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# STATEMENT OF ENVIRONMENTAL EFFECTS

FOR ALTERATIONS, FITOUT AND USE AS A LICENSED  
RESTAURANT & TAKEAWAY FOOD AND DRINK PREMISES,  
OUTDOOR SEATING AND ASSOCIATED SIGNAGE

FOR FISH & LEMONADE

LOCATED AT SHOP 15, MANLY WHARF, MANLY

PREPARED FOR THE APPLICANT  
**BATTERBOX PTY LTD**

SEPTEMBER 2019  
Ref: 191335.2S

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ANNEXURE 3	STATEMENT OF HERITAGE IMPACT BY CITY PLAN DATED SEPTEMBER 2019

## 1. INTRODUCTION

This Statement of Environmental Effects accompanies an integrated development application that seeks consent for alterations, fitout and use as a licensed restaurant and takeaway food and drink premises, outdoor seating area and associated signage at Shop 15, Manly Wharf, Manly (*the Application*) to be known as Fish & Lemonade (*the Restaurant*).

The Restaurant proposes to trade between 9am and 12 midnight Monday to Sunday. It has a proposed capacity of 20 seated patrons indoors and 36 seated patrons outdoors. Limited seats are available on site as the majority of the sales is expected to be from takeaway sales. Once approved, the Applicant will be applying to Liquor & Gaming NSW for an on-premises licence. This will only allow for the sale and consumption of alcohol within the approved licensed boundary.

The Restaurant is located outside of the land identified on the Land Application Map in *Manly Local Environmental Plan 2013 (the LEP)*. The proposed use is permissible with consent under clause 18(2) of the *Sydney Regional Environmental Plan (SREP) (Sydney Harbour Catchment) 200*.

The Application consists of the following:

- Change of use from a takeaway food and drinks premises (McDonalds) to a licensed restaurant;
- Alterations to shop front including front and rear entrances;
- Fitout for the Restaurant including counter, kitchen and back-of-house facilities;
- Removal and relocation of existing columns within the Restaurant;
- Removal and installation of mechanical services and new rooftop walkway;
- Internal seating area for 20 seated patrons;
- External seating area for 36 seated patrons; and
- Associated signage.

This Application is supported by Architectural Plans (**Annexure 1**), Plan of Management (**Annexure 2**), and Heritage Impact Statement (*HIS* - **Annexure 3**). A HIS is required because Manly Wharf is an item of State Heritage Significance and further approval is required under section 60 of the *Heritage Act 1977*.

This Statement describes the site and surrounding area, the nature of the Application and sets out the statutory and policy context. It addresses the requirements for an application and undertakes an assessment of the application under the heads of consideration in s.4.15 of the *Environmental Planning and Assessment Act, 1979*.

It is therefore concluded that there are no valid town planning reasons why development consent should not be granted to the Application as proposed.

## 2. SITE AND SURROUNDING AREA

The Restaurant occupies Shop 15 at Manly Wharf, Manly. Manly Wharf is legally described as Lot 1 of DP1170245.

Manly Wharf is located adjacent to the junction of East Esplanade, West Esplanade and Belgrave Street. The size of the Manly Wharf is approximately 13,405sqm. The approximate location of the Restaurant is illustrated in red below.



**Figure 1:** Location of the Restaurant (Source: nearmap)

Manly Wharf is passenger terminal wharf and also a shopping centre. The structure is part one-storey and part two-storey with multiple restaurants and retail tenancies. The food and drinks premises ranges from coffee shops to waterfront restaurants alongside retail shops and a supermarket. The majority of the licensed food and drinks premises such as Hugo's, The Bavarian, and Manly Wharf Hotel have late trading outdoor seating areas.

The Restaurant is located at the entrance of Manly Wharf and faces Manly Town Square. The Site had been a McDonald's fast food outlet for more than 15 years.



**Figure 2:** Location of the Restaurant marked in red (Source: Design Collaborative)

The nearest noise sensitive receivers are the residential apartments at 53 East Esplanade (45m east), 43-45 East Esplanade (60m east) and 54 West Esplanade (70m west).

To the immediate north of the Restaurant is the Manly Town Square with the Information Centre and bus stops. Across the junction is a public open space which is also the main thoroughfare to major tourist attractions including The Corso and Manly Beach.

To the eastern side of the Restaurant are a mixture of commercial buildings and mixed use buildings with retail or restaurants at ground level. The buildings fronting East Esplanade between Belgrave Street and Wentworth Street are two to four storeys. Buildings further east are mostly mixed use buildings with retail at ground level and residential above, ranging from three storey walk ups to nine storey buildings. The East Manly Cove Beach is to the east of the Restaurant.

To the western side of the Restaurant is a mixed use development with a restaurant and a few retail shops along West Esplanade and Belgrave Street. Further west are generally medium density residential buildings typical three storeys in height.

To the southern side is the Manly Wharf and the North Harbour.

Manly Wharf is the main entrance as the majority of visitors, workers and residents enters Manly by ferries. The immediate surrounding area is a well established and world known town centre with numerous food and drinks premises (both licensed and unlicensed), retail stores and various services such as banks, pharmacies, bicycle and surfboard rentals. All surrounding streets have active frontages, and almost all residential dwellings within close proximity of Manly Wharf have commercial uses (restaurants or shops) at ground level.

## **2.1 RELEVANT SITE PLANNING HISTORY**

DA5538/92 was lodged on 3 November 1992 for use a McDonald's fast food restaurant.

Whilst there are no further development consent for the use of Shop 15 since 1992, there are various development consents for use and fitout of other restaurants and licensed premises within Manly Wharf.

The most recently approved similar application at Manly Wharf is DA2018/0883, approved on 29 August 2018. Consent was granted for use as a restaurant, fitout and associated signage for Betty's Burger. Their approval includes the following:

- Hours of operation between 9am and 12midnight Monday to Sunday
- Maximum of 20 staff number
- Maximum of 65 patrons
- Removal of walls, doors, roller shutters
- Fitout including new windows, bifold doors, blockwork walls, a new cool room, kitchen, dining area, back areas, office and seating.
- Associated signage.

This application for Betty's Burger is similar with the Application in terms of the nature, trading hours, capacity and proposed works.

### **3. PROPOSED DEVELOPMENT**

The Restaurant proposes to trade between 9am and 12 midnight Monday to Sunday, with a proposed capacity of 20 seated patrons indoors and 36 seated patrons outdoors, excluding patrons purchasing takeaway. Limited seats are available on site as the majority of the sales is expected to be from takeaway sales.

Once approved, the Applicant will be applying to Liquor & Gaming NSW for an on-premises licence. Liquor can only be sold for consumption on premises and cannot be taken off premises therefore no liquor will be offered on takeaway menus. The intention of the on-premises licence is to offer limited alcoholic drinks, being a beer or a glass of wine that complements their seafood offering.

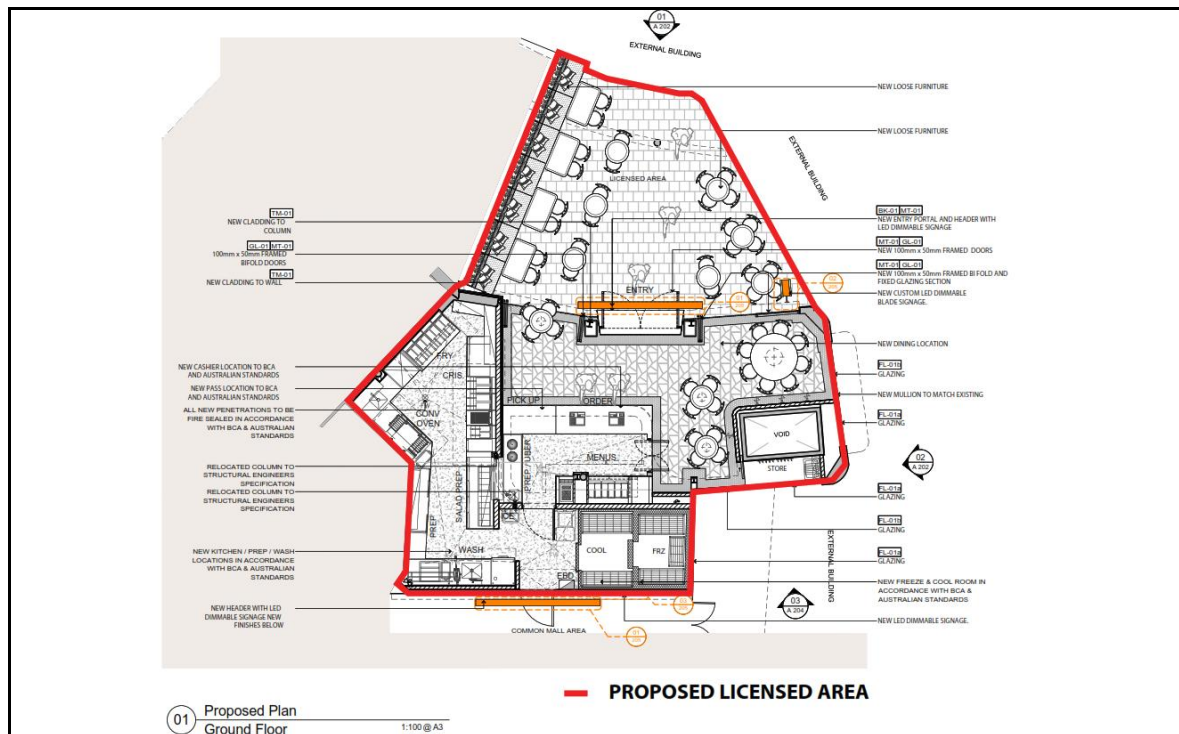
The Restaurant will be operated by Sydney Fresh Seafood, a family operated business that had been operating as a fishmonger since 1976. They have their independent stores and have partnered with Harris Farm to sell fresh seafood for decades. They have developed their fresh seafood recipes over the years and this Restaurant is their first step in expanding their business to the hospitality sector.

#### **3.1 PROPOSED WORKS**

The proposed works includes the following:

- Change of use from a takeaway food and drinks premises (McDonalds) to a licensed restaurant;
- Alterations to shop front including front and rear entrances;
- Fitout for the Restaurant including counter, kitchen and back-of-house facilities;
- Removal and relocation of existing columns within the Restaurant;
- Removal and installation of mechanical services and new rooftop walkway;
- Internal seating area for 20 seated patrons;
- External seating area for 36 seated patrons; and
- Associated signage.





**Figure 3:** Proposed layout of Shop 15 (Source: Paul Kelly Design)

Details of the works are illustrated in the Architectural Plans (**Annexure 1**). The Heritage Impact Statement (**Annexure 3**) concludes that the works has a neutral to positive impact to the heritage significance of the Manly Wharf. The existing shopfronts are not original in fabric or design and the replacement material will be consistent with the other shop fronts within Manly Wharf.

## 3.2 TECHNICAL MATTERS / SPECIALIST REPORTS

### 3.2.1 Plan of Management

The Applicant is offering to adhere to a Plan of Management dated September 2019 prepared by Design Collaborative (**Annexure 2**). It requires that each employee that serves or supplies liquor at the Restaurant is familiar with its terms.

The Plan of Management has been designed for the proposed Restaurant having regard to its location, trading hours proposed and maximum capacity in order to mitigate the potential for adverse impact.

The Plan of Management provides an appropriate framework for the on-going proper management and operation of the proposed Restaurant.

### 3.2.2 Heritage Impact Statement

The Heritage Impact Statement prepared by CityPlan demonstrates that the proposed works would result in neutral to positive impact on the heritage significance of Manly Wharf.



## **4. ASSESSMENT OF THE APPLICATION**

This section undertakes an assessment of the Applications under the heads of consideration in Section 4.15 of the Environmental Planning and Assessment Act, 1979. The relevant planning controls are as follows.

- State Environmental Planning Policy 64 – Advertising and Signage (*SEPP64*)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (*the SREP*)
- State Environmental Planning Policy (Coastal Management) 2018; and
- Manly Development Control Plan 2013 (*the DCP*).

Manly Local Environmental Plan 2013 does not apply as the Restaurant is located outside of the land identified on the Land Application Map.

### **4.1 STATE ENVIRONMENTAL PLANNING POLICIES**

#### **4.1.1 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP)**

The use as a licensed restaurant and a takeaway food and drink premises is permissible under clause 18(2) of the SREP as the development is not inconsistent with the aims and objectives of the zone or any other environmental planning instrument and will not have any adverse impacts.

The aim of the SREP is to ensure that catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained, to ensure healthy, sustainable environment on land and water, to achieve a high quality and ecologically sustainable urban environment, to encourage a culturally rich and vibrant place for people, and to ensure accessibility to and along Sydney Harbour and its foreshores.

The Restaurant, being a shop within the Manly Wharf, is located within the REP boundary as identified in the Sydney Harbour Catchment Map.

The Application satisfies the relevant planning principles of the SREP in that the development will have no impact on the natural assets and Sydney Harbour. The Application will not impact on public access on the foreshore. Public access to and along the foreshore and from waterways will be maintained with no impact to watercourses, wetlands, riparian lands and remnant vegetation. The unique visual qualities of Sydney Harbour, islands and foreshores will also be maintained. The use of the Application is compatible with existing surrounding uses.

Under Clause 5 (1) of the SREP, Northern Beaches Council is the consent authority for land-based development and land/water interface development.

The Application is located within a long-standing tenancy of Manly Wharf and the proposed works would not have any adverse impact on the Foreshores and Waterways

Areas. The Heritage Impact Statement (**Annexure 3**) is satisfied that the Application will not have any adverse impact on the heritage significance of the Manly Wharf.

The Restaurant is located within Zone No W2 – Environmental Protection as indicated on the Zoning Map.

The Zone's relevant objectives are as follows:

- (a) *to protect the natural and cultural values of waters in this zone,*
- (b) *to prevent damage or the possibility of longer term detrimental impacts to the natural and cultural values of waters in this zone and adjoining foreshores.*
- (d) *To provide for the long-term management of the natural and cultural values of waters in this zone and adjoining foreshores.*

The Application satisfies the objectives in that it will not have any adverse impact on the waters and adjoining foreshores.

Under Clause 18(2) of the SREP, development not referred to in the table may be carried out with development consent if the consent authority is satisfied that the development is not inconsistent with the aims and objectives of the zone or any other environmental planning instrument, and will not have any adverse impacts.

- Clause 23 Maintenance of a working harbour

The relevant controls are as follows:

- (a) *Foreshore sites should be retained so as to preserve the character and functions of a working harbour, in relation to both current and future demand,*
- (b) *consideration should be given to integrating facilities for maritime activities in any development.*

The Application complies with this clause in that the Application seeks to continue to use the tenancy as a food and drinks premises and is compatible with the existing character of the Manly Wharf, being a food destination that doubles as a working harbour.

- Clause 24 Interrelationship of waterway and foreshore uses

The relevant controls are as follows:

- (b) *Development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses,*
- (c) *Development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore,*
- (e) *Development should avoid conflict between the various uses in the waterways and along the foreshores.*

The Application complies with this clause in that the Application is highly unlikely to have any adverse impact on the use of the waterway. The Application will not contribute to excessive congestion of traffic in the waterways or along the foreshore. The proposed use as a food and drink premises is compatible with the existing uses within Manly Wharf.

- Clause 25 Foreshore and waterways scenic quality

The Application has taken into consideration of the scenic quality of foreshores and waterways. The scale, form and design of the proposed works are detailed in the Architectural Plans (**Annexure 1**) and considered to be of acceptable impact as stated in the Heritage Impact Statement (**Annexure 3**). The Application is consistent with the existing uses within Manly Wharf and is compatible with the existing and future character of the locality being a well-known tourist location.

The Application maintains, protect and enhances the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries, and will not detract from the character of the waterways and adjoining foreshores.

- Clause 26 Maintenance, protection and enhancement of views

The relevant controls are as follows:

- (a) Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,*
- (b) Development should minimise any adverse impact on views and vistas to and from public places, landmarks and heritage items,*
- (c) The cumulative impact of development on views should be minimised.*

The Application will maintain, protect and enhance views to and from Sydney Harbour in that the Application will not impact on the existing building height. The Application consists of a change of use from a takeaway fast food store to a licensed restaurant, use of outdoor seating, alterations, fitout and associated signage. No proposed change is made to building height of the Manly Wharf. The removal and installation of mechanical plants will not have any impact to the existing height of the Manly Wharf as illustrated in the Architectural Plans (**Annexure 1**). The existing views to and from Sydney Harbour, public places, landmarks and heritage items will therefore be maintained and protected.

#### **4.1.2 State Environmental Planning Policy (Coastal Management) 2018**

Clause 13 states:

##### ***13 Development on land within the coastal environment area***

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
  - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*

- (b) coastal environmental values and natural coastal processes,*
- (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

The Application seeks consent for a change of use, alterations, fitout, outdoor seating and associated signage for a tenancy within the Manly Wharf. The Application is therefore unlikely to have any adverse impact on the coastal environment area as listed above.

- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
  - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
  - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The Application seeks consent for a change of use, alterations, fitout, outdoor seating and associated signage for a tenancy within the Manly Wharf. The proposed works are located and limited within the Manly Wharf. The operation of the Restaurant will be subject to a best practice Plan of Management (**Annexure 2**) that will mitigate the potential adverse impact on the surrounding sensitive land uses. In addition to the above, the use and proposed works are consistent with, and reflect the mixed of surrounding existing land uses and their trading hours.

Clause 14 states:

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
  - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*
    - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
    - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*

- (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
    - (iv) *Aboriginal cultural heritage, practices and places,*
    - (v) *cultural and built environment heritage, and*
  - (b) *is satisfied that:*
    - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
    - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
    - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
  - (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

The Application complies with the control in that there will be no adverse impact on the access, views, scenic qualities, aboriginal cultural heritage and places, cultural and built environment heritage as a consequence of the Application. The Heritage Impact Statement (**Annexure 3**) has considered the heritage impact of the Application of being of neutral or positive impact.

The Application seeks consent for a change of use, alterations, fitout, outdoor seating and associated signage for a tenancy within the Manly Wharf. The proposed works are located and limited to within the Manly Wharf. The operation of the Restaurant will be subject to a best practice Plan of Management (**Annexure 2**) that will mitigate the potential adverse impact on the surrounding sensitive land uses.

The use and proposed works are consistent and compatible with the surrounding existing land uses within the Manly Wharf.

#### **4.1.3 State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)**

The aim of SEPP 64 is to ensure that proposed signage is compatible with its surroundings, provides effective communication in suitable locations and is of high quality design and finish.

The Application complies with the controls in that the signage is of high quality and can assist with wayfinding for pedestrians and passing traffic.

The proposed signage includes two top hamper signs (one at the front and one at the rear), one suspended under awning sign and one fixed wall sign. Details of the signage are illustrated in the Signage Plans (**Annexure 2**). All proposed signage are dimmable LED signage for the purpose of business identification and is compatible with the character of the area.

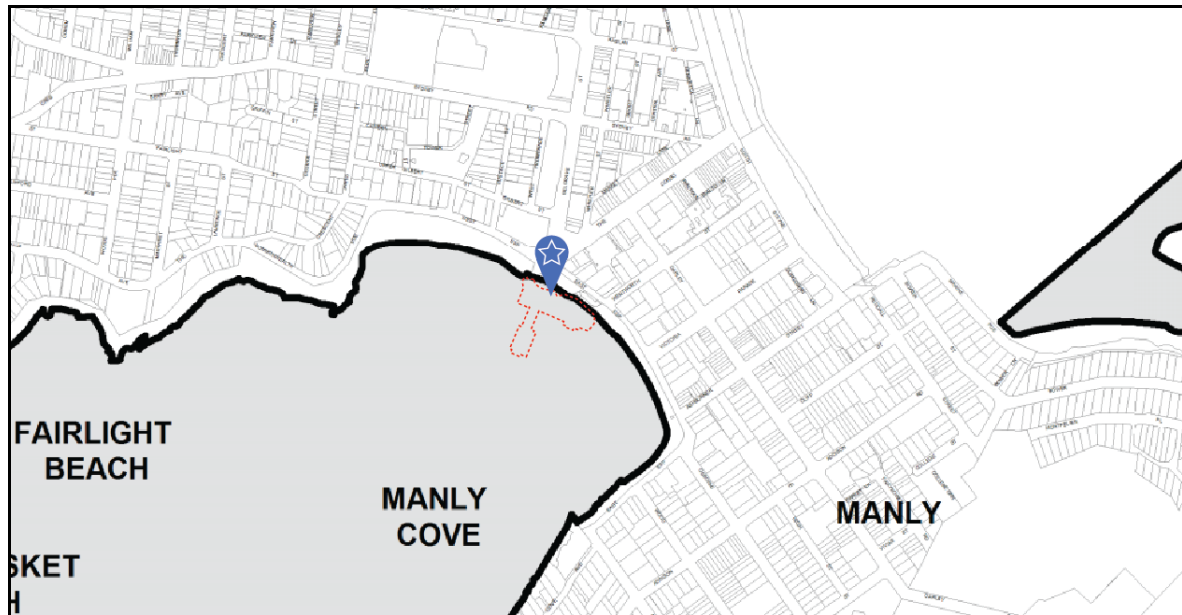
All proposed signage is to be fixed either on facade or timber panes therefore would not obscure views or compromise important views. The proposed signage respect viewing rights of other advertisers.

The scale, proportion and form of the proposed signage is appropriate for the building and would not impact on the streetscape, setting or landscape. The proposed signage would be of positive influence to the building and would not contribute to visual clutter in that the design and respects the heritage building by using simple images. The design and colour scheme is consistent with the other existing signage of the heritage building and contributes to the visual attractiveness and vitality of the streetscape.

The display of the proposed signs would not impose a threat to road users as they do not protrude from the building. All lighting from the signage are dimmable and will be set at a reasonable intensity to ensure that they do not impose a threat to pedestrians or road users. A condition of consent should be imposed requiring all proposed signage to be turned off outside of trading hours.

## 4.2 ENVIRONMENTAL PLANNING INSTRUMENTS

### 4.2.1 Manly Local Environmental Plan 2013 (*the LEP*)



**Figure 4:** Land Application Map (Source: Manly LEP 2013)

Whilst the subject site is outside the area to which Manly LEP 2012 applies, it is noted that the Application complies with the aims of the Manly LEP. The alterations and fitout are of high standard, and compatible with other retail tenancies within Manly Wharf. The proposed use and trading hours are consistent with the surrounding businesses and would not adversely affect the character or amenity of Manly.

The internal works will improve the layout of the restaurant at a busy ferry terminal to better suit a tourist area with limited internal and external seating. The Heritage Report (**Annexure 3**) confirms that the proposed works to the Restaurant would not have any adverse impact on the heritage significance of Manly Wharf.

### Part 5 Miscellaneous provisions

- Clause 5.10 - Heritage Conservation

Under Schedule 5 of the LEP, Manly Wharf located at East and West Esplanades (opposite the Corso, Harbour side) is listed as item I145 and is of state heritage significance.

The Heritage Report (**Annexure 3**) concludes that the proposed works will result in neutral to positive impacts to the heritage significant of the Manly Wharf. The proposed works and fitout of the Restaurant will contribute to the active use at street level and provide a new, contemporary addition to Manly Wharf in keeping with adjacent tenancies.

## 4.3 DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There is no draft Environmental Planning Instrument.

## 4.4 DEVELOPMENT CONTROL PLANS



#### **4.4.1 Manly Development Control Plan (*the DCP*)**

- Control 1.7 Aims and Objectives of this Plan

The objective of this plan is to encourage development that contributes to the quality of Manly streetscapes and townscapes, and to ensure that the development has considered the community needs, positively responds to the qualities of the site, heritage and character of the surrounding area.

The Application complies with the controls in that the use as a food and drinks premises is compatible with surrounding land uses. The Application for works and outdoor seating for the Restaurant will enhance customer experience. The Heritage Report (**Annexure 3**) concludes that the proposed work has no adverse impact to the heritage significance of the Restaurant.

- Control 3.1.3 Townscape (Local and Neighbourhood Centres)

The proposed works will enhance the townscape of the former Manly Council's area.

The proposed works are consistent with the townscape. The important corner sites, pedestrian links and vista sites are not impacted as a result of the Application.

The Heritage Report (**Annexure 3**) concludes that the proposed changes to the façade and interior would not impact on the heritage significance of the Restaurant as the fabric and design are not original.

- Control 3.2 Heritage Considerations

Manly Wharf is listed as a heritage item of state significance in the LEP. The Heritage Report (**Annexure 3**) is satisfied that the proposed works will result in neutral to positive impacts to the heritage significant of the Manly Wharf.

- Control 3.4.2.3 Acoustic Privacy (Noise Nuisance)

The control is to ensure that noise impacts are considered for the Application. An acoustic report is not necessary due to the high levels of activity and background noise levels during the hours proposed. In addition to the above, the Restaurant has limited capacity that is highly unlikely to contribute to current noise levels, which are characterised by the harbour, ferry terminal, bus stops, other restaurants and the usual pedestrian hum of a busy and popular town square.

- Control 3.6 Accessibility

The objective of this control is to ensure that any refurbishments to existing buildings provide improved levels and facilities for people with disabilities, and ensure connectivity and flexibility for all people.

The Application complies with the control in that the proposed works will provide improved facilities and accessible facilities for people with disabilities.

All proposed works will comply with Part D3 and Clause F2.4 of the BCA 2019 and relevant Australian standards.

Patrons have access to the common toilets for Manly Wharf. The toilets are available in the basement and can be accessed by lift or stairs.

- Control 3.6.2.4 Access to heritage items

The proposed works are accompanied by a Heritage Report (**Annexure 3**) that confirms the works have a neutral or positive impact on the heritage significance of the Hotel.

- Control 3.6.3.4 Sanitary Facilities

No sanitary facilities are provided within the Restaurant. All tenancies have access to the shared toilets within Manly Wharf shopping centre, which can be accessed by lift or stairs through the common area.

- Control 3.6.3.5 Continuous Accessible Path of travel

The Application complies with the control in that the proposed work will have no impact on the existing accessible path of travel as illustrated in the Architectural Plans (**Annexure 1**).

All proposed works is considered capable of complying with Part D3 and Clause F2.4 of the BCA 2019 and relevant Australian standards.

- Control 3.6.3.7 Signage and Hearing Augmentation

The Application complies with the control in that the Application will have appropriate signage under the relevant provisions of Australian Standard.

All proposed signage is illustrated in the Architectural and Signage Plans (**Annexure 1**).

- Control 3.6.3.8 Fire Safety and Maintenance

The Application complies with the control in that the proposed work will be compliant with the relevant Australian Standards and National Construction Code.

- Control 3.8 Waste Management

The Application is accompanied by a Waste Management Plan prepared by Paul Kelly Design.

- Control 4.4.3 Signage

The objectives of this control is to ensure that advertising does not detract from the amenity of the surrounding area, to minimise visual clutter, to permit business identification signs which communicate the facilities and amenities to users. Signs should be of high quality, enhance the urban character and be compatible with its distinctive urban

character. It should not detract from the heritage significance of the building or the conservation area.

The controls permits a maximum of two (2) identification signs per frontage. The proposed signage complies with Council controls in that there are two signage each at the front and rear of the Restaurant as illustrated in the Architectural Plans (**Annexure 1**). The signage includes two main fascia signs, one under awning lightbox, and a fixed wall sign on the timber cladding.

The proposed signage will be replacing all existing signage from McDonalds, including the large internally illuminated red and yellow lightbox signage that covered the entire frontage. The proposed dimmable signage is of higher quality and covers significantly less surface area therefore will result in better compliance with Council controls. The illuminated signage would be set at a reasonable intensity and can be dimmed therefore would not be a nuisance to pedestrians and motorists.

- 4.4.3.2 Signage on Heritage listed items and in Conservation Areas

All signage is well considered and located in a manner that preserves and has no adverse impact on the hotel or heritage items within close proximity.

The main colour scheme for the Restaurant is a combination of pink and yellow. This is easily seen from afar and compliments the existing colour scheme of green and white of Manly Wharf. The signage involves mixing of sizes and styles of letters, consistent with Council controls.

- 4.4.3.3 Controls for Particular Development Types

*Under Awning signs*

- i) *are to be limited to 1 under awning sign per site;*
- ii) *must be positioned at least 3m from any other awning sign to which this item applies, measured at the centre of each sign to allow for fair exposure and usability;*
- iii) *When a site has an exceptionally wide shopfront(s), more than one under-awning sign may be considered, but must in this instance be at least 4m apart;*
- iv) *must be at least 2.6m at any point above the ground (footpath level) and erected approximately horizontal to the ground*
- v) *must not exceed 2.5m in length and be offset a minimum of 0.6m behind the kerb;*
- vi) *are not to project beyond the edge of the awning;*
- vii) *must not be wider than 0.18m when not illuminated and 0.4m when illuminated;*
- viii) *must not exceed 0.5m in depth (the distance between the top and bottom edges of the structure);*
- ix) *must be erected at right-angles to the building to which the awning is attached; and*

- x) *must be securely fixed to the awning by means of suitable metal supports not exceeding 50mm in width or diameter.*

There is one (1) under awning lightbox next to the entrance. The under awning lightbox is proposed to be fixed onto the tenancy header, more than 3m away from other awning signs and more than 2.6m over footpath.

The size of the under awning signage in the form of a lightbox is 510mm by 460mm by 300mm excluding the pins. The signage does not project beyond the edge of the awning. It will be erected at right angles to the building and bolted under the awning.

#### *Top hamper signs*

- i) *must not extend more than 0.2m beyond any building alignment;*
- ii) *must not extend below the level of the head of the doorway or window above which it is attached; and*
- iii) *must not be more than 3.7m above the ground.*

The top hamper is consistent with Council controls that it extends 0.2m beyond the building alignment, does not extend below the level of head of doorway, is 2.39m and 2.37m above ground at the front and rear entrance respectively.

#### **4.4 ANY PLANNING AGREEMENT OR DRAFT PLANNING AGREEMENT**

There is no Planning Agreement that has been entered into under Section 7.4, nor is there any Draft Planning Agreement that the applicant is offering to enter into under Section 7.4.

#### **4.5 THE REGULATIONS**

There is understood no matter prescribed by the Regulations relevant to the subject site or Application.

#### **4.6 THE LIKELY IMPACTS**

The Application seeks development consent for alterations, fitout and use as a licensed restaurant and takeaway food and drink premises. The Application provides a new and healthier food and drink option for tourists, residents and workers at Manly.

The alterations and fitout at the Restaurant are compatible with the surrounding businesses in terms of its use as a licensed restaurant, capacity and trading hours. The Manly Wharf is not only a wharf but is also an entertainment precinct that provides an abundance of food and drink options open until late in the evening.

The operation of the Restaurant will be subject to the Plan of Management which provides an appropriate framework for the on-going proper management and operation of the

proposed Restaurant. It is therefore unlikely to have any demonstrable adverse impact on the surrounding sensitive land uses.

#### **4.7 THE SUITABILITY OF THE SITE FOR DEVELOPMENT**

The Subject Site had been operating as a food and drink premises with Manly Wharf for many years with all utilities connected. It will remain a commercial premises and has all necessary utilities connected including gas, water, electricity and grease traps and is therefore suitable for development.

#### **4.8 ANY SUBMISSIONS MADE**

Public consultation is expected to be carried out by Council on the submitted development application and accompanying documentation during the standard neighbour notification and advertising process. Any submissions received as a result are for the Council's consideration in its assessment of the application against applicable Plans and Policies.

#### **4.9 THE PUBLIC INTEREST**

The Application seeks consent for alterations, fitout and use as a licensed restaurant and takeaway food and drink premises with internal and external seating.

The Application is in the public interest as it provides a new food and drink option that offers high quality and fresh food within a highly accessible area. The Application also proposes both indoor and outdoor seating that will improve the amenity of Manly Wharf through additional activation. The use and hours are comparable to other business within Manly Wharf. With high existing noise from the roads, transport interchange, ocean and other active land uses, it is highly unlikely that the Application will have any demonstrable adverse acoustic impact on the surrounding sensitive land use.

## **5. CONCLUSION**

The Application seeks consent for alterations, fitout and use as a licensed restaurant, takeaway food and drinks premises and associated signage at Shop 15, Manly Wharf, Manly to be known as Fish & Lemonade.

The Restaurant proposes to trade between 9am and 12 midnight Monday to Sunday. It has a proposed capacity of 20 seated patrons indoors and 36 seated patrons outdoors. Once approved, the Applicant will be applying to Liquor & Gaming NSW for an on-premises licence that will allow for consumption only within the licensed boundary of the Restaurant. The operation of the Restaurant will be subject to a robust Plan of Management reflecting all RSA requirements of the Liquor Act.

As demonstrated above in this Statement, the Application is consistent with the objectives and development standards of Council's relevant Statutory and Policy planning controls.

Moreover, the environmental assessment in this Statement demonstrates that there will be no unacceptable adverse impact on the amenity of the surrounding area as a consequence of the Application.

Under these circumstances, the Application is considered to be acceptable with regard to all relevant town planning and environmental issues.

It is therefore concluded that there are no valid town planning reasons why development consent should not be granted to the Application as proposed.