

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0403
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Responsible Officer:	Grace Facer
Land to be developed (Address):	Lot 1 DP 1170245, 0 Wharves And Jetties MANLY NSW 2095
Proposed Development:	Construction of awnings and blinds
Zoning:	SREP(Sydney Harbour Catchment)2005 - Land Zoned W2 Environmental Protection
Development Permissible:	
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Transport for NSW TMG Developments Pty Ltd
Applicant:	Mark Pritchard

Application Lodged:	03/05/2022
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	09/05/2022 to 06/06/2022
Advertised:	09/05/2022
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 80,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal comprises the erection of a part retractable, part fixed awning structure over part of the southern deck of Manly Wharf Bar's Tropic Restaurant, and the associated installation of transparent roll-up PVC blinds around the periphery of the new awning. It will replace a previously existing awning structure which has been removed.

The fixed parts of the proposed awning will have a skillion form comprising a steel and timber structure with a fixed colourbond roof. The colour will be Surfmist (Dulux Colour C1). The retractable part of the awning will have a steel structure, mounted on the existing raised deck area and will have an automated retractable canvas roof in an off-white colour which will be operated by Hotel staff. Transparent PVC roller blinds will be installed to the inside edges of the awning which will be manually

operated by Hotel staff to provide weather protection to patrons on the deck as and when required.

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

SITE DESCRIPTION

Property Description:	Lot 1 DP 1170245 , 0 Wharves And Jetties MANLY NSW 2095
Detailed Site Description:	<p>The subject site is legally referred to 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. The site is identified as an item of State Heritage significance.</p> <p>The site is oriented east west with the northern and southern boundaries fronting the western and eastern promenades and Manly Cove respectively.</p> <p>The proposed works are limited to the south-facing deck, which extends out from Manly Wharf Bar's Tropic Restaurant and provides outdoor seating with views over the water. The south facing deck comprises a raised timber structure with an area of approximately 90m² which is utilised as an outdoor seating area. It stands around 0.4m above the adjacent pedestrian concourse.</p> <p>The site is located within the W2 - Environmental Protection zone under the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The surrounding waters and nearby harbour foreshore are known to provide habitat for Little Penguins, and seagrass has been identified within the vicinity of the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Opposite the site to the west is Manly Corso. The Corso is a wide open 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 (2) to four (4) storeys.

The uses opposite the site along East Esplanade are dominated by mixed use developments mainly consisting of ground floor commercial uses such as shops, offices, restaurants and cafes with residential above. Some of the buildings along East Esplanade consist primarily of multistorey commercial developments. The scale of development along East Esplanade is predominately between three (3) to six (6) storeys.

The uses opposite the site along West Esplanade are dominated by mixed use developments mainly consisting of ground floor commercial uses such as shops, offices, restaurants and cafes with residential above. The scale of development along East Esplanade is predominately between three (3) to eight (8) storeys.



Figure 1. Aerial Image of Site

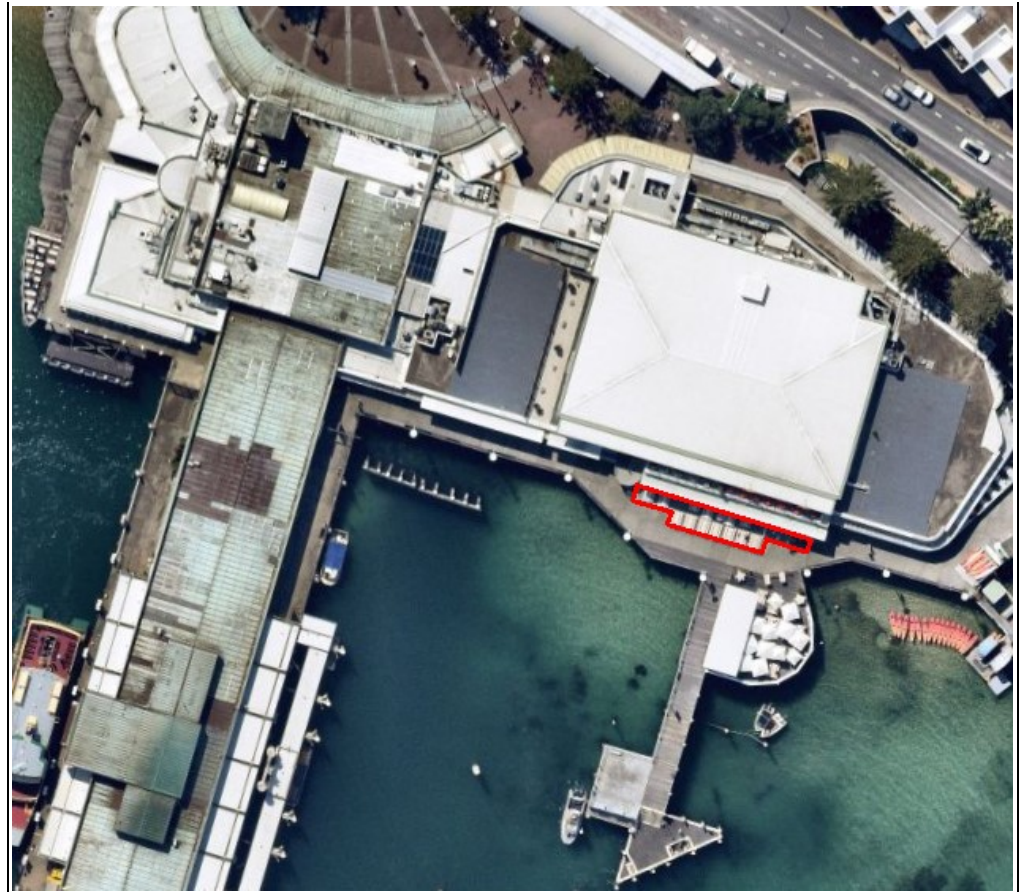


Figure 2. South-facing deck the subject of this application

Map:



SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

10.2002.238.1

Development Application for the fitout of a hotel, interior alterations, external seating and servery rotunda at Manly Wharf Hotel
Approved on 20 September 2002

10.2002.238.2

Modification application for design changes to the Wharf Bar
Approved on 7 May 2003

10.2002.238.3

Modification application for change of hours
Approved on 20 November 2007

10.2002.238.5

On 18 August 2011 the NSW Land and Environment Court (LEC) upheld an appeal (in part) against Manly Council's refusal of a Section 96 Modification to modify the trading hours of the restaurant deck, south-facing deck and western deck. The Court ordered that the consent be modified to permit the restaurant deck, south-facing deck and western deck to trade until midnight, seven days per week, and applied four new conditions specifically concerning the operation of the south-facing deck and western deck.

10.2012.216.1

Development Application for Alterations and additions to the existing Manly Wharf Hotel including the extension of the awning to the eastern verandah, roll up blinds and the extension of operational hours of the eastern deck to midnight.
Approved on 22 November 2013

10.2013.149.1

Development Application for Alterations and additions to the existing Manly Wharf Hotel including new stairs to the deck
Approved on 13 September 2013
Alterations and additions to the existing Manly Wharf Hotel including new stairs to the deck

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under 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.
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.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, <u>Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters

Section 4.15 Matters for Consideration	Comments
	<p>have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><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.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><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 of consent.</p>
<p>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</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made</p>	<p>See discussion on “Notification & Submissions</p>

Section 4.15 Matters for Consideration	Comments
in accordance with the EPA Act or EPA Regs	Received" in this report.
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.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/05/2022 to 06/06/2022 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	<p>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.</p> <p>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.</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against Manly LEP Clause 6.5 - Terrestrial Biodiversity. The subject site is within an existing developed area and will not result in impacts to native vegetation or wildlife habitat.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience & Hazards) 2021, State Environmental Planning Policy (Biodiversity & Conservation) 2021 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP for Manly Cove.</p> <p><i>Coastal Management Act 2016</i> The subject site has been identified as being within the coastal zone</p>

Internal Referral Body	Comments
	<p>and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA. Clauses 2.10 (coastal environment area) and 2.11 (coastal use area) do not apply as the site is also located within the Sydney Harbour catchment area. Hence, only Clause 2.12 of the SEPP R & H apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clause 2.12 of the SEPP R&H.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>State Environmental Planning Policy (Biodiversity & Conservation) 2021</p> <p>Harbour Foreshores & Waterways Area</p> <p>The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 10.2, Clause 10.11 and Part 10.3, Division 2 apply in assessing this DA.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by BBC Consulting Planners dated March 2022, it is determined that the Planning Principles and Matters for Consideration of the Area have been met.</p>

Internal Referral Body	Comments
	<p>The subject site is located within/adjacent to the W2 (Environmental Protection) Zones.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by BBC Consulting Planners dated March 2022, it is determined that the objectives and assessment criteria of the zone have been met.</p> <p>Manly LEP 2013 and Manly Cove DCP</p> <p>No issues identified.</p>
NECC (Water Management)	NECC Water Management has no objections to the proposal
Parks, reserves, beaches, foreshore	<p>The development proposal is for the erection of an awning structure, part retractable and part fixed, over part of the southern deck and the associated installation of transparent roll-up PVC blinds around the periphery of the proposed awning at Wharf Bar at Manly Wharf, East Esplanade, Manly. The development site adjoins Manly Cove as well as East Esplanade Reserve and West Esplanade Reserve.</p> <p>Public access associated with the southern Manly Wharf deck is not impacted by the proposed development, and the development proposal is not detrimental to the harbour landscape character, and no impact is assessed to the adjoining Reserves, and as such Parks Reserves and Foreshores raise no concerns with the development proposal.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This application has been referred as the site is a heritage item, being Item I145, Manly Wharf, listed in Schedule 5 of Manly LEP 2013. Manly Wharf is also listed as a State heritage item, under the provisions of the Heritage Act, 1977.</p> <p>The site is also within the vicinity of a number of other listed heritage items, the closest being Item I146, Pier (former Fun Pier), Manly Wharf. The other heritage items in the vicinity are located largely on the other side of East and West Esplanade, as is the Manly Town Centre Conservation Area.</p>
	Details of heritage items affected

Internal Referral Body	Comments																				
	<p>Details of this heritage item, as contained within the Heritage Inventory, are:</p> <p><i>Item I145, Manly Wharf</i></p> <p><u>Statement of Significance</u></p> <p>Of environmental significance as a visually prominent man-made feature. Of historical significance for its association 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)</p> <p><u>Physical Description</u></p> <p>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).</p> <p>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 clerestory (Stapleton, 1981).</p> <p><u>Other relevant heritage listings</u></p> <table border="1" data-bbox="520 1368 1437 1951"> <thead> <tr> <th data-bbox="520 1368 834 1514">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</th> <th data-bbox="834 1368 954 1514">Yes</th> <th data-bbox="954 1368 1437 1514">Comment if applicable</th> </tr> </thead> <tbody> <tr> <td data-bbox="520 1514 834 1585">Australian Heritage Register</td> <td data-bbox="834 1514 954 1585">No</td> <td data-bbox="954 1514 1437 1585"></td> </tr> <tr> <td data-bbox="520 1585 834 1657">NSW State Heritage Register</td> <td data-bbox="834 1585 954 1657">Yes</td> <td data-bbox="954 1585 1437 1657"></td> </tr> <tr> <td data-bbox="520 1657 834 1729">National Trust of Aust (NSW) Register</td> <td data-bbox="834 1657 954 1729">Yes</td> <td data-bbox="954 1657 1437 1729"></td> </tr> <tr> <td data-bbox="520 1729 834 1874">RAIA Register of 20th Century Buildings of Significance</td> <td data-bbox="834 1729 954 1874">Maybe</td> <td data-bbox="954 1729 1437 1874"></td> </tr> <tr> <td data-bbox="520 1874 834 1951">Other</td> <td data-bbox="834 1874 954 1951">No</td> <td data-bbox="954 1874 1437 1951"></td> </tr> </tbody> </table> <p><u>Consideration of Application</u></p> <p>This applicant proposes a new external awning over a timber deck associated with the Wharf Bar, located on the southern side of the Manly Wharf building. the rebuilt deck was approved as a State heritage exemption. The fabric of this part of Manly Wharf is not</p>			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	Yes	Comment if applicable	Australian Heritage Register	No		NSW State Heritage Register	Yes		National Trust of Aust (NSW) Register	Yes		RAIA Register of 20th Century Buildings of Significance	Maybe		Other	No	
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	Yes	Comment if applicable																			
Australian Heritage Register	No																				
NSW State Heritage Register	Yes																				
National Trust of Aust (NSW) Register	Yes																				
RAIA Register of 20th Century Buildings of Significance	Maybe																				
Other	No																				

Internal Referral Body	Comments
	<p>original, so the awning will not be attaching to original fabric.</p> <p>As Manly Wharf is a State heritage item, the application is Integrated Development and requires consultation with Heritage NSW and eventual approval under Section 60 of the Heritage Act, 1977. Heritage NSW have responded by letter dated 30 August 2022, providing general terms of approval for this application. These comments have been reviewed and all required terms of approval (conditions) are agreed with.</p> <p>As the application is only for the erection of an awning on the harbour (southern) side of the Manly Wharf building, there will be no adverse impact upon heritage items in the vicinity, nor on the Manly Town Centre Conservation Area.</p> <p>Therefore, no objections are raised on heritage grounds, subject to all terms of approval (conditions) required by Heritage NSW being included in any consent.</p> <p><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? N/A Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> <p>Further Comments</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable and no Ausgrid assets will be affected.

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

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections.

SEPP (Biodiversity and Conservation) 2021

Chapter 10 – Sydney Harbour Catchment

The site is located within the Foreshores and Waterways Area, and SEPP (Biodiversity and Conservation) 2021 is applicable to this assessment.

In accordance with Clause 10.4(1) of the SEPP, Council is the consent authority for the proposed development.

The site is zoned W2 Environment Protection under the provisions of the SEPP. The objectives of the W2 zone are considered with respect of the proposal, as follows:

(a) to protect the natural and cultural values of waters in this zone,

Comment:

The proposed works, in consideration of the wharf as a whole, are comparatively minor and will not impact upon the natural and cultural values of the waterway.

(b) to prevent damage or the possibility of longer term detrimental impacts to the natural and cultural values of waters in this zone and adjoining foreshores,

Comment:

The works are confined to within the south-facing deck of Wharf Bar and are not likely to damage, or contribute to longer term detrimental impacts upon, the natural and cultural values of the waterway and adjoining foreshores.

(c) to give preference to enhancing and rehabilitating the natural and cultural values of waters in this zone and adjoining foreshores,

Comment:

The proposed development will result in further activation of the wharf, and enhance the use of the waterway area, without attributing to any adverse impacts upon the natural or cultural values of the

waterway and adjoining foreshore. Whilst the proposal does not propose to rehabilitate the waterway, this is not considered to be required in this instance, given the scale of the proposal and noting that the works are not impacting upon the seabed.

(d) to provide for the long-term management of the natural and cultural values of waters in this zone and adjoining foreshores.

Comment:

The subject site forms part of the greater wharf structure, which is subject to an ongoing lease from Transport for NSW that includes long-term management strategies and requirements

Conclusion

An assessment of the proposal against Section 10.1(2) (aims of the Chapter), Section 10.11 (nominated planning principles), Section 10.20 (relating to public access to and use of foreshores and waterways), Section 10.21 (relating to maintenance of a working harbour), Section 10.23 (relating to interrelationship of waterway and foreshore uses), Section 10.23 (relating to foreshore and waterways scenic quality), Section 10.24 (relating to maintenance, protection and enhancement of views) and Section 10.24 (relating to boat storage facilities) has been undertaken. The proposal is considered to be consistent with the above provisions of the Chapter. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

As demonstrated above, the proposal is consistent with the requirements of SEPP (Biodiversity and Conservation) 2021.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The proposal has been assessed against this chapter of the SEPP by Council's Coast and Catchments, and Bushland and Biodiversity departments, who are satisfied the proposal is consistent with the relevant requirements.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no recorded contamination. In this regard it is considered that the site 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 commercial land use.

Manly Local Environmental Plan 2013

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

Compliance Assessment

Clause	Compliance with Requirements
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes
6.21 Noise impacts—licensed premises	Yes

Manly Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.2 Heritage Considerations	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 Development Consent to DA2022/0403 for Construction of awnings and blinds on land at Lot 1 DP 1170245, 0 Wharves And Jetties, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Ground Floor Proposed Site Plan - Drawing No.DA-D00-001 Issue A	7 December 2021	A & Co
Ground Floor Existing & Demolition Plan - Drawing No.DA-A00-001 Issue C	21 February 2022	A & Co
Zone 01 - Bar Tropic General Arrangement Plan - Drawing No.DA-D00-111 Issue A	7 December 2021	A & Co
Zone 01 - Bar Tropic General Arrangement Plan - Roof - Drawing No.DA-DXX-111 Issue A	7 December 2021	A & Co
Ground Floor - External Elevations - Drawing No.DA-EXX-011 Issue A	7 December 2021	A & Co
Overall Building - Section 01 & 02 - Drawing No.DA-FXX-101 Issue A	7 December 2021	A & Co

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Heritage Impact Statement	February 2022	Heritage 21

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. 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	Dated
Heritage NSW	Heritage NSW Referral Response	30 August 2022

(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.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which

the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009

- (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. Stormwater Drainage Disposal

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water

Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

7. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

8. **Wildlife Protection**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

9. **Stormwater Drainage Disposal Certification**

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

Reason: To ensure satisfactory management of stormwater.

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

Signed



Grace Facer, Planner

The application is determined on 07/10/2022, under the delegated authority of:



Rodney Piggott, Manager Development Assessments