

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1618
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Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 1 DP 1170245, 0 Wharves And Jetties MANLY NSW 2095
Proposed Development:	Alterations and additions to an existing food and drink premises
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:	Roads & Maritime Services TMG Developments Pty Ltd
Applicant:	Guzman Y Gomez Manly

Application Lodged:	16/12/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	12/01/2021 to 26/01/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 163,104.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal is for alterations and additions to the existing tenancy as follows:

- Minor internal alterations, including kitchen refurbishment, new storage, menu screens, drinks display and warmer cabinet
- New signage and fixed totem menu board
- Removal/replacement of existing window with operable servery window
- Cosmetic works including lighting, painting works and cladding

The proposed development does not include any change to the approved hours of operations or use of the premises.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
 Manly Local Environmental Plan 2013 - 6.21 Noise impacts—licensed premises
 Manly Development Control Plan - 4.4.3 Signage

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.</p> <p>The proposed site within Manly Wharf is known as Shop 14.</p> <p>The site is located within the W2 - Environmental Protection zone under the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.</p> <p>The development site is limited to the eastern wing of Manly Wharf. The eastern wing currently accommodates a single retail level and first floor accommodating centre management offices, with the Manly Wharf signage and clock tower above. The existing eastern wing has frontage to The Corso.</p>

A single basement level sits below the Wharf deck level and is accessed from the intersection at East Esplanade and Wentworth Street. This level includes vehicle parking and loading facilities.

The site has multiple pedestrian accesses from the street as well as from the Ferry terminal.

The Wharf is surrounded by sheltered marine environment. The surrounding waters and nearby harbour foreshore is known to provide habitat for Little Penguins and possess other marine ecology including seagrass beds.

Detailed Description of Adjoining/Surrounding Development

Opposite the site to the east is Manly Corso. The Corso is a wide open promenade and public open space between Manly Beach and Many 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.

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.

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:

DA0250/2012 - Shop fitout, signage, outdoor seating area, licensed premises and extend the hours of operation - Tenancy 14 - Guzman Y Gomez, Mexican Taqueria - Manly Wharf - Approved 19 December 2012.

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	None applicable.
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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development</p>

Section 4.15 Matters for Consideration'	Comments
	<p>application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 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 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 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><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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 in accordance with the EPA Act or</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>

Section 4.15 Matters for Consideration'	Comments
EPA Regs	
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 12/01/2021 to 26/01/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control 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>
Environmental Health (Industrial)	<p>General Comments</p> <p>The application is for minor alterations to an existing food and drinks premises including minor alterations to existing kitchen as part of refurbishment works.</p> <p>From the SEA and plans provided the alterations appear to be minor in nature and are unlikely to generate any major ongoing noise concerns. The plans detail some new cooking equipment that could potential result in changes to mechanical ventilation. Any changes to mechanical ventilation could cause minor noise concerns however, the nearest residential receptor is located approximately 50m away.</p> <p>Any noise concerns from the operation of the premises could potentially be assessed under the Protection of the Environment Operations Act 1997.</p>

Internal Referral Body	Comments
	<p>Recommendation</p> <p>APPROVAL - no conditions</p>
<p>Environmental Health (Food Premises, Skin Pen.)</p>	<p>General Comments</p> <p>The application is for minor alterations to an existing food and drinks premises including minor alterations to the kitchen.</p> <p>Any alterations/additions to the kitchen/food prep areas including storage will need to comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises'.</p> <p>The plans provided also detail new cooking equipment including a cooktop and churros fryer. The mechanical ventilation system will need to be compliant with the requirements of AS1668 The use of mechanical ventilation.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
<p>NECC (Coast and Catchments)</p>	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005.</p> <p>It has also been assessed against requirements of the Manly DCP for Manly Cove 1996</p> <p>The application has also been assessed using Northern Beaches SREP assessment template.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development. The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13 (coastal</p>

Internal Referral Body	Comments
	<p>environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA.</p> <p>Comment: On internal assessment , the DA satisfies requirements under Clause 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005 Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005</p> <p>Harbour Foreshores & Waterways Area The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 2, Clause 14 and Part 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 Platinum Planning Solutions dated 4 December 2020, it is determined that the Planning Principles and Matters for Consideration of the Area have been met.</p> <p>The subject site is located within/adjacent to the W2 (Environmental Protection) Zone.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Platinum Planning Solutions dated 4 December 2020, it is determined that the objectives and assessment criteria of the zone have been met.</p> <p>Manly DCP for Manly Cove 1996 The Manly Wharf is excluded from the Manly LEP 2013 and Manly DCP 2013. The applicable control is through the Manly DCP for Manly Cove 1996.</p> <p>On internal assessment, no other coastal issues are involved.</p> <p>The proposal is therefore supported.</p>
Strategic and Place Planning (Heritage Officer)	<p><u>Planning Comments</u></p> <p>The application is accompanied by a Heritage Exemption letter dated 27 November 2020 (under section 57(2) of the Heritage Act 1977). Given the exemption granted under section 57(2) the subject application is not required to be referred to Heritage NSW for further comment for the purpose of this assessment, and so is not deemed to</p>

Internal Referral Body	Comments					
	<p>be integrated development. Suitable conditions of consent are imposed to ensure compliance with the Heritage NSW requirements.</p> <table border="1" data-bbox="520 421 1439 1167"> <thead> <tr> <th data-bbox="520 421 1439 459">HERITAGE COMMENTS</th> </tr> <tr> <th data-bbox="520 459 1439 497">Discussion of reason for referral</th> </tr> </thead> <tbody> <tr> <td data-bbox="520 497 1439 1131"> <p>The proposal has been referred to Heritage as it is located within a State heritage item, being Item I145 - Manly Wharf, which is listed in Schedule 5 of Manly Local Environmental Plan 2013 and also on the State Heritage Register.</p> <p>It is also in the vicinity of a number of other heritage items, located on the opposite side of East Esplanade:</p> <p>Item I153 Commercial and residential building</p> <p>Item I152 Commercial and residential building</p> <p>Item I151 Terrace building</p> <p>Manly Town Centre Conservation Area</p> </td> </tr> <tr> <th data-bbox="520 1131 1439 1167">Details of heritage items affected</th> </tr> <tr> <td data-bbox="520 1167 1439 2136"> <p>Details of the heritage item as contained within the heritage inventory are:</p> <p>Item I145 - Manly Wharf <u>Statement of Significance:</u> 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> A broad wharf supported on timber piers and with a concrete platform. The superstructure is constructed of steel and timber. The facade and side walls form an important architectural design, similar to the Circular Quay ferry terminals. (Blackmore, Ashton, Higginbotham, Rich, Burton, Maitland, Pike, 1985). The original part of the wharf was built in a modernistic transport idiom, with typical stylistic features of era including play of circular and rectangular geometric terms, bayed facade to the water (marine connotations), wide arc plan at entrance, clock tower with "fins", flat roofing marked by wide fascia board. The current entrance was originally designed as a tram terminus and turning area. Timber clad framed structure opening and large internal</p> </td> </tr> </tbody> </table>	HERITAGE COMMENTS	Discussion of reason for referral	<p>The proposal has been referred to Heritage as it is located within a State heritage item, being Item I145 - Manly Wharf, which is listed in Schedule 5 of Manly Local Environmental Plan 2013 and also on the State Heritage Register.</p> <p>It is also in the vicinity of a number of other heritage items, located on the opposite side of East Esplanade:</p> <p>Item I153 Commercial and residential building</p> <p>Item I152 Commercial and residential building</p> <p>Item I151 Terrace building</p> <p>Manly Town Centre Conservation Area</p>	Details of heritage items affected	<p>Details of the heritage item as contained within the heritage inventory are:</p> <p>Item I145 - Manly Wharf <u>Statement of Significance:</u> 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> A broad wharf supported on timber piers and with a concrete platform. The superstructure is constructed of steel and timber. The facade and side walls form an important architectural design, similar to the Circular Quay ferry terminals. (Blackmore, Ashton, Higginbotham, Rich, Burton, Maitland, Pike, 1985). The original part of the wharf was built in a modernistic transport idiom, with typical stylistic features of era including play of circular and rectangular geometric terms, bayed facade to the water (marine connotations), wide arc plan at entrance, clock tower with "fins", flat roofing marked by wide fascia board. The current entrance was originally designed as a tram terminus and turning area. Timber clad framed structure opening and large internal</p>
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Internal Referral Body	Comments	
	spaces, concrete deck to west enclosed by "ship" railing. Some original shop fittings, signage etc. Subjected to major alterations to the wharf wings involving a T-shaped clerestorey (Stapleton, 1981).	
	Other relevant heritage listings	
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No
	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
	Consideration of Application	
	This application seeks consent for alterations to the internal fitout and signage for the existing Kiosk 3 of the Manly Wharf building.	
	As the application affects a State heritage listed item, the application is Integrated Development and requires consultation with the Heritage NSW and eventual approval under Section 60 of the Heritage Act, 1977.	
	Heritage NSW have responded by letter dated 27 November 2020, providing general terms of approval for this integrated development application. These comments have been reviewed and all required terms of approval (conditions) are agreed with.	
	As the application is only for fitout and signage, including a wall art (representing Mexican tradition Day of the Dead), and does not involve any extensions of or alterations to the significant fabric of the heritage building, it is considered that, there will be no adverse impact upon the Manly Wharf building, the heritage items in the vicinity, nor on the Manly Town Centre Conservation Area.	
	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><u>Consider against the provisions of CL5.10 of MLEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>	
	Further Comments	

Internal Referral Body	Comments
	<p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 20 January 2021</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 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 prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
<p>1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is</p>	<p>The proposed signage is generally consistent with the existing signage at the premises and is compatible with the desired future character of the Manly Wharf. The proposal is assessed as</p>	<p>YES</p>

proposed to be located?	acceptable by Council's Heritage Officer and has been granted an exemption by Heritage NSW. The appearance of the premises as viewed from the entrance to Manly Wharf remains largely unchanged, with the new signage generally limited to the side and rear elevations of the tenancy visible from within the wharf.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal is consistent with the existing outdoor advertising of retail premises within Manly Wharf.	YES
2. Special areas 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 premises is within the state heritage listed Manly Wharf. The proposed signage remains consistent with the existing signage at the premises and is compatible with the surrounding area. No objection was raised to the proposal by Council's Heritage Officer or Heritage NSW.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The proposed signage is attached to the existing structures and will not obscure or compromise any important views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage is attached to the existing structures and will not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposal does not result impinge on the viewing rights of other advertisers.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Given the context of this part of Manly Wharf and the surrounding retail uses, the proposed scale, proportion and form of the proposed signage is considered appropriate.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The external signage visible from the streetscape and Manly Wharf entry remains largely unchanged. The proposed signage contributes positively to visual the interest of the surrounding area.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The existing advertising does not require simplification and the proposal does not result in visual clutter.	YES
Does the proposal screen unsightliness?	The proposal includes refurbishment and visual improvement of the facade of the premises.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No.	YES
5. Site and building 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 proposal is considered compatible with the scale, proportion and characteristics such as the heritage significance, given the context of this part of Manly Wharf and the surrounding premises.	YES

Does the proposal respect important features of the site or building, or both?	As discussed above, the proposal has been supported by Council's Heritage Officer, and is considered to respect the heritage values of Manly Wharf.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal is compatible with the design scheme of the premises.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed wall signage to the facade is illuminated.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The physical separation to neighbouring residential accommodation along West Esplanade and the location of signage below the awning level ensures that the illumination will not result in any unacceptable impacts to safety or amenity.	YES
Can the intensity of the illumination be adjusted, if necessary?	The application indicates that the signage will be illuminated only during the hours of operation of the premises.	YES
Is the illumination subject to a curfew?	No, however the signage is only to be illuminated during the existing approved hours of operation.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	No.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Manly Wharf is located outside the land application map for the Manly Local Environment Plan 2013. The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

The subject site is located in Zone W2 Environmental Protection the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

The objectives of this zone 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,*
- (c) to give preference to enhancing and rehabilitating 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.*

Comment:

The application is for refurbishment works to the existing food and drink premises, and does not propose any change of use or operation of the premises. The proposed works are limited to external and internal alterations to the existing premises, including fit out and signage. The proposal is considered to maintain consistency with the above objectives, subject to the included conditions of consent.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposal and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

Council's Coast and Catchments Division has provided comments indicating that the proposal satisfies the requirements under Clause 15.

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?	

Principal Development Standards

Manly Wharf is located outside the land application map for the Manly Local Environment Plan 2013.

*Please refer to the discussion above under the section of the report titled 'Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005'.

Compliance Assessment

Clause	Compliance with Requirements
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.12 Essential services	Yes
6.21 Noise impacts—licensed premises	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

5.10 Heritage conservation

The site is located within the State Heritage Register curtilage item of I145 - Manly Wharf that is listed within Schedule 5 of Manly Local Environmental Plan 2013.

The proposal has been assessed by Council's Heritage Officer who is satisfied with the development is acceptable, subject to any conditions imposed by Heritage NSW. Detailed commentary from Council's Heritage Officer is provided in the 'Referrals' section of this report.

As the site is identified as an item of State heritage significance on the State Heritage Register, the applicant has also provided an Exemption Letter from Heritage NSW dated 27 November 2020 in relation to the development.

6.21 Noise impacts—licensed premises

The proposal does not include any change to the use or hours of operation of the premises, and is not considered to result in unreasonable noise or amenity impacts to surrounding land uses.

Manly Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.6 Accessibility	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.3 Signage	Yes	Yes
4.4.4.2 Awning supported from the ground	Yes	Yes

Detailed Assessment

4.4.3 Signage

The application seeks consent for signage to a heritage listed item and therefore the controls listed under Clause 4.4.3.2 (Signage of Heritage listed items and in Conservation Areas) apply. As detailed within this report, the proposal is considered as consistent with the objectives and assessment criteria of State Environmental Planning Policy No 64 - Advertising and Signage.

The proposal is considered to be acceptable in relation to the signage and heritage provisions of the Manly DCP and is supported.

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.

Car parking

The proposal maintains the approved use of the premises and does not result in any change to car parking requirements. Further, the premises is in close vicinity to public transport including a bus station and ferry terminal.

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 2000;
- 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 DA2020/1618 for Alterations and additions to an existing food and drink premises 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
A-101 Layout Plan	Issue F, 16 October 2020	Morris Co Design
A-200 Shopfront Elevation	Issue H, 16 October	Morris Co

	2020	Design
A-201 External Elevations	Issue H, 16 October 2020	Morris Co Design
A-202 Elevations	Issue H, 16 October 2020	Morris Co Design

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Heritage Exemption Letter	27 November 2020	Heritage NSW, Department of Premier and Cabinet

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

d) The development is to be undertaken generally in accordance with the following:

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. 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.

3. **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.

4. **Heritage NSW**

The development shall comply with the standard conditions that apply to all exemptions, as well as any further relevant Heritage NSW approvals.

The standard conditions can be found at the below link:

<https://www.heritage.nsw.gov.au/assets/StandardExemptions.pdf>

Reason: To ensure compliance with the Heritage requirements for the site.

FEES / CHARGES / CONTRIBUTIONS

5. **Security Bond**

A bond (determined from cost of works) of \$1,500 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 Certifying Authority 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. **Plans of Kitchen Design, construction and fit out**

Prior to any Construction Certificate (CC) being issued, detailed plans for the alterations/additions to the food premises that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

Reason: To ensure that the Food premise complies with the design construction and fit-out requirements.

7. **Plans of Mechanical ventilation**

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with the Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings", must be approved by the Certifying Authority for any cooking equipment with an individual or combined power rating level that triggers the requirement for mechanical ventilation under AS1668.2 including any deep frying equipment.

Reason: To ensure that the design, construction and installation requirement for mechanical ventilation complies with the Australian Standard 1668.2.

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

8. **Kitchen Design, construction and fit out of food premises certification**

The construction fit-out and finishes of any alterations/additions in the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises'. Prior to any Occupation Certificate (OC) being issued certification is to be provided by a suitably qualified person that the fit-out complies with the above requirement.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the kitchen complies with the design requirements.

9. **Mechanical Ventilation certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of

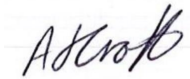
mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

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

Signed



Adam Croft, Planner

The application is determined on 04/02/2021, under the delegated authority of:



Anna Williams, Manager Development Assessments