

## Statement of Environmental Effects

# Manly Wharf: - Felons Seafood Restaurant

Prepared for  
Artemus Group

Date  
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Architectus Australia Pty Ltd  
ABN 90 131 245 684

Adelaide  
Level 1, 15 Leigh Street  
57 Wyatt Street  
Adelaide SA 5000  
T +61 8 8427 7300  
adelaide@architectus.com.au

Brisbane  
Level 2, 79 Adelaide Street  
Brisbane QLD 4000  
T +61 7 3221 6077  
brisbane@architectus.com.au

Melbourne  
Level 25, 385 Bourke Street  
Melbourne VIC 3000  
T +61 3 9429 5733  
melbourne@architectus.com.au

Perth  
QV1 Upper Plaza West  
250 St Georges Terrace  
Perth WA 6000  
T +61 8 9412 8355  
perth@architectus.com.au

Sydney  
Level 18, 25 Martin Place  
Sydney NSW 2000  
T +61 2 8252 8400  
sydney@architectus.com.au

architectus.com.au

**Report Contact**

Jonathan Archibald  
Associate, Planning  
jonathan.archibald@architectus.com.au

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# 1. Introduction

## 1.1 Preliminary

This Statement of Environmental Effects (SEE) has been prepared by Architectus Australia Pty Ltd (Architectus) on behalf of Artemus Group.

This SEE is submitted to Northern Beaches Council (Council) in support of a Development Application (DA) under Section 4.12 of the Environmental Planning and Assessment Act 1979 (EP&A Act) for alterations and additions to tenancy 2-5.

This tenancy was previously known as The Bavarian, which closed in April 2025. The proposed works are to enable a continuation of the existing approved restaurant use, under new management, branding and food offering.

This report describes the site, its context, the proposed development and provides an assessment of the proposal with respect to the matters for consideration under Section 4.15(1) of the EP&A Act. This report illustrates how the proposed development meets legislative requirements and results in an overall positive outcome for the area and the local community.

## 1.2 Structure of this report

This report is structured as follows:

- **Section 1: Introduction** – introduces the proposal, the subject site and this DA.
- **Section 2: Site and context analysis** – provides an analysis of the site and its regional, local and immediate context.
- **Section 3: Development History** – provides an overview of the development history of the site and context to the subject application.
- **Section 4: Description of proposal** – provides a detailed overview of the proposed development.
- **Section 5: Environmental assessment** – provides an environmental assessment of the proposal in accordance with the relevant legislation, planning controls and policies.
- **Section 6: Conclusion.**

Plans, specialist reports and documentation are provided within appendices to this report.

## 1.3 Preparation of the application

This SEE has been prepared by Charlotte Cadman, Urban Planner, and reviewed by Jonathan Archibald, Associate, Planning.

## 1.4 Applicant

Artemus Group are an established hospitality business specialising in revitalisation of iconic waterfront precincts, transforming them into thriving community and cultural hubs. Their portfolio of hospitality venues include Brisbane's Howard Smith Wharves, a prominent heritage site with a selection of food and drink establishments and hotel accommodation. Consistent with their holistic management approach at Howard Smith Wharves, Artemus are implementing comprehensive management of safety, maintenance and operations across the wider Manly Wharf site.



## 2. Site Analysis

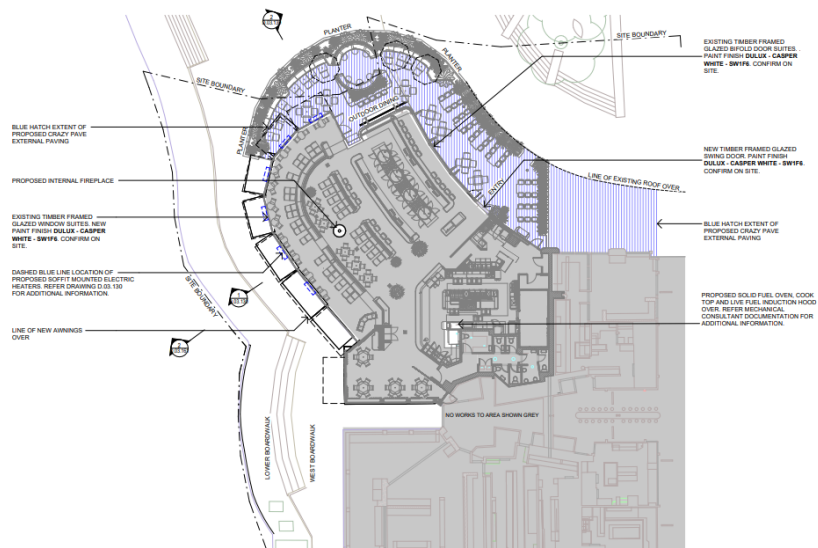
*This section provides information about the urban context, site details and description of the site's opportunities and constraints for development.*

### 2.1 The Site

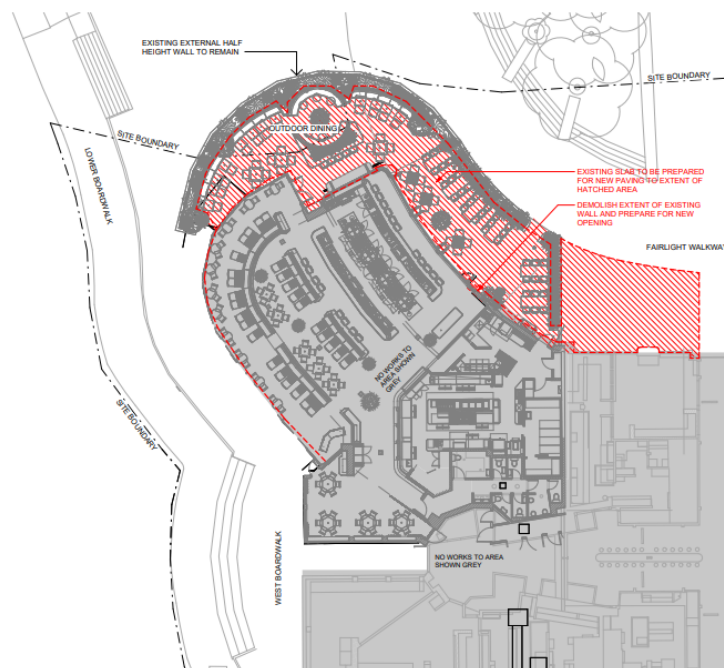
The site comprises tenancies 2 through 5, located within Manly Wharf, East Esplanade, Manly. It comprises two lots, legally described as lot 1 in DP 1170245, and lot 7340 in DP 1300106.

The site was previously occupied by The Bavarian, which ceased trading in April 2025.

Refer to an overview of the site at **Figure 1** and **Figure 2** below.



**Figure 1** Location of tenancy within Manly Wharf  
Source: Little Boat Projects



**Figure 2** Overview of subject tenancy  
Source: Little Boat Projects

## 2.2 Site ownership

Artemus Group are the leaseholders of Manly Wharf which comprises Crown Land, and land owned by Transport for NSW. Lot 7340/1300106 is crown land and shaded in orange in Figure 4 below. Lot 1 in DP 170245 is owned by Transport for NSW.

The Crown Land is within Esplanade Park Reserve No. 86015 for public recreation and situated at Shop 2 Manly Wharf Retail, East Esplanade, Manly. Northern Beaches Council are the appointed Crown Land Manager under the Crown Land Management Act 2016. Proposed works in this area relate to paving and outdoor seating only.

Northern Beaches Council have confirmed by email dated 2 July 2025 that owner's consent for this portion of land can be obtained during the assessment process, following lodgement of the development application.



Figure 3 Crown Lands (highlighted in orange)

## 2.3 Site context

Manly Wharf features a variety of food and dining venues ranging from cafes, takeaway and casual dining options. Licensed establishments with late night trading hours include Felons Manly, Hugos and El Camino Cantina.

Manly Wharf is located at the junction of East and West Esplanade, and The Corso leading to Manly Beach. Food and dining establishments line The Corso and the northern side of East Esplanade and extend along North and South Steyne facing Manly Beach.



Figure 4 Manly Wharf and surrounds

Source: SIXmaps



## 2.4 Heritage significance

Manly Ferry Wharf is listed as a heritage item under the *Heritage Act 1977*, *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (Biodiversity and Conservation SEPP) and the *Manly Local Environmental Plan 2013* (LEP 2013).

Being the first landmark visible on approach by ferry from Sydney, Manly Wharf is considered significant because of its visual prominence and association with maritime activities in Sydney Harbour. Further, it acts as a gateway to Manly, an established suburb and tourist destination with a high dependence on the ferry link to the Sydney CBD.

Manly Wharf's modernistic architecture bears similarity to the Circular Quay ferry terminals, both of which are the only substantial older style ferry wharves surviving in Port Jackson.

The Statement of Heritage Impact (SoHI) found in **Appendix F** provides further detail on the site's heritage significance.

## 2.5 Transport and access

Transport for NSW (TfNSW) operates ferries between Manly Wharf and the Sydney CBD, making it the primary gateway to Manly for residents, daily commuters and tourists.

Several bus stops are found along East and West Esplanades, providing bus services to other key locations in the Northern Beaches such as Mona Vale, Dee Why, and as far as Palm Beach.

Given the high number of visitors that arrive at Manly Wharf by ferry, Manly Visitor Information Centre is located on the wharf concourse, facing East Esplanade.

# 3. Development History

*This section provides an overview of development history on the subject site.*

## 3.1 Development application history

The subject tenancy was previously occupied by The Bavarian, which closed in April 2025. The tenancy the subject of this DA was initially approved as a restaurant in June 2003. Since then, several section 96 modification applications, development applications and complying development certificates have been approved to modify the branding, nature of the restaurant's food offering and to enable physical alterations and additions to the premises.

The table below provides a summary of development consent history, including DAs, modifications and Complying Development Certificates (CDC) for the subject tenancy.

**Table 1 Development consent history**

Application Type and Reference		Description	Approved
DA	53/03	<i>Restaurant fitout (Bistro Picasso)</i>	3 June 2003
Mod	10.2003.53.2	<i>Modification to 53/03, to increase patron capacity</i>	4 November 2003
Mod	S96 53/2003 100205	<i>internal layout &amp; access changes &amp; trading hours extended</i>	10 February 2005
Mod	S96 53/2003	<i>Revised awning arrangement</i>	12 July 2005
DA	0198/2004 & NSW LEC 40802/2005	<i>New Licensed Restaurant, signage, in/external works &amp; outdoor seating</i>	12 August 2005 (Approved on appeal)
DA	402/05	<i>Erection of signage ('Bavarian Bier Cafe')</i>	9 November 2005
Mod	081105 402/05	<i>Modification to 402/05 to revise signage arrangement</i>	14 July 2006
DA	279/2008	<i>Extension of western pergola and new timber frames pergola over outdoor seating</i>	8 October 2008
CDC	2019/0764	<i>Internal alterations to existing Bavarian restaurant, along with shopfront alterations</i>	15 October 2019
CDC	2025/0205	<i>Internal refurbishment of the Bavarian restaurant located at Manly Wharf to accommodate the new Felons Fish and Chips restaurant which includes: Revised Door Arrangement, New Bifold Doors, Internal Restaurant Fit Out, Installation of Pizza Oven</i>	25 March 2025
CDC	2025/0338	<i>Internal refurbishment of the Bavarian restaurant located at Manly Wharf to accommodate the new Felons Fish and Chips restaurant which includes: Revised Door Arrangement, New Bifold Doors , Internal Restaurant Fit Out &amp; Installation of Pizza Oven</i>	19 May 2025

# 4. The Proposal

*This section provides a detailed description of the proposed development and should be read in conjunction with the attached plans and documentation.*

## 4.1 Overview

The proposal seeks alterations and additions to the existing approved restaurant tenancy, to support a change of management, branding and food offering, to be known as Felons Seafood. There is no change of use or alterations to any of the existing approved operational aspects of the current approved restaurant, including hours of operation.

Proposed works sought under this DA will support existing refurbishment works already approved at the site under CDC-2025/0338 (Refer **Table 2**).

The proposed development comprises external alterations and additions including:

- Removal of existing outdoor paving within the boundaries of tenancy 2-5 and tenancy 6-7, to be replaced with new paving.
- Installation of new timber frame door at the tenancy entrance addressing East Esplanade, to be painted white.
- Painting of existing window frames to white.
- Installation of outdoor soffit mounted electric heaters.
- Installation of operable awnings to the southwestern side of the tenancy. Awnings to be white metal framed with white shade fabric. The awnings are 2.4m in depth and are situated 2.425m from the ground.
- Installation of mechanical fan and ductwork to the rooftop. The proposed plant is dimensioned approximately 2,800mm x 1,400mm.
- Construction of a roof top screen to conceal mechanical equipment with cladding and paint to match existing.

The proposal also includes internal alterations associated with the installation of a solid fuel heater and a solid fuel oven within the tenancy. Specifically, the works include:

- Solid Fuel Heater: Located within the restaurant's internal seating area. Includes an integrated flue that extends 0.927 meters above existing roof level.
- Solid fuel oven, cook top and mechanical ducting: located within the restaurant's kitchen preparation area.

The proposed development does not include any new signage.

Refer to the proposed architectural drawings prepared by Little Boats at **Appendix A**.

## 4.2 No change to approved use and operational parameters

The proposed development does not seek any change to the approved restaurant use or the existing operational parameters, approved under DA53/2003 (as amended).

## 4.3 Heater Specifications

The design of the solid fuel heaters includes an integrated flue which extends through the roof of the building to support their function, expel emissions and provide safe and comfortable air quality within the premises. As a result, both proposed flues extend above the existing roof level by approximately 0.927m.

The applicant has selected the 'Filo focus 2000' model for the proposed heaters. This model is a suspended, solid fuel fireplace featuring a conical hood and 360° glass enclosure to serve as heating and a focal point in this commercial setting. It delivers a nominal heat output of 4.5 kW and operates with natural ventilation, providing effective,

ambient warmth without mechanical support. The enclosed design ensures safety, visibility, and durability in high-traffic environments, for both functional and architectural asset purposes. Sustainability is a key design feature – it is specified to meet stringent EU environmental standards with emissions not exceeding 0.15% CO<sub>2</sub>. Expert testing also confirms it complies with relevant Australian Standards, as discussed in the assessment section below.

# 5. Planning Framework

*This section assesses the proposed development against the relevant legislation, environmental planning instruments, guidelines and controls.*

## 5.1 Environmental Planning and Assessment Act 1979

### Division 4.8 Integrated Development

Under section 4.46 of this division, development that requires approval in respect of the doing or carrying out of an act, matter or thing referred to in section 57(1) of the Heritage Act 1977 constitutes integrated development.

Because the proposal involves alterations and additions to a heritage item listed under the Heritage Act 1977, the proposed development will require approval from the Heritage Council of NSW (Heritage Council) and is considered integrated development.

### Section 4.15(1) Matters for consideration

Section 4.15(1) of the EP&A Act identifies the matters for consideration by a consent authority for development. As detailed assessment against these matters for consideration is provided at **Section 6** of this report.

## 5.2 Coastal Management Act 2016

The object of the Coastal Management Act 2016 is to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development.

This Act provides a framework toward identifying and adapting to hazards and planning and assessing coastal development. It also provides definitions and objectives for coastal areas identified by the State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP).

The site is identified as Coastal Environment Area and Coastal Use Area by the maps included in the Resilience and Hazards SEPP. This is further discussed at section 5.5 of this report.

## 5.3 Heritage Act 1977

The *Heritage Act 1977* identifies items of State heritage significance and promotes the adaptive reuse and conservation of these items. Manly Wharf is listed as an item of State heritage significance on the NSW State Heritage Register. As a result of approval being required from Heritage NSW, the development is classified as Integrated Development.

The SoHI (**Appendix B**) provides an overview of the proposed development's impacts on the significance of the heritage item and concludes that the proposed works are acceptable from a heritage perspective and consistent with the heritage objectives and provisions of the Manly LEP 2013, the Manly Development Control Plan 2013 (DCP), the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) and the Manly Ferry Wharf Conservation Management Plan 2016 (CMP).

For further information, please refer to **section 6.1** and the SOHI at **Appendix B**.

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

### Division 2 Controls on development generally

The proposed development comprises minor alterations and additions, to support an existing approved CDC (Ref. 2025/0338) and enable continuation of the existing approved restaurant use, under different management, branding and food offering.

Given the nature of works, and subject to Councils standard conditions of consent, the proposed development is not considered to:



- Significantly affect water quality if appropriate construction environmental controls are applied, satisfying section 6.6 of the BC SEPP;
- Cause an adverse impact on terrestrial, aquatic or migratory animals or vegetation, does not involve the clearing of riparian vegetation, would not cause erosion or sedimentation and would not have an adverse impact on wetlands, satisfying section 6.7.
- Affect flooding or cause the release of pollutants, satisfying section 6.8;
- Affect public foreshore access, satisfying section 6.9; nor
- Affect downstream catchments, satisfying section 6.10.

### Part 6.3 Zoning of Foreshore and Waterways Area

Part 6.3 of the BC SEPP contains provisions relating to development on land that is in, or abuts, the Foreshores and Waterways Area. Under the BC SEPP, Manly Wharf is located within the Sydney Harbour catchment, on land zoned Zone 2 – Environment Protection.

The proposal includes alterations and additions to an existing lawfully approved restaurant.

In accordance with section 6.27(2) of the Biodiversity and Conservation SEPP, the proposed alterations and additions comprise development that is permitted with consent within the zone.

- Although the proposed alterations and additions are a type of development not specifically listed in the zoning table, Clause 6.27(2) provides that development not specified in the zoning table may be carried out with development consent if the consent authority is satisfied that the development: Is not inconsistent with the objectives for development in the zone;
  - Is not inconsistent with the provisions of another EPI; and
- Will not otherwise have adverse impacts.

Each of these matters are addressed in the following sections of this SEE.

An assessment of the proposed development against the objectives of Zone 2 – Environmental Protection is provided below.

**Table 2 Consistency with zone objectives**

Objective	Comment
<i>To protect the natural and cultural values of waters in the zone.</i>	The proposed development will protect the heritage significance of Manly Wharf and maintain the natural and cultural values of the surrounding waters.
<i>To prevent damage to, or the possibility of long term adverse impact on, the natural and cultural values of waters in the zone and adjoining foreshores.</i>	The proposal comprises minor alterations and additions and will not result in any adverse impacts on the waters and adjoining foreshores.
<i>To enhance and rehabilitate the natural and cultural values of waters in the zone and adjoining foreshores.</i>	The proposed development will improve the visual presentation of the tenancy and new restaurants, enhancing the cultural value and amenity of Manly Wharf.
<i>To provide for the long term management of the natural and cultural values of waters in the zone and adjoining foreshores.</i>	The proposal does not seek any alteration to existing operational parameters and will not affect any natural or cultural values of waters in the zone and adjoining foreshores.

Section 6.28 of the Biodiversity and Conservation SEPP further identifies considerations for a consent authority when deciding whether to grant development consent in the

Foreshores and Waterways Area. The proposed development's compliance and consistency with these considerations is described in **Table 3**.

**Table 3 Consistency with section 6.28 General considerations - Foreshores and Waterways Area**

<i>Consideration</i>	<i>Comment</i>
<i>(1) In deciding whether to grant development consent to development in the Foreshores and Waterways Area, the consent authority must consider the following—</i>	
<i>(a) whether the development is consistent with the following principles—</i>	The proposed development is consistent with these principles in that it enables a continuation of a long established restaurant use within an existing wharf tenancy, enhancing the public's enjoyment of Manly Wharf and Sydney Harbour.
<i>(i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good,</i>	
<i>(ii) the public good has precedence over the private good,</i>	
<i>(iii) the protection of the natural assets of Sydney Harbour has precedence over all other interests,</i>	
<i>(b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,</i>	The proposed development does not inhibit the use of the Foreshore and Waterways Area by passive recreation craft.
<i>(c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,</i>	The proposed development will not adversely impact commercial and recreational uses on the Foreshores and Waterways Area, rather it contributes to these uses.
<i>(d) whether the development promotes water-dependent land uses over other land uses,</i>	The proposed development does not promote water-dependent land uses over other land uses. Although the tenancy has an outlook to the harbour, the development only supports land-based uses.
<i>(e) whether the development will minimise risk to the development from rising sea levels or changing flood patterns as a result of climate change,</i>	As Manly Wharf is a heritage item and is currently used as a primary ferry wharf for the Northern Beaches, the development does not propose to change the level of the wharf.
<i>(f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,</i>	Proposed works do not alter Manly Wharf's physical and functional relationship with the harbour and foreshore. The proposed works comprise minor alterations and additions to support a change of management, branding and food offering at the existing approved restaurant. As a result, there are no negative impacts on the natural environment and ecological characteristics of the area.
<i>(g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,</i>	
<i>(h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.</i>	
<i>(2) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—</i>	
<i>(a) having regard to both current and future demand, the character and functions of a</i>	The development does not propose any changes to the function of Manly Wharf as a ferry wharf.

<i>Consideration</i>	<i>Comment</i>
<i>working harbour will be retained on foreshore sites,</i>	
<i>(b) if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,</i>	The development does not adjoin land used for industrial or commercial maritime purposes.
<i>(c) if the development is for or in relation to industrial or commercial maritime purposes—public access that does not interfere with the purposes will be provided and maintained to and along the foreshore,</i>	
<i>(d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,</i>	The proposed development does not increase waterway and foreshore traffic.
<i>(e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from—</i>	The SoHI (Appendix B) concludes that the proposed development is consistent with the heritage character of Manly Wharf, a highly significant landmark in Manly and Sydney Harbour. In maintaining Manly Wharf's heritage character and its relationship with the foreshore and harbour, the proposed development also preserves the unique visual qualities of the area.
<i>(i) the Foreshores and Waterways Area, and</i>	
<i>(ii) public places, landmarks and heritage items.</i>	

The site is adjacent to a 'rocky foreshore and significant seagrasses' area under this SEPP. The proposed development comprises minor works to an existing approved restaurant tenancy and will not affect seagrass or ecological communities in rocky foreshore areas, satisfying section 6.32.

The site is also identified as a Strategic Foreshore Site under Division 5 of this Part. Part 6.3, Division 5 requires the preparation of a master plan. Section 6.46 identifies development to which Part 6.3 Division 5 does not apply, including:

- (a) the change of use of an existing building to another use;
- (d) structural or non-structural alterations to the interior of an existing building; and
- (e) minor structural or non-structural alterations to the exterior of an existing building.

The proposed development comprises minor alterations and additions to existing approved restaurant tenancy and therefore does not require the preparation of a master plan.

#### Part 6.4 Heritage conservation in Sydney Harbour

Manly Wharf is identified as a heritage item on the Sydney Harbour heritage map. The proposed development is considered a heritage development as it involves altering the exterior appearance and changing the interiors of Manly Wharf.

The SoHI (**Appendix B**) demonstrates the proposed development's consistency with the heritage provisions of this part of the Biodiversity and Conservation SEPP.

## **5.5 State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 2 of the Resilience and Hazards SEPP aims to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016.

Under Sections 2.10 and 2.11 Resilience and Hazards SEPP, Manly Wharf is mapped within a Coastal Environment Area and a Coastal Use Area respectively. However, these provisions do not apply to land within the Foreshore and Waterways Areas identified by the Biodiversity and Conservation SEPP.

In line with section 2.12 of the Resilience and Hazards SEPP, the proposed development will not increase the risk of coastal hazards because no new structure is being proposed as part of the development and majority of works will be occurring as minor façade works and internal building alterations.

Section 2.13 of the Resilience and Hazards SEPP does not apply to the proposed development as no certified coastal management program applies at the site.

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

The State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP) includes provisions relating to advertising and signage.

The proposed development does not include any advertising or signage. As a result, the provisions of this SEPP do not currently apply to the proposed development.

## **5.7 State Environmental Planning Policy (Sustainable Buildings) 2023**

Proposed works are <\$5m and therefore State Environmental Planning Policy (Sustainable Buildings) 2023 does not apply to the proposed development.

## **5.8 State Environmental Planning Policy (Transport and Infrastructure) 2021**

There are no provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021 that apply to the proposed development.

## **5.9 Manly Local Environmental Plan 2013**

### Zoning and Development Standards

Whilst the LEP 2013 applies, the site is neither zoned, nor subject to any development standards under this instrument.

Under subsections (2)(a) and (2)(b) of the LEP 2013, development on unzoned land is permissible with consent, however requires the consent authority to consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land; and be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

The proposal comprises minor alterations and additions to an restaurant at the site. On this basis, the proposal is considered to be compatible with the nearby E1 Local Centre zone and RE1 – Public Recreation zone.

### Heritage

Schedule 5 of LEP 2013 identifies Manly Wharf as local heritage item I145. Just adjacent to Manly Wharf, Manly Wharf Pier (former Fun Pier) is identified as local heritage item I146. Under section 5.10, consent is required for the proposed development because it involves altering the exterior and interior of a heritage item (I145).

Part 5.2 of the SoHI (**Appendix B**) demonstrates the proposed development's consistency with the heritage objectives and provisions of the Manly LEP 2013.

## **5.10 Manly Development Control Plan 2013**

The Manly Development Control Plan 2013 (DCP) provides detailed planning controls relevant to the site and the proposal. The proposed development is consistent with the

provisions in the DCP. **Table 4** below illustrates the proposal's consistency with general principles of development in the DCP applicable to the proposal.

**Table 4 Assessment against DCP 2013 controls**

DCP 2013	Compliance	Comment
<b>3.2 Heritage Considerations</b>	Yes	<p>The proposed works to the exterior of the existing restaurant are minor.</p> <p>The proposed development complies with heritage requirements under the <i>Heritage Act 1977</i>, Biodiversity and Conservation SEPP and section 5.10 of LEP 2013.</p> <p>The SoHI (<b>Appendix B</b>) demonstrates the proposed development's consistency with the heritage objectives and provisions of the Manly DCP 2013. As a whole, the retention of significant features and heritage fabric achieves the section's relevant objectives.</p> <p>For further information, please refer to <b>section 6.1</b> and the SOHI at <b>Appendix B</b>.</p>
<b>3.4 Amenity</b>	Yes	<p>No additional air pollution in the form of odour or fumes is proposed as the proposed wood-fired oven complies with all relevant Australia Standards.</p> <p>The proposed development will allow for an enhanced culinary and dining experience within all the existing operational parameters of the existing approved restaurant and it therefore maintains and improves the amenity for users of the space as well as residents and neighbouring development.</p>

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

The Manly Development Control Policy for Manly Cove 1996 (MDCP 1996) sets out controls and guidelines on development in Manly Cove and is guided by the aims and objectives of the *Sydney Regional Environmental Plan No. 23 Sydney and Middle Harbours* (SEPP 23).

SEPP 23 was repealed by section 8 of the SREP (Sydney Harbour Catchment) in 2005. The SREP (Sydney Harbour Catchment) was subsequently repealed and rolled into Chapter 6 of the Biodiversity and Conservation SEPP in November 2022.

Although land/water interface development is not defined in the Biodiversity and Conservation SEPP, the proposed development would be classified as such under the repealed SEPP 23 and SREP (Sydney Harbour Catchment). Regardless, the proposed development is compliant with MDCP 1996 development controls, particularly the relevant sections on building design, access loading and parking, and waste management.

Section 5.10 of this report shows how the proposed development is consistent with the controls of Manly DCP 2013, which contains similar / updated versions of the controls contained in the MDCP 1996.

#### 5.12 Strategic Planning Context

The Northern Beaches Local Strategic Planning Statement (LSPS) Towards 2040 identifies Manly as the only designated late-night precinct in the LGA and reinforces its role as a premier seaside destination having a mix of cultural, tourism, retail and entertainment uses.

Consistent with the vision of the LSPS, a Place Plan (My Place: Manly) was adopted by Council to set the vision for Manly over the next 10-15 years. This Place Plan was informed by the Manly Night Time Economy Strategy (Manly NTE Strategy) which is guided by the following key principles:

- a) Foster a thriving and creative night-time economy reflecting local identity;
- b) Build partnerships and capability for businesses and the community to deliver exciting and unique night-time experiences;
- c) Encourage a diversity of night-time offerings catering to all demographics;



- d) Create a night-time economy that leverages and enhances natural beauty and built environment; and
- e) Support safe and accessible places that welcome local, workers and visitors

The proposal for alterations and additions to an existing restaurant will enable it to evolve and change in line with community expectations and an updated dining and culinary offering. This is consistent with all the key principles identified by the Manly NTE Strategy. Ongoing and evolving restaurant uses will also contribute to the Place Plan's desired outcome for Manly Wharf to serve as a key gateway into the Manly Wharf Town Centre with a refreshed sense of arrival to enhance the visitor experience.

# 6. Environmental Assessment

*In accordance with Section 4.15(1)(b) to (e) of the EP&A Act 1979, this section takes into consideration the likely impacts of the proposed development.*

## 6.1 Heritage

The SoHI (**Appendix F**) deems the proposed development acceptable from a heritage perspective given its consistency with the heritage objectives and provisions of the Manly LEP 2013, the Manly DCP 2013 and the SEPP (Biodiversity and Conservation) 2021, as well as the relevant policies contained in the Manly Ferry Wharf Conservation Management Plan, 2016.

The SOHI outlines that a portion of the proposed works take place within areas of the wharf that are assessed as having exceptional or moderate heritage significance. The works relating to areas of exceptional heritage significance include the alterations to the front facade of the tenancy, while the areas of moderate significance relate to the works to the building's western façade. The proposed works are assessed as being sympathetic or non-impactful to the heritage significance of the Manly Wharf. The works generally relate to non-original fabric associated with the shopfront fit out, or they have been designed to complement the form and scale of the subject site.

The remaining works are not located in areas identified as being significant. These works relate to the proposed mechanical ductwork and flues located on the rooftop. These items have been designed to be complementary to the roofscape, with the bulk and scale minimizing their visual impact. As a result, the proposed works are not assessed as having any physical or visual impact on any surrounding heritage items or heritage conservation areas.

## 6.2 Traffic and transport

Aside from providing ferry services, Manly Wharf is located in a walkable town centre with frequent bus services to other suburbs in the Northern Beaches. Because of this connectivity, the majority of Manly Wharf's customers, visitors and staff arrive via public transport and this pattern is expected to continue for the proposed development.

The proposed development does not include any changes to the approved operational parameters of the existing approved restaurant and will therefore not result in any altered or additional adverse impacts on the surrounding road network.

The impact of the proposed development on traffic and transport is considered acceptable.

## 6.3 Access

The proposed development does not include any changes to existing floor levels and the accessibility available within the existing approved restaurant.

## 6.4 Environmental impact

Northern Beaches Council assesses applications for approval to install a solid or oil fueled heater on a case-by-case basis. A simple checklist is provided for greater assurance to Council that Australian Standards and impacts on nearby premises have been considered. The matters included on this checklist are addressed below.

### *Compliance with relevant Australian Standards*

Thermal clearance testing was also undertaken by the same specialist consultant which confirms that the Filiofocus 2000 Central Suspended fireplace/Flue combination conforms to the requirements of Australian/New Zealand Standard 2918:2018, with respect to floor, ceiling, side wall and rear wall surface temperatures.

Documentation that confirms the methodology, details and test results to demonstrate compliance with the above Australian Standards is included at **Attachment D**.

#### *Flue Heights and positioning*

The height of the proposed flues, relative to roof lines and floor level are all documented in the drawings at **Attachment A**.

#### *Air Quality and emissions*

Consideration has been given to the potential impact of the fireplaces upon the air quality of the surrounding locality.

The location of the site on the foreshore of Sydney harbour and the relatively flat and open topography of the surrounding area will ensure that any emissions from the fireplaces would disperse quickly and swiftly. Prevailing coastal breezes, either north easterly or southerly would ensure no concentration of smoke or emissions to cause any public nuisance or air quality impact. During the occurrence of prevailing southerly or north easterly breezes and higher winds, this dispersal would be rapid, across a wide open areas of open space and Sydney Harbour, away from developed areas and private properties.

The avenue of large Norfolk Island pine trees that line Manly cove could not be expected to impact the dispersal of emissions. There are no other large structures in close proximity to the proposed fireplaces likely to cause a smoke down draft or give rise to a concentration of any emissions in any particular or specific direction.

In the context of other sources of air pollution from mechanical plant within the retail and entertainment core of Manly, and from watercraft, ferries, buses and private vehicles within and around the wharf, the emissions from the proposed fireplaces would be insignificant and inconsequential and would not result in any detrimental impacts to surrounding public spaces and private residential and commercial properties.

### **6.5 Social and economic impact**

Having taken over the leasehold of Manly Wharf in April 2024, Artemus have been conducting community engagement in the form of 'drop in sessions' and 'meet and greet' events. Aside from better understanding Manly Wharf's patrons, this has become an opportunity to better understand the needs of the community, given Manly Wharf's cultural impact on the neighbourhood. Informal feedback received in person and on social media suggest that the community is strongly supportive of overall improvements to Manly Wharf's dining experience and amenities. .

Manly Wharf is also a key destination for families and the proposal will operate as inclusive family-friendly premises during daytime and nighttime trading hours.

Beyond the operation and management of this existing restaurant, security and cleaning staff will operate 24/7 to manage the safety, cleanliness and accessibility of the entire wharf, including these new toilets of use by all visitors and commuters passing through the wharf.

The social and economic impacts associated with the proposed development are considered acceptable.

### **6.6 Suitability of the site for the development**

The proposed development complies with all key planning controls and is entirely consistent with zone objectives.

The proposed minor alterations and additions to the existing approved restaurant are in keeping with Manly Wharf's heritage values and the character and quality of the area. The renewed restaurant space will provide for an enhanced culinary and dining experience, in line with the contemporary entertainment and dining venues in the neighbourhood.

The applicant for this development is also the proprietor for the rest of Manly Wharf and will manage and operate the proposed premises. 24 hour security, cleaning and maintenance implemented across the entire wharf are a key feature of a more

coordinated and holistic approach to the management of the proposed premises and improved experiences for patrons and visitors to all parts of Manly Wharf.

The site is well suited to the proposed development, and the proposed works will complement and enhance the existing amenity of the Manly wharf and surrounding area.

#### **6.7 The public interest**

The proposed development is a positive addition to the already vibrant Manly town centre. Aside from the economic benefits, the renewed restaurant offering will further enhance the quality and range of dining experiences available at the wharf and across the wider suburb of Manly.

The proposed development is respectful of the heritage character and community significance of Manly Wharf, is in keeping with the item's heritage fabric and will enhance the Wharf's role as a public transport hub and Manly Town Centre's local character.

The public's interests in preserving Manly Wharf's heritage character, ensuring the safety and vibrancy of Manly town centre, and providing social and economic opportunities are all well-balanced in the proposed development. The proposed development is therefore in the public interest.

## 7. Conclusion

This DA seeks consent for minor internal and external alterations to an existing approved restaurant as part of a new culinary and dining offering. The application form's part of Artemus' strategy to enhance the amenity of Manly Wharf and improve functionality. There are no changes proposed to the existing approved use or any of the operational parameters associated with the existing approved restaurant use.

Proposed works sought under this DA will support existing refurbishment works already approved at the site under CDC-2025/0338 (Refer **Table 2**).

The proposed development comprises external alterations and additions including:

- Removal of existing outdoor paving within tenancy boundaries, to be replaced with new paving.
- Installation of new timber frame door at the tenancy entrance addressing East Esplanade, to be painted white.
- Painting of existing window frames to white.
- Installation of outdoor electric heaters.
- Installation of operable awnings to the south western side of the tenancy.
- Provision for outdoor umbrellas within external areas.
- Construction of a roof top screen to conceal mechanical equipment with cladding and paint to match existing.

The proposal also includes internal alterations associated with the installation of a solid fuel heater and a solid fuel oven within the tenancy. Specifically, the works include:

- Solid Fuel Heater: Located within the restaurant's internal seating area. Includes an integrated flue that extends 0.927 meters above existing roof level.
- Solid fuel oven, cook top and mechanical ducting: located within the restaurant's kitchen preparation area.

The proposed development is consistent with all applicable legislation and with the permitted uses and land use objectives identified in the LEP 2013 and foreshores and waterways zones in the Biodiversity and Conservation SEPP.

The development will support evolving and enhanced dining and nighttime activity at Manly Wharf and therefore will contribute to the objectives in the Northern Beaches Council Local Strategic Planning Statement and Manly Night Time Economy Strategy.

Having regard to the above, and in light of the matters for consideration listed under Section 4.15 of the EP&A Act, it is recommended that this DA be approved by Council.



## Appendix A – Architectural drawings, prepared by Little Boats

## Appendix B – Statement of Heritage Impact, prepared by City Plan

# Appendix C – Solid Fuel Heater specifications

# Appendix D – Documentation confirming test results of the proposed heaters, prepared by Australian Solid Fuel Testing, 8 May 2025

# Appendix E Mechanical Plant Details

# Appendix F – Waste Management Plan