlined in original DA assessment.

Division 2 Zoning of Foreshores and Waterways Area

6.26 Zoning of Foreshores and Waterways Area

Comment:

The subject site is within the **Zone 2 Environment Protection** under the SEPP.

6.27 Zone objectives and Land Use Table

(2) Development not specified in the Table in relation to a zone may be carried out with development consent in the zone if the consent authority is satisfied that the development—

- (a) *is not inconsistent with the objectives for development in the zone, and*
- (b) *is not inconsistent with the provisions of another environmental planning instrument, and*
- (c) *will not otherwise have adverse impacts.*

(3) The consent authority must consider the objectives for development in a zone when determining a development application in relation to land in the zone.

The proposed modification works, being wholly upon disturbed (built) land (and being associated with roof area installations, will protect the existing natural and cultural value of the water surrounding the subject site. The proposal is also acceptable from a heritage perspective, given its retention and protection of the State heritage listed Manly Wharf structure with no objection raised by HeritageNSW. The use of the premises is supported by a Plan of Management (which is to be adhered to per the existing approved DA conditions of consent). The Plan of Management ensures appropriate operation of the site and consideration of the values of the site.

The modification is considered to be low impact and consistent with the objectives of the zone including the provision and objectives of clause 6.28 for general objectives applying to Development in Foreshore and Waterways Area.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The proposed modification work to the approved development is designed, sited and will be managed so as not to result in adverse impact with respect to the coastal environment. The modification has been reviewed by Council's Coast & Catchments teams, who are supportive of the application, and raise no additional issues pursuant to section 2.10 (Coastal environment), section 2.11 (Coastal use) or section 2.12 (Coastal zone).

Chapter 4 - Remediation of land

It is considered that the modification poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the ongoing commercial land use with the works generally associated with roof level installations (kitchen service vents and screening).

No further detailed assessment for the modification is required pursuant to the SEPP.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

NOTE 1: The subject site is located outside of the area to which the Manly Local Environmental Plan 2013 (MLEP 2013) applies. As such, there are no principal development standards applying to the site under Part 4 of the MLEP 2013.

NOTE 2: For administrative reporting this report table includes the adjacent zones of RE1 Public Recreation however to be read under the SEPP(B&C) 2021 zoning provisions in so far as the SEPP prevails.

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
1.9A Suspension of covenants, agreements and instruments	Yes
Part 2 Permitted or prohibited development	Yes
2.1 Land use zones	Yes
2.2 Zoning of land to which Plan applies	Yes
2.3 Zone objectives and Land Use Table	Yes
2.4 Unzoned land	Yes
5.3 Development near zone boundaries	Yes
5.5 Development within the coastal zone	Yes

Clause	Compliance with Requirements
5.7 Development below mean high water mark	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

2.4 Unzoned land

The site is outside the legal Manly LEP 2013 boundary however in 1996 Council adopted the **Manly Development Control Policy for Manly Cove** to deal with works and development associated with the wharf and adjacent Cove area. In addition SEPP (Biodiversity and Conservation) 2021 formally zones the land "**Zone 2 Environmental Protection**" and this is addressed under the SEPP within this report.

In the event of any inconsistency the SEPP prevails.

The proposed modification work has been considered in context with the objectives of the Manly Development Control Policy for Manly Cove. Generally the Policy provides guidelines for building location, height and scale, townscape principles and design, access, loading and parking, drainage, water quality, and waste management.

The installation of the kitchen ducting vents and roof screen components are not readily visible from the Corso or waterway area (being at far eastern end of the building). Existing conditions of consent address fit-out and Australian Standards for the kitchen vents. Other minor changes to DA consent are supported as per the referral responses provided. The works are minor and partly internal with minimal external works to install and do not adversely detract from the heritage values of the precinct and are not inconsistent with the provisions of Council's Development Control Policy for Manly Cove or the SEPP.

Manly Development Control Plan

Built Form Controls

The subject site is located outside of the area to which the Manly Development Control Plan 2013 (MDCP 2013) applies. As such, there are no built form controls applying to the site under the MDCP 2013. (See details relating to *Manly Development Control Policy for Manly Cove -1996*).

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
1.2 Where this DCP Applies	Yes	Yes
1.7 Aims and Objectives of this Plan	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
5.1.1 General Character	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2025/0416 for

Modification of Development Consent DA2024/1249 granted for Alterations and additions including internal fit-out for use of premises as a pub and artisan food and drink industry on land at Lot 1 DP 1170245,0 East Esplanade, MANLY, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
MOD2025/0416	The date of this notice of determination	Modification to install additional roof mechanical vent for cooking facilities. Adjustment Police (Local Command) referral response regarding operational requirements. Minor screening works to rooftop vent.
DA2024/1249	5.2.2025	Alterations and additions including internal fit-out for use of premises as a pub and artisan food and drink industry.

Modified conditions

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

"1A - Modification of Consent - Approved Plans and supporting documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans			
Plan Number	Revision Number	Plan Title	Drawn By
D.99.00	3	Cover page and Site plan	Little Boat Projects
D.99.01	3	Roof plans - Existing and proposed	Little Boat Projects
D.99.02	3	Elevations - Existing and proposed	Little Boat Projects
D.99.03	3	Axonometric - Demolition and proposed	Little Boat Projects
D.99.04	3	Section and Diagram	Little Boat Projects

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Heritage Report H-24034	-	City Plan	7.7.2025

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development."

B. Add Condition No.2A Compliance with Other Department, Authority or Service Requirements, to read as follows:

"2A. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference
Heritage NSW	Referral Response Heritage NSW*
NSW Police (Local Command)	Referral Response NSW Police (Local Commar

*Typographical date error in *HeritageNSW* referral to read as 27.6.2025

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies."

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Alex Keller, Principal Planner

The application is determined on 16/09/2025, under the delegated authority of:



Daniel Milliken, Manager Development Assessments