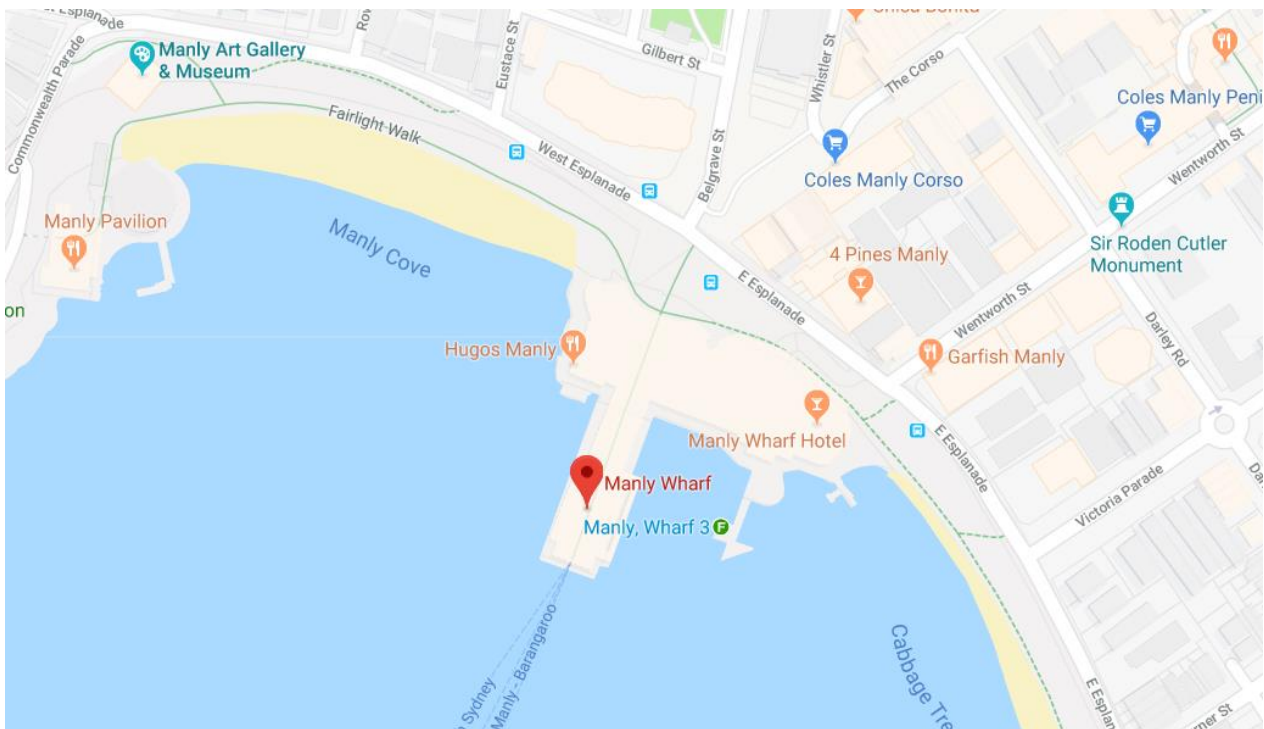


**STATEMENT OF ENVIRONMENTAL EFFECTS**  
**DA TO INCREASE THE BALCONY SPACE OF 2 APPROVED RESTAURANT**  
**TENANCIES AND TO INCREASE MAXIMUM OCCUPANCY**  
**MANLY WHARF, EAST ESPLANADE, MANLY**



**Report Prepared by: Planning Lab**

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## Summary

This Statement of Environmental Effects (SEE) accompanies a Development Application (DA) that relates to Tenancy 1 and Tenancy 2 of Manly Wharf, East Esplanade, Manly which are occupied by 'Sake' and 'El Camino' restaurants, respectively.

Both tenancies have an adjacent section of roof terrace which is currently unoccupied. This proposal seeks approval for the fitout, use and maximum occupancy of these two terraces to increase the total capacity of the restaurants. No changes are proposed to the existing restaurant areas or to the approved operating hours. The capacity of the Tenancy 1 (Sake) terrace is proposed to be 164 patrons while the capacity of the Tenancy 2 (El Camino) terrace is proposed to be 193 patrons. The fit out includes works to create barriers at the terrace's edge, minor permeant fixtures, loose furniture, shade structures and lighting.

The attached acoustic report from Acoustic Logic demonstrates that the proposal will not have an adverse effect on surrounding residential development. The attached Heritage Impact Statement demonstrates that the proposal is in keeping with the historical significance of the site as a place of tourism and local gathering. The proposed works are shown to affect only areas of contemporary fabric and to have no unacceptable impacts on the State Heritage Listed Manly Wharf.

The Manly Wharf is excluded from the Manly LEP 2013 and Manly DCP 2013 and the applicable controls are from the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, the Sydney Harbour Foreshores and Waterways Area Development Control Plan and Manly Development Control Policy for Manly Cove, 1996. This SEE demonstrates that the proposal is not inconsistent with any environmental planning instrument.

The proposal will support the ongoing operation of the Manly Wharf as an iconic part of Manly's cultural history and will support the local night-time economy. The proposal is recommended for approval.

## Site Location and Context

The subject tenancies, Tenancy 1 and Tenancy 2, are located on the First Floor of the Manly Wharf, adjacent to the East Esplanade, Manly. They are currently occupied by 'Sake' and 'El Camino' restaurants.

The Manly Ferry Wharf is a listed State Heritage Item under the Heritage Act 1977, as well as the Manly Local Environmental Plan 2013. Designed by Sydney Modernist Architect Arthur Baldwinson, the timber wharf is significant because of its age and association with the historic development and continuation of Manly as a seaside resort of Sydney, and because of its contribution *"to the context of the sweeping beach and line of the trees which is now an integral part of this mainland view of Manly"* (Heritage Impact Statement, Architectural Projects, 2014). It is a rare surviving working example of a maritime architecture, designed in the Modernist style of the mid-Twentieth Century.

The part of Manly Wharf to which this DA relates is the eastern wing, shown in Figures 1 and 2 below. On the eastern side of the original wharf, this part of the wharf dates from the 1990s, and construction of a first floor, approved by the Land and Environment Court, has been completed in accordance with the development consent. The fit-out of both restaurants has been completed under CDC 18000376/1 and they are now occupied. Below the restaurants are varied food and beverage uses and retail premises, including a supermarket.



Figure 1 - The site within Manly Wharf (Six Maps)



Figure 2 - View of the site and the 'east wing', from the East Esplanade while it was under construction in December 2017 (Google Maps)

## Site History

### DA 142/2011

On the 19<sup>th</sup> of July 2013, the Land and Environmental Court granted consent for:

*“Alterations and Additions - AMENDED PLANS - Construction of a first floor addition to the existing Manly Wharf structure including four (4) restaurant tenancies with plant rooms and changes to the ground floor including two (2) new retail tenancies”*

The consent granted by the Land and Environment Court contained conditions stating the permitted hours of operation of the tenancies but did not contain a condition stating maximum occupancy of tenancies.

### S96 142/2011 (part 2-modification)

On the 15<sup>th</sup> of October 2015, the Manly Independent Assessment Panel approved an S96(2) modification described as:

*“Section 96 to modify approved Construction of a first floor addition to the existing Manly Wharf structure including two (2) restaurant tenancies and changes to the ground floor including two (2) new retail tenancies - involving modifications to the approved first floor addition, addition of new lifts, new stairs, increase to floor area of two (2) restaurant tenancies, addition of outdoor seating areas and modification to conditions 1 in relation to the architectural plans, 3 in relation to provision of outdoor seating, 90 in relation to outdoor eating area and deletion of condition 86 in relation to addition doors - Manly Wharf - Part 2”*

The approval granted by the Manly Independent Assessment Panel contained a condition stating the permitted hours of operation of the tenancies but did not contain a condition stating maximum occupancy of any tenancies. Condition 73 required that:

*“A separate Development Application is to be submitted for the fit-out and use of each separate tenancy that is defined as a regulated premises ie a Food Premises.”*

### s57 Exemption

On the 7<sup>th</sup> of June 2018, the Office of Environment and Heritage issued an exemption under s57(2) of the *Heritage Act 1977* under standard exemption 10: New buildings. The exemption was to allow the fit-out of the tenancies to be approved under a CDC.

### CDC 18000376/ 1

On 19<sup>th</sup> of July 2018 a Complying Development Certificate was granted for:

*“First use as a restaurant, along with associated internal fitout for Sake/Fratelli Fresh (maximum 50 seats for patrons)”.*

This fit-out has been completed and the restaurants are both operating. When the CDC was applied for, Tenancy 2 was intended to operate as a ‘Fratelli Fresh’ restaurant but was subsequently changed to an ‘El Camino’ restaurant.

**DA 2018/1418**

On 1 November 2018, a Development Application was approved which approved the premises' seating layout, use as a restaurant, hours of operation and maximum occupancy. The approved hours are 8.00am to 11.00pm Monday to Saturday and 8.00am to 10.00pm Sunday with extended hours approved on a trial basis of 8.00am to 1.00am the following day Friday and Saturday and 8.00am to Midnight on Sunday. Outdoor areas are to cease trade by 10pm on all days. The maximum occupancy was approved as 300 patrons in Tenancy 1 (Sake) and 207 patrons in Tenancy 2 (El Camino).

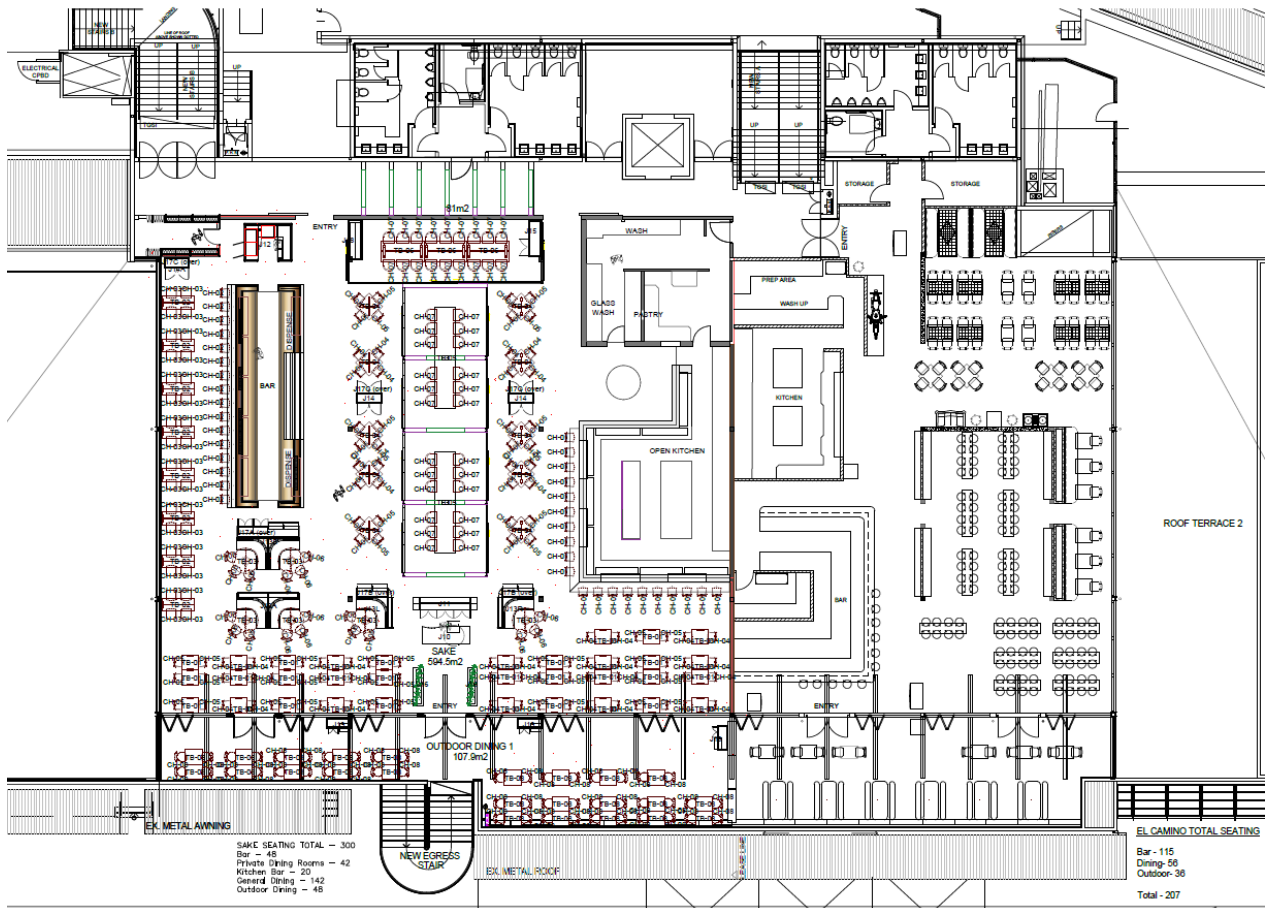


Figure 3 - The existing approved seating arrangement for both tenancies

## Proposal Summary

This DA seeks approval to undertake the physical works described in the attached architectural drawings by SGB Group which will facilitate the conversion of existing empty sections of roof terrace into outdoor dining terraces associated with both tenancies. The proposal also seeks to establish an approved maximum occupancy for the roof terraces of 164 patrons for Tenancy 1 (Sake) and 193 patrons for Tenancy 2 (El Camino). This is in addition to the existing approved occupancy of 300 patrons for Sake and 207 patrons for El Camino. The terraces are proposed to operate until 10pm which is the same hours as the existing approved outdoor seating. The Plan of Management which was previously approved under DA 2018/1418 has been updated accordingly and is attached to this application.

The full range of proposed physical works are detailed in the attached drawings by SGB Group which should be consulted directly. In El Camino, the works involve the fitout of the outdoor terrace with a mixed concrete block wall and Rio mesh fence barricade, fixed decorative features, furniture, shade structures and festoon lighting. In Sake, the works involve the fitout of the outdoor terrace with a glass balustrade, fixed decorative features, furniture, shade structures, a water feature, an elevated deck, two cabanas and lighting.

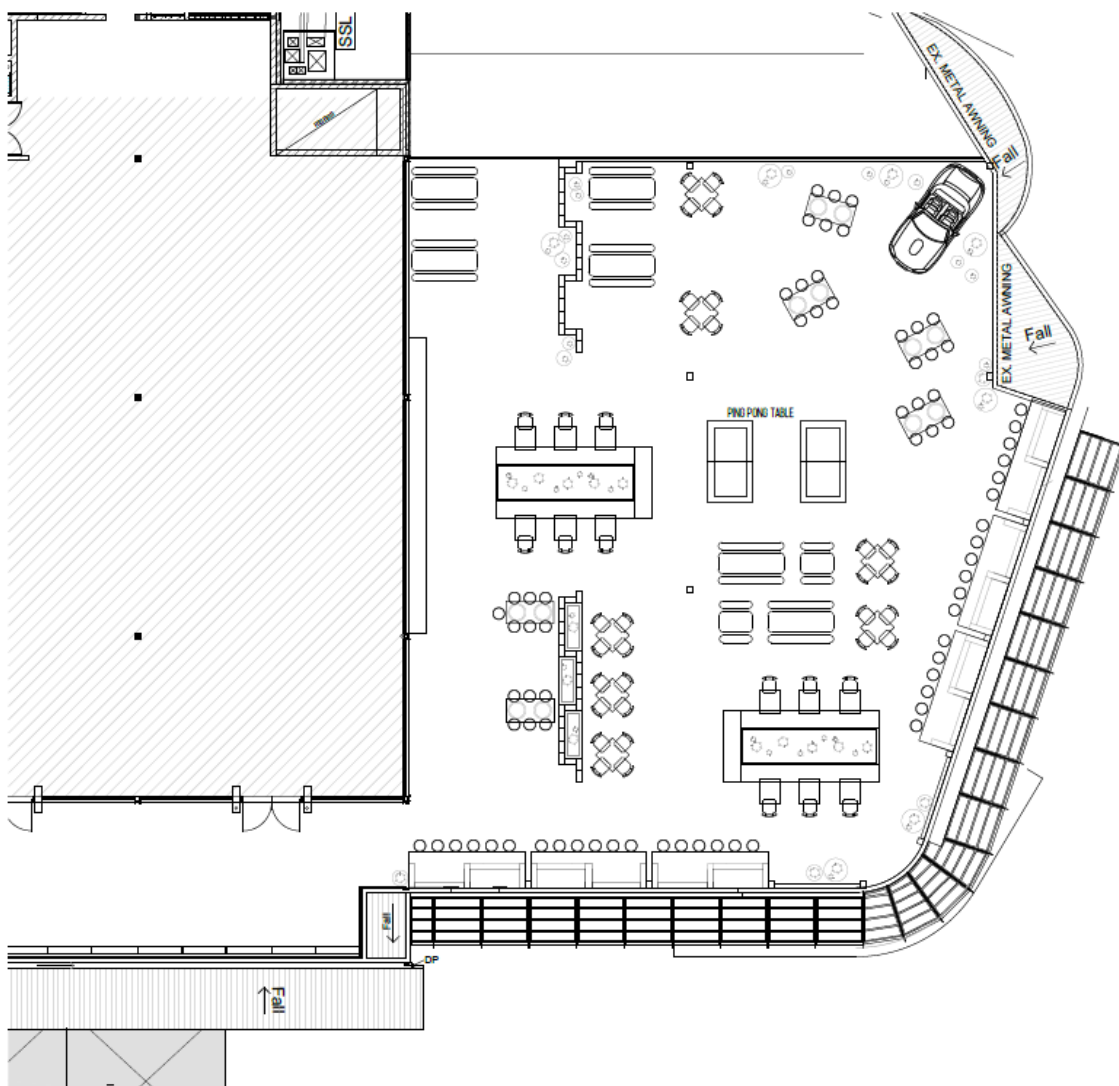


Figure 4 - Proposed El Camino terrace seating plan (existing seating excluded)



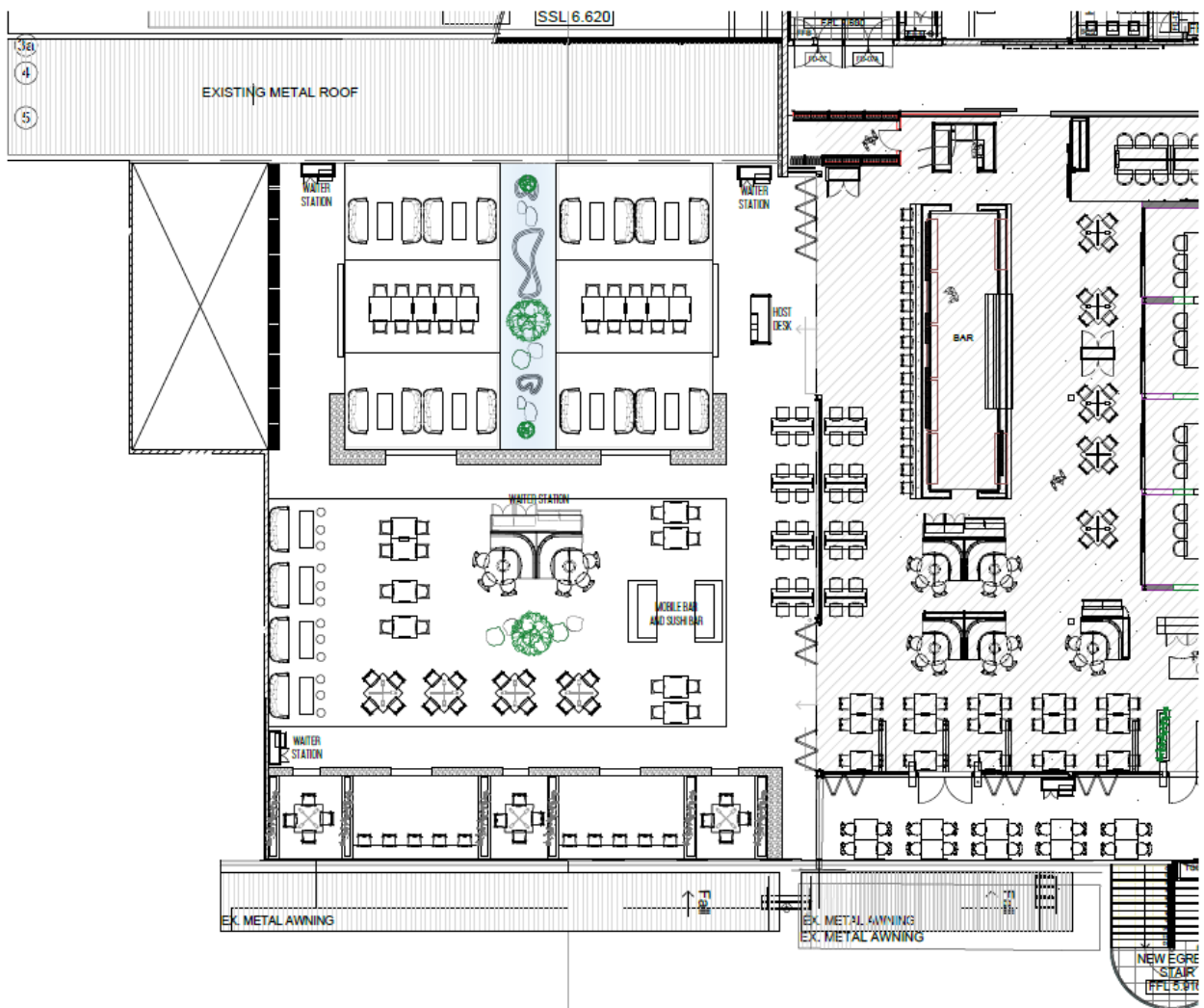


Figure 5 - Proposed Sake terrace seating plan (existing seating excluded)

# Environmental Planning and Assessment Act 1979 S4.15 Assessment

## Section 4.15(A) Relevant Planning Instruments

Whilst the site is now within the Northern Beaches Council due to the amalgamation of Councils, it was previously within the Manly Council area. The site is listed as a Heritage Item in the Manly Local Environmental Plan 2013 (Item I145) and the Plan also identifies the foreshore building line across part of the site. Nonetheless, the building is shown as outside of the Land Application Map and the relevant Statutory Planning Instrument for the site is the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The Sydney Harbour Foreshores and Waterways Area Development Control Plan is also applicable. There are no relevant draft Planning Instruments.

### Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposed development is a land/water interface development under the Regional Environmental Plan and in accordance with Clause 5 of the Plan, Council is the consent authority.

Under the Plan, the site is located in Zone W2 Environmental Protection and the development land uses and their permissibility was considered under previous approvals for the site.

The objectives of the W2 Environmental Protection zone are:-

- (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.*

The proposal does not cause inconsistency with the objectives of the W2 Environmental Protection zone. Further, Division 2 of SREP 2005 contains matters that are required to be considered before granting consent to a development, and include:

- biodiversity, ecology and environment protection;
- public access to, and use of, foreshores and waterways;
- maintenance of a working harbour;
- interrelationship of waterway and foreshore uses;
- foreshore and waterways scenic quality;
- maintenance, protection and enhancement of views; and
- boat storage facilities.

The above matters were considered in detail by the Court during its assessment of the original Development Application, and considered again by Manly Council in its subsequent approval of the

Section 96(2) Modification to the consent, and were considered acceptable. The proposal does not cause any non-compliance with the provisions of the Plan and seeks only to gain approval for fitout and use of existing roof terraces and an associated increase in maximum occupancy rates. The proposal is not inconsistent with the W2 Environmental Protection zone objectives.

### The Sydney Harbour Foreshores and Waterways Area Development Control Plan

These design guidelines for land/water interface developments were considered during the assessment of the original Development Application and the subsequent modification to the development consent.

Under the Sydney Harbour Foreshores and Waterways Area Development Control Plan ('the Plan') the Manly Wharf is identified as being located within 'Landscape Character Type 8' which has the following statement of character and intent:

*"These areas have a high level of built form with waterside commercial, industrial and residential uses. The commercial and industrial uses play an important role in terms of tourism and maritime services which support water-based activities. There are special features in these areas that contribute to the visual character of the area that should be maintained."*

The proposal to expand the existing operational size of the Sake and El Camino restaurants is entirely consistent with the character statement in so far as it supports existing commercial uses and will contribute to the visual character of Manly Wharf as a food and dining destination.

Four performance criteria are also provided in the Plan for Type 8 character areas:

Performance Criteria	Response
<i>vegetation is integrated with land-based development to minimise the contrast between natural and built elements;</i>	The fit outs and terraces relate to existing above ground level building areas which do not provide the opportunity for any deep soil landscaping. They are located within the Manly Wharf which is an existing area of waterside commercial use. The proposal will not have an effect on how the Manly Wharf is integrated within the natural environment.  Both restaurant fit-outs involve minor landscaping elements but which will be unseen from the public domain or waterways.
<i>design and mitigation measures are provided to minimise noise and amenity impacts between incompatible land uses;</i>	An acoustic report has been prepared by Acoustic Logic to accompany this application. It demonstrates that the proposed use of the terraces will comply with all external noise emission requirements.
<i>the maritime uses on the Harbour are preserved. Pressure for these uses to relocate is minimised. New developments adjoining maritime uses are designed and sited to maintain compatibility with existing</i>	The proposal will not have any impact on the surrounding maritime uses.

<i>maritime uses; and</i>	
<i>remaining natural features that are significant along the foreshore are preserved and views of these features are maintained.</i>	The proposal is located on an existing building. There is no impact on natural features, nor will it obscure any views of natural features.

The additional level to the Manly Wharf was assessed against the Section 4 ‘Design Guidelines for Water-Based and Land/Water Interface Developments’ during previous applications and the design was found to not alter foreshore access, be appropriately sited and meet the design requirements. The proposal does not significantly modify the existing approved building elements and is still not inconsistent with Section 4.

### Manly Development Control Policy for Manly Cove, 1996

The relevant controls to this application within the Manly Development Control Policy for Manly Cove, 1996 are in Section 3 – Building Design. The following character statement is provided under section 3.1:

*“Irrespective of whether a building is listed as an item of environmental heritage, Council must be satisfied that the design of any new development has given due attention to the site’s position within and contribution to the overall and existing future townscape and landscape quality of Manly Cove.*

*The townscape is seen to be the total appearance of a locality and the way in which individual items contribute to its character. A high level of townscape quality will result in an area being experienced, not as a number of disconnected parts, but as a whole, with one recognisable area leading into another. For the purpose of this planning control it is considered that Manly Cove still maintains an essentially unified townscape giving rise to a particular individual and unique character which should be maintained and reinforced.”*

The Manly Wharf is characterised by outdoor seating and active uses. The proposed fit outs relate to existing areas of roof terrace which are currently unoccupied and currently present from the public domain as vacant space within the building. Extension of the outdoor dining to the roof terraces will enliven the public domain through activating of the balconies. The works are generally lightweight and relate to a contemporary portion of the area. The proposal is in keeping with the existing character of the townscape and will complement the area’s existing vibrancy.

### Section 4.15(B) Other Impacts of the Development

The proposal will increase the maximum occupancy of Sake by 164 and El Camino by 193. The attached Noise Assessment demonstrates that the proposed occupancy increase will comply with the relevant acoustic standards. The venue has been trading for 10 months since November 2018 and has not received any noise complaints or been subject to any police action. The increased occupancy can be appropriately managed by both tenancies.

The attached BCA report demonstrates that the proposed occupancy and fitout is capable of achieving BCA compliance in the construction Certificate stage of development.

The attached heritage report demonstrates that the proposed works will have no negative heritage impacts the Manly Wharf.

The proposal will support enhanced nightlife in Manly and continue to support the operation of the Manly Wharf as a dining destination. There are no negative environmental effects arising from the proposed development.

## Heritage Controls

Manly Wharf is listed as a Heritage Item in SREP 2005 and is listed on the State Heritage Register in the NSW Heritage Act. A Heritage Impact Statement accompanied the original Development Application and subsequent Section 96(2) Modification. These established that the development had no adverse impact on the Heritage Item. This Development Application seeks minor physical works to an area of the Wharf which is contemporary and does not contain any heritage fabric.

The attached Heritage Impact Statement by Andrew Starr Heritage Consultants demonstrates that the proposal is an appropriate addition to Manly Wharf and that it has no adverse impacts upon the Wharf's State heritage significance. The report concludes in part that:

“The subject proposal is considered as an example of sympathetic development desired in Manly.”

The works relating to Sake will only be visible from a section of the water of Manly Cove. The works will enliven and activate the existing roof space which is currently surrounded by walls.

The works relating to El Camino will be visible from the north, east and west due to their location on the building's corner. The design includes a wall of mixed materials including concrete and wire mesh around the perimeter of the terrace. Above are proposed shade umbrellas and festoon lighting. The aesthetic of El Camino is vibrant and welcoming which speaks to the historic character of the Manly Wharf as both a tourist destination and area of entertainment. The proposed terrace fitout is appropriately located within a contemporary portion of the Manly Wharf and will contribute to its vibrancy.

The Manly Wharf has a rich history associated with entertainment and tourism which this proposal supports through increased outdoor restaurant seating and a high-quality, vibrant fit out.

## Acoustic Assessment

An Acoustic Assessment was prepared by Acoustic Logic and has been submitted in support of this DA. The report concluded:

*“External noise emission from for the proposed operation of Manly Wharf Upper Level has been assessed based on the background noise measurement on site and the requirements of OLGR and NSW DECC Industry Noise Policy. Provided acoustic treatment in Section 8 the external noise emissions will comply with all requirements.”*

The recommendations made in the report are consistent with the existing operations of the restaurants under the current approval DA 2018/1418. The Plan of Management has been updated to reflect the increased occupancy. The development will comply all with noise restrictions and acoustic recommendation as a condition of consent.

## Parking Assessment

A Parking Assessment has been prepared by The Transport Planning Partnership and is submitted in support of this application. The Assessment considers the impact of the additional parking and traffic generation resulting from the proposal against the existing conditions in the area. Using a survey of parking data, the Assessment shows that there is capacity in the existing public parking within the Manly Town Centre to accommodate the 25 additional parking spaces which are considered to be required under the traffic calculations in the Manly DCP 2013. The report notes that, while a parking contribution payment is no longer required, the development will be required to pay a Section 7.12 levy which is used to fund infrastructure upgrades in the LGA.

## BCA Capability Statement

A BCA Capability Statement has been prepared by Modern Building Certifiers to accompany this application. The report concludes in part that:

*“In view of the above assessment we can confirm that subject to the above measures being appropriately considered, that compliance with the Deemed-to-Satisfy Provisions and Performance Requirements of the BCA are readily achievable.”*

The report made several recommendations which are required to be addressed at the Construction Certificate and Occupation Certificate stages of development. These matters will be appropriately addressed at that stage. The proposal is demonstrated to be capable of compliance.

## Section 4.15(C) Suitability of the Site for the Development

The site is suitable for the proposed development as it is consistent with the land use and built form objectives in the Sydney Harbour Catchment Regional Environmental Plan and Development Control Plan. It is also compatible with the existing built form and land use character of the area. Suitability of the site was considered in detail by the Court during its assessment of the original Development Application and was considered again by Manly Council in its subsequent approval of the Section 96(2) Modification to the consent. The site was considered suitable under both applications.

## Section 4.15(E) Public Interest

The proposal supports the ongoing use of the Manly Wharf as a tourism and entertainment destination. The proposal is not inconsistent with the public interest.

## Conclusion

This SEE has assessed the environmental impacts associated with the DA proposal for the fitout, use and associated maximum occupancy of the roof terraces associated with the Sake and El Camino restaurants.

The terraces are to operate under the existing hours of operations and in accordance with the Noise Impact Assessment from Acoustic Logic. Their Assessment demonstrates that the proposal will not have an unacceptable acoustic impact.

The attached Heritage Impact Statement by Andrew Starr Heritage Consultants considers the historical significance of Manly Wharf. It demonstrates that the proposal will not have any impact on the existing heritage fabric as it relates to a contemporary section of the Wharf. The use is demonstrated to be sympathetic to the historical and current uses of the site which include tourism and entertainment.

The attached Parking Assessment by The Transport Planning Partnership demonstrates that there is sufficient capacity within the existing publicly accessible parking stations to handle the increased parking demand as a result of the proposal.

Impacts arising from the development were assessed throughout this SEE and are considered reasonable and manageable. The relevant planning instruments have been considered and the proposal is demonstrated to be compliant. The proposal is recommended for approval by Northern Beaches Council.