



## STATEMENT OF ENVIRONMENTAL EFFECTS REPORT

**Shop fit-out: Max Brenner**

Shop 11 Manly Wharf, East Esplanade, Manly NSW

November 2022

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## 1.0 INTRODUCTION

Metro Planning Services has been engaged by Max Brenner to prepare a Statement of Environmental Effects Report (SEE) in support of a development application that seeks consent for a fit out of an existing food and drink premises for a new food and drink premises (named Max Brenner) at Shop 11 Manly Wharf, East Esplanade, Manly NSW.

The proposed works involve the internal refurbishment of an existing food and drink premise including new storeroom, joinery, equipment, shop front and signage. Minor external works of the façade facing the wharf are also proposed involving new glazing and entry door.

Given external works are sought, the proposal represents Integrated Development' under s 58 of the NSW Heritage Act 1977 and the application requires referral to the NSW Heritage Office for comment.

The Statement of Environmental Effects Report is to be read in conjunction with the architectural drawings and other supporting documents to demonstrate that the proposal would be acceptable in the context of all the relevant matters for consideration.

The report is intended to assist Council in its assessment of the development application and incorporates the following details:

- Description of site and context;
- Description of proposed development;
- Consideration of relevant planning considerations;
- Consideration of relevant environmental effects; and
- Evaluation of Section 4.15 under EP&A Act 1979.

The report should be read in conjunction with the following supporting material:

- Architectural plans prepared by A & Co.;
- Heritage Impact Statement prepared by Heritage 21; and
- Waste Management Plan.

## 2.0 SITE DETAILS

The following details of the site's locational and physical characteristics are provided to assist Council in the assessment of the development application.

### 2.1 Site Location

The subject site is located on the northern section of Manly Wharf at East Esplanade Manly (formally described a Lot 1 DP1170245) and has an area of approximately 9,615 square metres. Manly Wharf is located on East Esplanade as shown in **Figure 1** and **Figure 2** below. The southern side of the Manly Wharf is used as the ferry terminal. The northern side consist of a two storey building with a range of commercial and retail tenancies including restaurants, cafes, supermarket, and other retail stores. The subject tenancy (Shop 11) is located south east of the wharf.

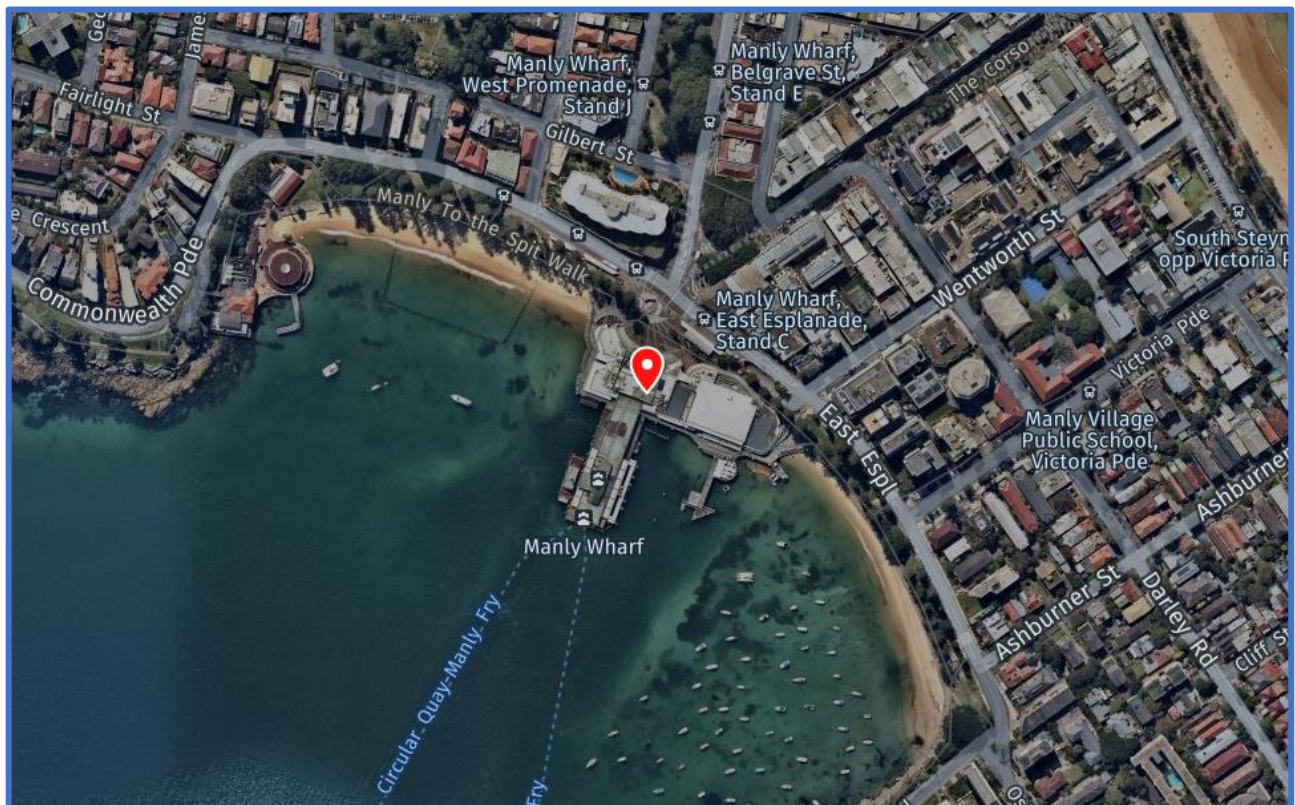


Figure 1 Location Plan

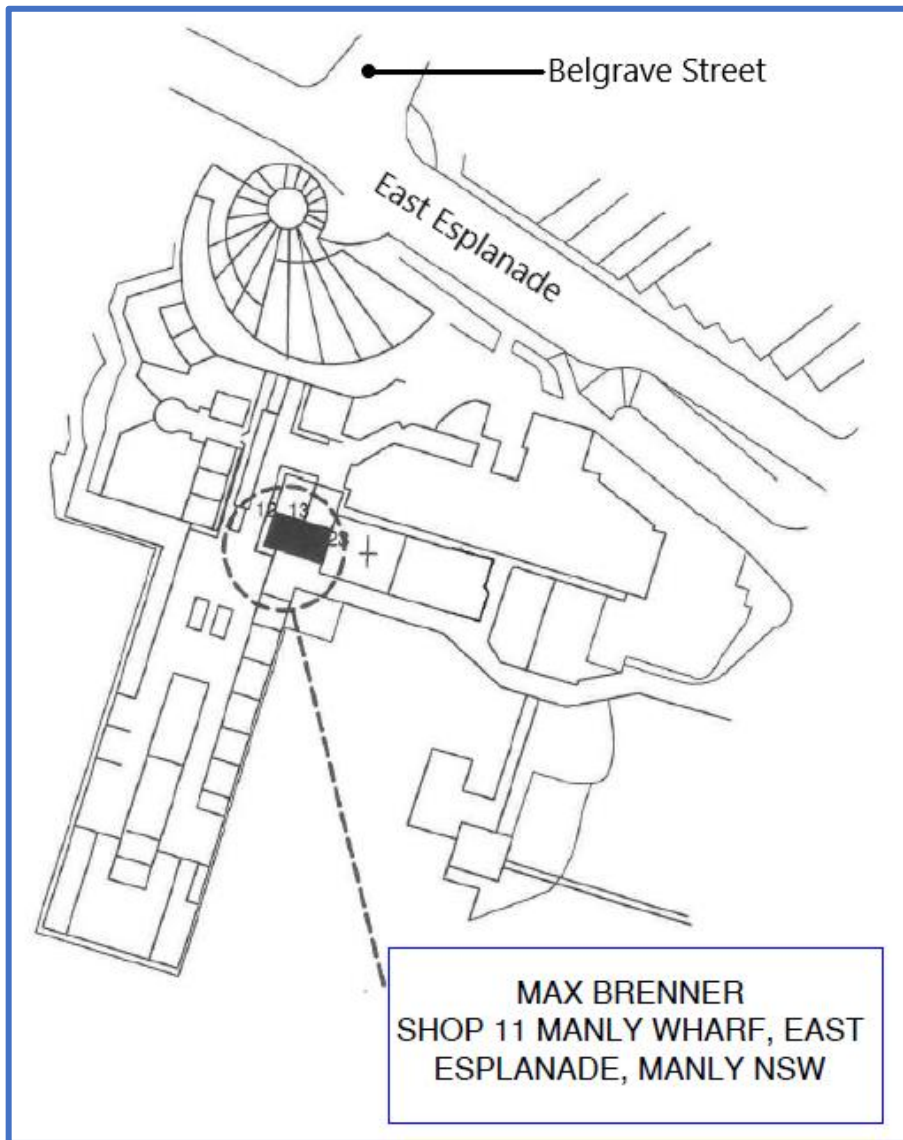


Figure 2 Shop Location Plan within the wharf

## 2.2 Site Context

The subject property Manly Wharf is a listed item on the NSW State Heritage Register and is also identified as an item of local heritage significance on Schedule 5 of the *Manly Local Environment Plan (LEP) 2013* (Manly LEP). As an item of Heritage significance, the development application is accompanied by a Heritage Impact Statement prepared by Heritage 21 as per the requirement from Northern Beaches Council.

The subject site is not situated within a Heritage Conservation Area under the Manly LEP.

### 3.0 PROPOSED DEVELOPMENT

The proposed development involves the following:

- Proposed internal fit out including new storeroom, joinery, equipment, shop front and signage.
- New finishes and signage letterings to existing under awning signage;
- New finishes and signage to existing tenancy wall facing mall walkway; and

The operations of the food and drink premises involves the following:

- Operating days: Monday to Sunday;
- Operating hours: 7.00am to 11.00pm; and
- Staff: up to 8.

Seating plan proposes for a total of 65 seats, including an internal dining area containing 57 seats and 8 outdoor dining. The shop floor plan is shown in **Figure 3**.

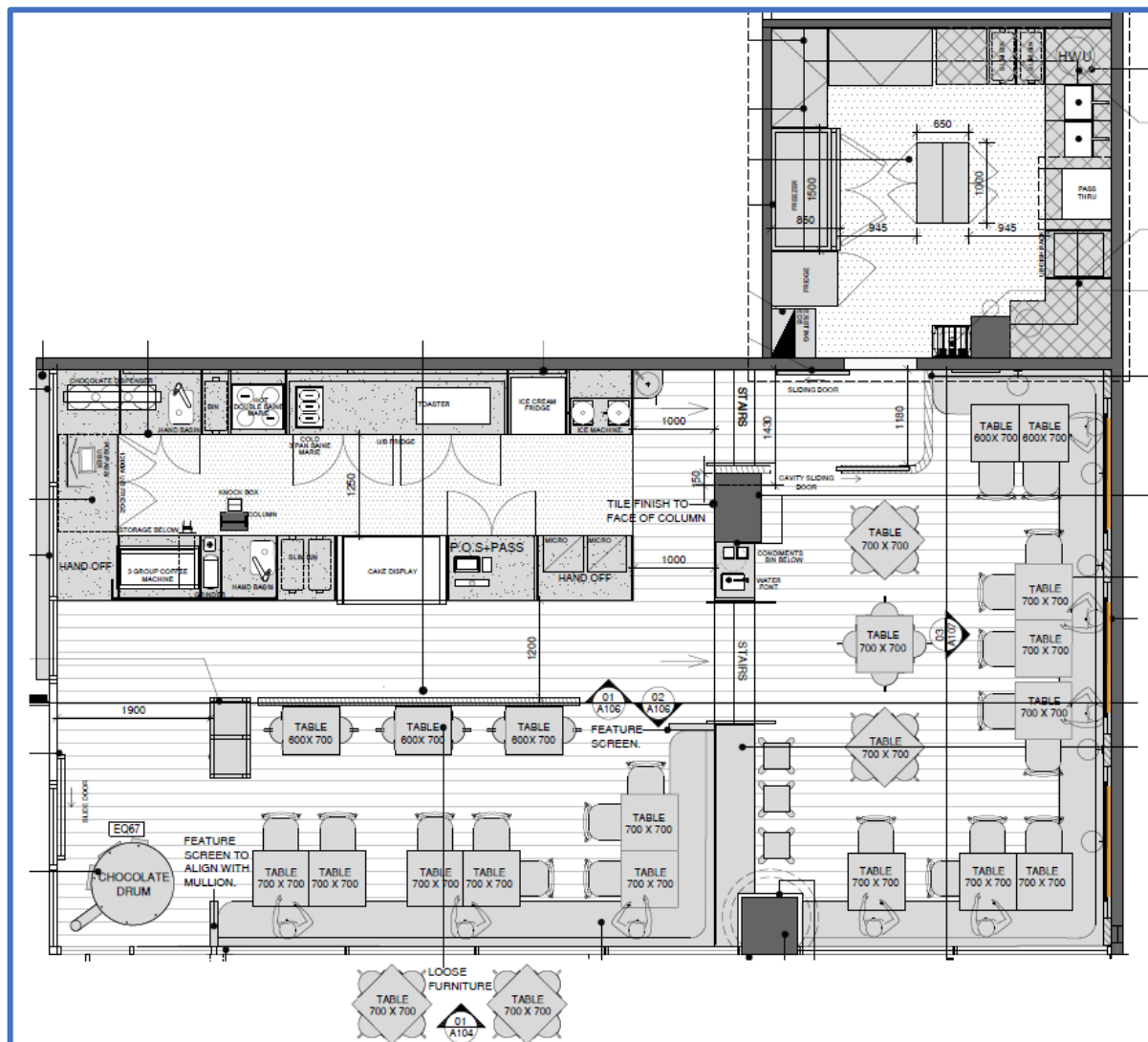


Figure 3 Shop floor plan

## 4.0 PLANNING CONSIDERATIONS

The proposal has been designed and assessed under the following planning controls that is relevant to the site.

- Environmental Planning and Assessment Act 1979;
- Heritage Act 1977;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 (previously Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005);
- Manly Local Environment Plan 2013;
- Manly Development Control Plan 2013;
- State Environmental Planning Policy (Industry and Employment) 2021 (previously SEPP 64 Advertising and Signage);
- Building Code of Australia; and
- Australian Standards.

### 4.1 Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (the Act) is the statutory planning instrument in New South Wales in which Council must use to assess development applications. In determining a development application, Council must take into consideration the matters under Section 4.15 of the Act.

The proposed development does constitute 'Integrated development' under s58 of the NSW Heritage Act 1977 as detailed in Section 4.2 below. As the works only involve a fit out and signage and does not involve any extensions or alterations to the significant fabric of the heritage building, it is considered that, there will be no adverse impacts upon the Manly Wharf, the heritage items in the vicinity, or the Manly Town Centre Conservation Area.

### 4.2 Heritage Act 1977

As detailed in **Section 2.2** of the SEE, the proposed site is identified as having heritage significance. The subject site is listed on the State Heritage Register under the NSW Heritage Act (SHR 01434) as the Manly Wharf.

As the proposed development affects a State heritage listed item, the application is considered Integrated Development and requires approval from the NSW Heritage Office under Section 60 of the *Heritage Act 1977*.

The proposed works will have no adverse impact upon the heritage significance of the item or any heritage items in the vicinity of the site as the proposed works are sympathetic to the heritage significance of the building. The proposed works are limited to minor works only and will not have a detrimental impact on any significant heritage fabric. The proposed refurbishment works, and new signage and finishes will have no adverse heritage impact.

The proposed investment for the fit-out and alterations to the existing tenancy in the building represents the continuation of part of the Manly Wharf's commercial / retail use. It is noted that no significant heritage fabric would be affected as part of the proposal, and that the investment complements both the significance and values of the historic building.

#### 4.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The site is located in the zone W2 Recreational Waterways under Chapter 10 of *State Environmental Planning Policies (Biodiversity and Conservation) 2021*. The proposed use of a take-away store / food and drink premises is permissible under the SEPP and aligns with the objectives of the zone by not having adverse impacts to the area. The alteration to the shop would match and be coherent with the surrounding storefronts within the wharf.

It should be noted that the proposed development has been previously approved for the same shop name for the purpose of a food and drink premises in February 2015, under DA109/2014.

Under Chapter 10 Sydney Harbour Catchment of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, the site is located within the Sydney Harbour Catchment. The site is not a Strategic Foreshore Site, is not part of a Wetlands Protection Area and is not otherwise subject to any special purposes. **Table 1** addresses compliance of the proposed development with the relevant clauses of Chapter 10 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021		
CLAUSE	COMMENT	COMPLIANCE
<b>CHAPTER 10 SYDNEY HARBOUR CATCHMENT</b>		
10.10 Sydney Harbour Catchment	The site is within the Sydney Harbour Catchment. The proposed activity would not affect the catchment, foreshores, waterways and islands of Sydney Harbour Catchment.	Yes
10.11 Foreshores and Waterways Area	The site is within the Foreshores and Waterways Area. The proposed activity would not affect the catchment, foreshores, waterways and islands of Sydney Harbour Catchment.	Yes
10.12 Heritage conservation	The proposed works will have no adverse impact upon the heritage significance of the item or any heritage items in the vicinity of the site as the proposed works are sympathetic to the heritage significance of the building. The proposed works are limited to minor works only and will not have a detrimental impact on any significant heritage fabric. The proposed refurbishment works, and new signage and finishes will have no adverse heritage impact.	Yes



<b>STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021</b>		
<b>CLAUSE</b>	<b>COMMENT</b>	<b>COMPLIANCE</b>
<b>PART 10.3 FORESHORES AND WATERWAYS AREA - DIVISION 2 MATTERS FOR CONSIDERATION</b>		
10.19 Biodiversity, ecology and environment protection	<p>This clause sets out matters to be taken into consideration in relation to biodiversity, ecology and environment protection to be taken into consideration.</p> <p>The proposed activity (fit-out) will not disturb any aquatic vegetation or affect the tidal foreshore in any way.</p>	Yes
10.20 Public access to, and use of, foreshores and waterways	The proposed activity would not affect access and use of the wharf, foreshores and waterways.	Yes
10.21 Maintenance of a working harbour	This clause sets out matters to be taken into consideration in relation to the maintenance of a working harbour. The proposed activity does not interfere with the use or maintenance of any working harbour.	Yes
10.22 Interrelationship of waterway and foreshore uses	This clause sets out matters to be taken into consideration in relation to the connection between waterway and foreshore uses. The proposed activity would not impact on the use of the waterway.	Yes
10.23 Foreshore and waterways scenic quality	<p>This clause sets out matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways.</p> <p>The proposed activity is considered compatible with the scale of the surrounding development which comprises commercial and retail use. The proposed activity would not affect the scenic quality of foreshores and waterways of Sydney Harbour.</p>	Yes
10.24 Maintenance, protection and enhancement of views	This clause sets out matters to be taken into consideration in relation to the maintenance, protection and enhancement of views. The proposed activity would not affect the existing views of Sydney Harbour.	Yes
<b>PART 10.5 HERITAGE PROVISIONS</b>		

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021		
CLAUSE	COMMENT	COMPLIANCE
10.59 Development in vicinity of heritage items	<p>This clause sets out matters to be taken into consideration the impact of the proposed development on the heritage significance of the heritage item.</p> <p>Given the nature of the proposed activity, there would be no significant impacts associated with the heritage significance of the conservation area and adjacent local heritage item. Heritage associated with the site is discussed in <b>Sections 4.2, 4.3, 4.4, 4.5.</b></p>	Yes

**Table 1 Chapter 10 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021**

#### 4.4 Manly Local Environment Plan 2013 (MLEP 2013)

The subject site is not zoned under MLEP 2013. The LEP has the following aims:

- to promote a high standard of urban design that responds to the existing or desired future character of areas;
- to foster economic, environmental and social welfare so that Manly continues to develop as an accessible, sustainable, prosperous, and safe place to live, work or visit;
- to ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increase in demand; and
- to ensure all development appropriately responds to environmental constraints and does not adversely affect the character, amenity or heritage of Manly or its existing permanent residential population.

The subject site is listed as an item of environmental significance under Schedule 5 of the Manly Local Environmental Plan (LEP) 2013. It is also listed on the NSW State Heritage Register, the Heritage Act -s.170 Heritage Register of the Marine Ministerial Holding Corporation and the National Trust Register (NSW). It is not listed on the National Heritage List, the Commonwealth Heritage List or the former Register of the National Estate.

The proposed development mainly comprises of internal works and would not be removing or demolishing any heritage items or structures. Therefore, the proposed works would not be diminishing social and/or historical significance of the building. This would comply with Section 5.10 Heritage Conservation under the LEP. It is considered that the proposed development responds appropriately to the LEP aims and objectives.

#### 4.5 Manly Development Control Plan 2013

The Manly Development Control Plan 2013 (DCP) is the planning instrument that provides comprehensive development controls for the local area. The relevant matters to be considered under the DCP for the proposed development are outlined below (**Table 2**). While the subject site

is not zoned under the provisions of the Manly LEP or DCP, it is located in close proximity to the B2 Local Centre Zone and therefore those provisions are considered to be the most applicable.

<b>MANLY DEVELOPMENT CONTROL PLAN 2013</b>		
<b>CLAUSE</b>	<b>COMMENT</b>	<b>COMPLIANCE</b>
<b>PART 3 – GENERAL PRINCIPLES OF DEVELOPMENT</b>		
3.1 Streetscapes and Townscapes	The proposed development will contribute positively to the streetscape of the Esplanade through the continuation of an envisioned use with a high amount of pedestrian activity and connectivity.	Yes
3.2 Heritage Considerations	The proposed works will have no adverse impact upon the heritage significance of the item or any heritage items in the vicinity of the site as the proposed works are sympathetic to the heritage significance of the building. The proposed works are limited to minor works only and will not have a detrimental impact on any significant heritage fabric. The proposed refurbishment works and new signage and finishes will have no adverse heritage impact.	Yes
3.4 Amenity	No change to building footprint or views, overshadowing, overlooking.	Yes
3.6 Accessibility	Existing access provided into Manly Wharf area. Proposal is capable of complying with the BCA	Yes
3.8 Waste Management	The proposal is supported by a Waste Management plan. Excess packaging materials, recyclable material and waste will be disposed of in an allocated existing waste area. During construction and fit out period, the contractors would ensure the waste generated is managed appropriately. Any materials which can be re-used or recycled would be stored and kept for different purposes i.e., timber from the fit out can be used for studs or backing. Any further waste would be stored in a skip bin and disposed of through an appropriate waste contractor.	Yes
3.10 Safety and security	There is no change to the overall building footprint, and the provision of a ground floor commercial premises actively promotes casual surveillance and is seen as a desirable outcome.	Yes
<b>PART 4.2 – DEVELOPMENT IN BUSINESS CENTRES</b>		
4.2.1 FSR	N/A – there is no change the floor space of the building.	N/A
4.2.2 Height of Buildings	N/A – there is no change the height of the building.	N/A
4.2.3 Setbacks	N/A – there is no change the building footprint or setbacks.	N/A

MANLY DEVELOPMENT CONTROL PLAN 2013		
CLAUSE	COMMENT	COMPLIANCE
4.2.4 Car Parking, Vehicular Access and Loading Controls	The tenancy is part of a mixed-use development with existing parking and loading facilities in the locality. As there is no proposed increase in floor area, the existing conditions are considered appropriate.	Yes

**Table 2 Manly Development Control Plan 2013**

The signage proposed (as detailed under **Section 4.4**) is considered to be compliant with the heritage consideration as identified in MDCP 2013 for advertising signs.

The proposed signage compliments the character and architectural style of the building, the placement ensures visibility and legibility and does not cause any loss of amenity. Identification of the shop would not detract from the heritage listing. There would be no flashing signs, however illuminated signage blade (light boxes) would be provided externally and would be securely fixed to the shopfront.

The proposed new signage and renewal of existing signages provide passers-by a clearer visual location of premise within the wharf while not affecting the public domain from East Esplanade and Fairlight Walk as it is situated well within the wharf. The new store will be an additional hospitality option for local or visitors, hence will have a positive social and economic influence by contributing to the social community and the business of the neighbouring tenancies. Further signage assessment is discussed in **Section 4.6**.

#### **4.6 State Environmental Planning Policy (Industry and Employment) 2021**

Chapter 3 of the *State Environmental Planning Policy (Industry and Employment) 2021* aims to improve the amenity of urban and natural settings by managing the impact of outdoor advertising. The policy responds to growing concerns from the community, the advertising industry and local government that existing controls and guidelines were not effective. SEPP (Industry and Employment) 2021 - Chapter 3 offers the comprehensive provisions and consistent approach needed.

The proposed fit out facilitates a shop frontage facing the main walkway inside the mall that connects the northern and southern side of the wharf. On the side shopfronts, new internally feature logos are proposed to be installed onto the window and entry glazing, refer to



Figure 4.

Graphic decals (non-illuminated) are proposed along the top windows of the shopfront for aesthetics and identification. Existing suspended signs (illuminated light boxes) would be updated to include the 'Max Brenner' name.



Figure 4 Shop identifications (external) (Top: western frontage; bottom: northern frontage)

In accordance with Chapter 3, the proposed signage is defined as 'business identification signs'. **Table 3** demonstrates the consistency of the proposed signage with the assessment criteria in accordance with Schedule 5 of the SEPP (Industry and Employment) 2021.

IMPACT TYPE	ASSESSMENT AND EVALUATION
<b>Character of the Area</b>	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The premise is located within an existing commercial/retail area with many adjoining businesses displaying similar signage. Therefore, the proposed signage is considered to be compatible with the existing, and desired future character of the locality.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Many businesses with the wharf shopping centre display similar signage to what is proposed. The proposed signage is therefore considered to be consistent with the theme of signage within the locality. The proposed signage is unobtrusive and reflects the purpose of the zone.
<b>Special areas</b>	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes, or residential areas?	The proposal takes into account of the site being a heritage item. The proposed fit out is considered to be minor works to one single tenancy within the building and will not have a detrimental impact on the heritage significance of the building. A Heritage Impact Statement prepared by Heritage 21 is also submitted to show support for the development.
<b>Views and vistas</b>	
Does the proposal obscure or compromise important views?	No important views are obscured by the proposed signage.
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage is located on or below the awning level and does not dominate the skyline or reduce the quality of vistas. Furthermore, the proposed signage is considered compatible with existing signage for adjoining tenancies of the wharf.
Does the proposal respect the viewing rights of other advertisers?	The proposed signage respects the viewing rights of other tenancies located within the wharf.
<b>Streetscape, setting or landscape</b>	
Is the scale, proportion, and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signage is similar to existing signage within the locality is therefore considered to be appropriate within the setting.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage is considered compatible with existing signage for tenancies within the wharf.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The signage will act as an appropriate and simple advertising element to the site and is conducive to its total area.
Does the proposal protrude above buildings, structures or	The proposed signage does not protrude above the building and is located at or below the awning level.

IMPACT TYPE	ASSESSMENT AND EVALUATION
tree canopies in the area or locality?	
<b>Site and building</b>	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is considered compatible with existing signage for tenancies in the vicinity.
Does the proposal respect important features of the site or building, or both?	The proposed signage is located at or below the awning level and respects the features of the existing building.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage relates to the proposed use of the tenancy.
<b>Illumination</b>	
Would illumination result in unacceptable glare?	No glare impacts are envisaged as the illumination is within a light box similar to existing under awning signs within the locality.
Would illumination affect safety for pedestrians, vehicles, or aircraft?	The proposed signage is a light box and is not considered to affect the safety of pedestrians, vehicles, or aircraft.
Would illumination detract from the amenity of any residence or other form of accommodation?	The proposed signage would not be from any residence or other form of accommodation.
Is the illumination subject to a curfew?	Illumination of the signage will be switched off when the premises closes.
<b>Safety</b>	
Would the proposal reduce the safety for any public road?	The proposed signage is a light box sign and will not reduce the safety of any public roads.
Would the proposal reduce the safety for pedestrians or bicyclists?	The proposed signage is located under the awning and will not reduce the safety of pedestrians or bicycles.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage is located under the awning and does not obscure sightlines from public areas.

Table 3 Assessment criteria for signage as per Schedule 5 of the SEPP (Industry and Employment) 2021

## 5.0 SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

As per Section 4.15(1) of the Act, the subject application is consistent with the required matters for consideration as demonstrated below.

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

### **(a)(i) – The Provisions of any Environmental Planning Instrument**

Statutory assessment of the proposal has been previously addressed in **Section 4.0**. The proposed works align with the relative matters of the LEP and DCP as per the compliance assessment in this Statement of Environmental Effects. The proposed works are seen to meet all the relative controls and are seen as a good outcome for the subject site.

### **(a)(ii) – The Provisions of any Draft Environmental Planning Instrument**

Nil.

### **(a)(iii) – The Provisions of any Development Control Plan**

The proposal generally complies with the objectives and relevant controls of the DCP as detailed previously in this report.

### **(a)(iv) – the regulations (to the extent that they prescribe matters for the purposes of this paragraph)**

The proposal is consistent with relevant Regulations.

### **(a)(v) – any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)**

The proposal is not inconsistent with any coastal zone management plan.

### **(b) – The likely impacts of that Development**

The proposed works will not have any negative impacts on the surrounding land uses considering the commercial setting of the site.

### **(c) – Suitability of the Site for Development**

The subject site is envisioned for commercial uses of this nature, with the proposed tenancy alterations being considered appropriate.



**(d) – Any submissions made in accordance with this Act or Regulations**

As per the DCP requirements, the development application may be placed on public exhibition to invite submissions, and if applicable Council will assess these accordingly.

**(e) – Public Interest**

The proposed works are to an existing commercial building and are seen to be in the public's interest through the provision of an envisioned use.

## 6.0 CONCLUSION

The proposed development has been assessed against all relevant environmental planning instruments and the application will not result in any adverse impact upon the amenity of the neighbouring properties and the character of Manly.

The proposal is permissible with Council's consent and does not alter the existing compliance with the relevant provisions of *State Environmental Planning Policies (Biodiversity and Conservation) 2021*, *State Environmental Planning Policy (Industry and Employment) 2021*, *Manly Local Environmental Plan 2013*, and the relevant development controls of the *Manly Development Control Plan 2013*.

Having regard to the merits of the proposal and in the absence of any adverse environmental impacts upon the amenity of the adjoining development and character of the locality, the application is recommended for favourable consideration by Council.