



Statement of Environmental Effects

Proposed Rectification Works to Retaining Walls

Uniting Wesley Heights
27 Birkley Road
MANLY NSW 2095

Lot 1 DP593980

(also known as 31-33 and 47 Birkley Road)

Prepared by NSW Town Planning Pty Ltd
March 2024
Ref | 23025 - SEE WesleyHeightsWall.docx

Document Control Table

Document Reference:	23025 - SEE_WesleyHeightsWall.docx	
Date	Version	Author
07 March 2024	A	N. Murray
14 March 2024	B	N. Murray

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Executive Summary

This Statement of Environmental Effects has been prepared in support of an application to Northern Beaches Council for proposed retaining wall rectification works at 27 Birkley Road, Manly (Lot 1 DP593980). The Site is also known as 31-33 & 47 Birkley Road, Manly.

The Site is approximately 5,715sqm in area, located at the corner of Birkley Road and Raglan Street. The western boundary also adjoins Birkley Lane.

The Site is used as an aged care facility known as Uniting Wesley Heights Manly operated by the Uniting Church in Australia (Uniting). The complex contains several buildings of varying scale and design interspersed with landscaping.

The Site is positioned atop a hill which slopes southward from its highpoint towards Raglan Street. The complex is supported by extensive retaining structures located on the boundary, which places the ground floor level well above the level of Raglan Street at the southern end. Further terracing is provided in the middle and at the northern ends of the Site, which results in retaining walls and access stairs located along the Birkley Street boundary.

The proposed development relates to two (2) parts of the retaining wall and stairs located along the Birkley Road frontage, referred to as Areas A and B on accompanying plans:

- A. Work Area A: Main entry stairs and adjacent walls in the northern part of the Site which provides pedestrian access to the building known as 47 Birkley Road; and
- B. Work Area B: Stairs and adjacent walls located approximately half-way along the Birkley Road frontage which provides pedestrian access to landscaped grounds.

The existing retaining structure and stairs are predominantly constructed from sandstone blocks around 500mm long, 280mm high, and 240mm deep. The wall is up to 2m in height with soil estimated retaining height up to 1.6m.

Work Area A was inspected by a structural engineer (Birzulis Associates Pty Ltd) in November 2022. At that time, it was noted by the structural engineer that the northern side of the stairway/pedestrian entry and along the street façade of the wall showed visible evidence of cracking. The wall was also noted to have been pushed outwards by more than 50mm. Cracks were measured to be up to 55mm in width.

A large Swamp Mahogany tree (*Eucalyptus robusta*) located in proximity to this part of the wall was identified by the structural engineer as the cause of the damage to the wall and stairs. The tree was recommended for removal and a subsequent approval was granted (Permit TA2022/0736 dated 20 December 2022).

A second tree (Cook pine, *Araucaria columnaris*) affecting the walls in Work Area B was also identified as causing damage and was approved for removal under permit TA2023/0017.

Both trees were removed on February 1st 2023 and replacement trees (2 in total) were planted on Friday 21st April 2023.

A follow-up inspection was undertaken by the structural engineer on 17 March 2023 to identify necessary repairs. It was recommended that the wall and stairs be demolished and rebuilt. In order to ensure the new works presented a consistent appearance from the street rather than patched repairs, parts retaining wall and returns to the stair entry are to be removed and replaced.

The proposed works will provide a new concrete strengthening course near the base of the wall, with the façade being reused sandstone blocks to match existing. Drainage is to be provided behind the concrete course, with weepholes provided at every second joint in the sandstone course.

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Proposed Rectification Works to Retaining Walls | Uniting Wesley Heights – 27 Birkley Road, Manly

The engineers note that in reconstructing the walls at Work Area A, it is possible to reduce the height by 2 stone courses as the top section of the existing wall is not required for retaining purposes. This recommendation has been included in the proposed reconstruction design.

Parts of the wall associated with the retaining wall adjacent to Work Area B utilises the natural sandstone terrain. These areas will not be altered.

Ancillary items including parts of the existing fencing and signage which are erected on or adjacent to the Works Areas will be removed to allow for the works to take place and reinstated upon completion. New handrail will also be provided to the stairs in Work Area A.

Removal of soil material behind the walls will also be required to allow for the work to be undertaken. Backfilling will occur as specified by the engineers. Residual materials for excavation can be retained on site and spread within existing landscaped areas. It is noted that approximately 300mm of material behind the wall in Work Area B comprises the heaped remnants/mulch of the tree that was removed.

The proposal does not involve any change to the use of the Site, nor any changes associated with the number of residents or bedrooms, parking, gross floor area, or the like. The existing buildings will be unaffected, and the total amount of landscaping provided will be maintained following completion of the works.

An Arborist Report has been prepared for the intended works and notes that the excavation required for new wall construction and to create space for drainage aggregate and conduits for work Area A will extend into the Structural Root Zone of a Weeping Bottlebrush, *Callistemon viminalis*, which may lead to its removal.

In the first instance, retention is to be sought, with root damage to be inspected by a Project Arborist during excavation who will then determine if removal is necessary. It is noted that retention should be available if major root loss is avoidable.

Eight (8) other trees assessed will be retained and protected in accordance with the Arborist Report recommendations, noting minor root pruning may be required to three (3) of these trees without impact.

The reconstructed retaining walls will maintain the existing heights, with the exception of that part of Work Zone B which is to be reduced in height.

The Site is zoned R1 General Residential under *Manly Local Environmental Plan 2013*. The works are ancillary to the seniors housing use of the Site, which is permissible in the R1 zone.

The outcome is intended to present a minimal change as possible to the visual appearance to the streetscape whilst achieving required structural stability.

As the proposal is not to result in any significant environmental impact, it is requested that favourable consideration is granted.

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1. Introduction

This Statement of Environmental Effects has been prepared in support of an application to Northern Beaches Council for proposed retaining wall rectification works at 27 Birkley Road, Manly (Lot 1 DP593980). The Site is also known as 31-33 & 47 Birkley Road, Manly.

This report provides an assessment of the proposal against the relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The structure of this document is outlined as follows:

- Section 1 outlines this application and its structure.
- Section 2 describes the Site.
- Section 3 describes the Site context.
- Section 4 provides background to this application.
- Section 5 outlines the details of the proposed development.
- Section 6 provides an assessment against the relevant policies within the planning framework.
- Section 7 provides the conclusions and recommendations.

2. The Site

This Statement of Environmental Effects has been prepared in support of an application to Northern Beaches Council for proposed retaining wall rectification works at 27 Birkley Road, Manly (Lot 1 DP593980). The Site is also known as 31-33 & 47 Birkley Road, Manly.

The Site is used as an aged care facility known as Uniting Wesley Heights Manly operated by the Uniting Church in Australia (Uniting). The complex comprises independent living, care services, as well as respite activities over several buildings on land totaling approximately 5,715sqm in area, located at the corner of Birkley Road and Raglan Street. The western boundary also adjoins Birkley Lane to the west and north (see **Figure 1**).

The Site is positioned atop a hill which slopes southward from its highpoint towards Raglan Street. The complex is supported by extensive retaining structures located on the boundary, which places the ground floor level well above the level of Raglan Street at the southern end. Further terracing is provided in the middle and at the northern ends of the Site, which results in retaining walls and access stairs located along the Birkley Street boundary.

The proposed development relates to two (2) parts of the retaining wall and stairs located along the Birkley Road frontage.

The existing retaining structure and stairs are predominantly constructed from sandstone blocks around 500mm long, 280mm high, and 240mm deep. The wall is up to 2m in height with soil estimated retaining height up to 1.6m.

Parts of the wall associated with the retaining wall adjacent to Work Area B utilises the natural sandstone terrain. These areas will not be altered.

Figure 2 shows the location of the Work Areas within the Site. **Photos 1 to 6** indicate the existing design and condition of the retaining structures within the Work Areas.



Figure 1. Site Location (Source: Land and Property Information, 2024)



Figure 2. Work Areas (Note that North is to be the left of image) (Source: ArchitectEm, 2024)



Photo 1 – View of Works Area A from Birkley Road (showing tree now removed behind wall)

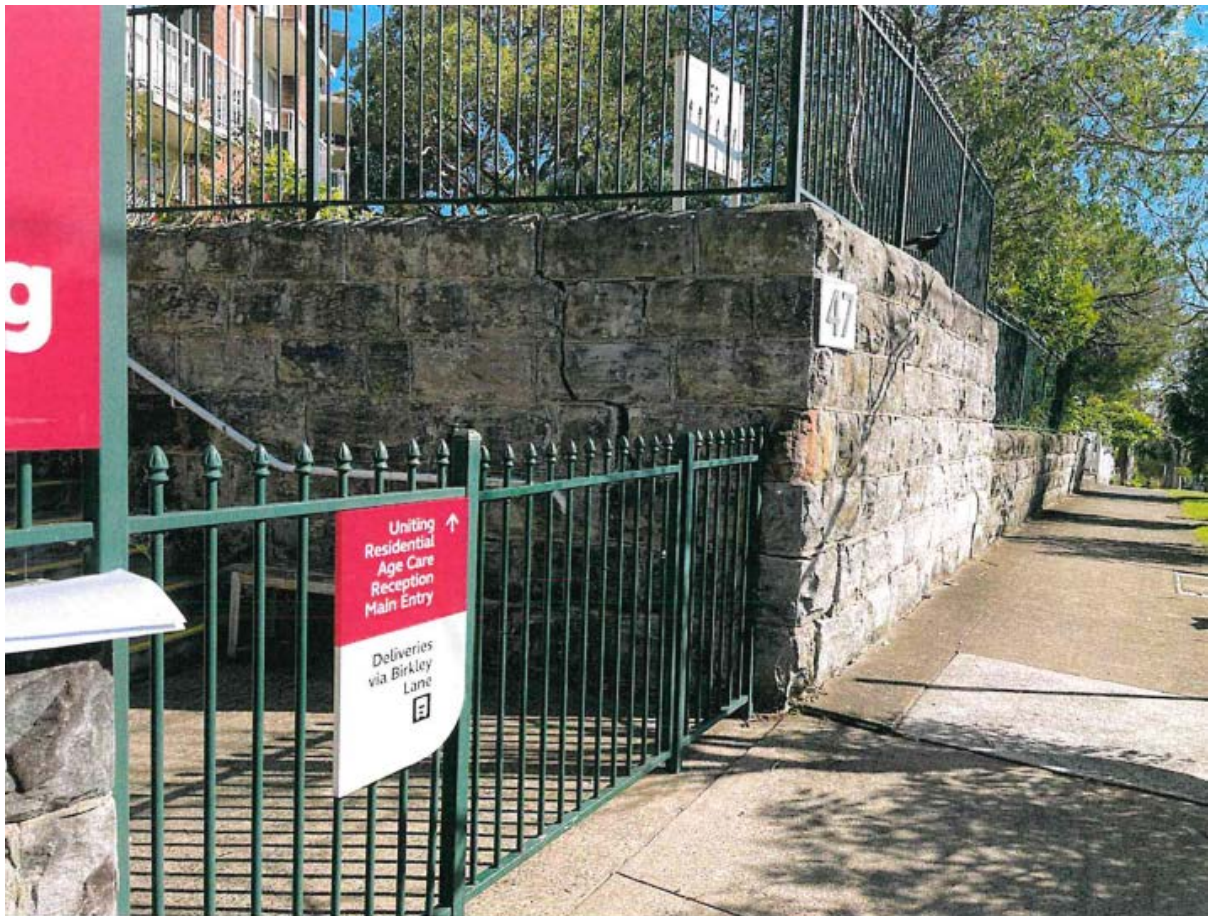


Photo 2 – View of Works Area A from Birkley Road (following tree removal).



Photo 3 – View of Works Area A from Birkley Road (following tree removal).



Photo 4 – View of Works Area A from Birkley Road (following tree removal).

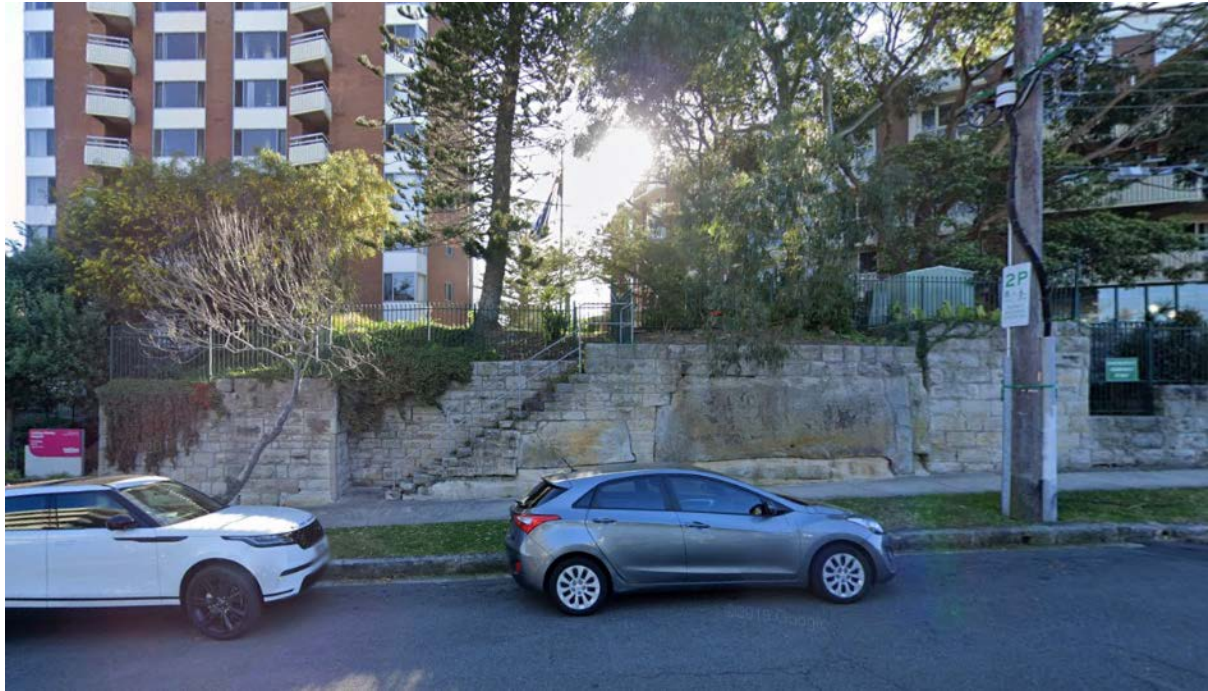


Photo 5 – View of Works Area B from Birkley Road

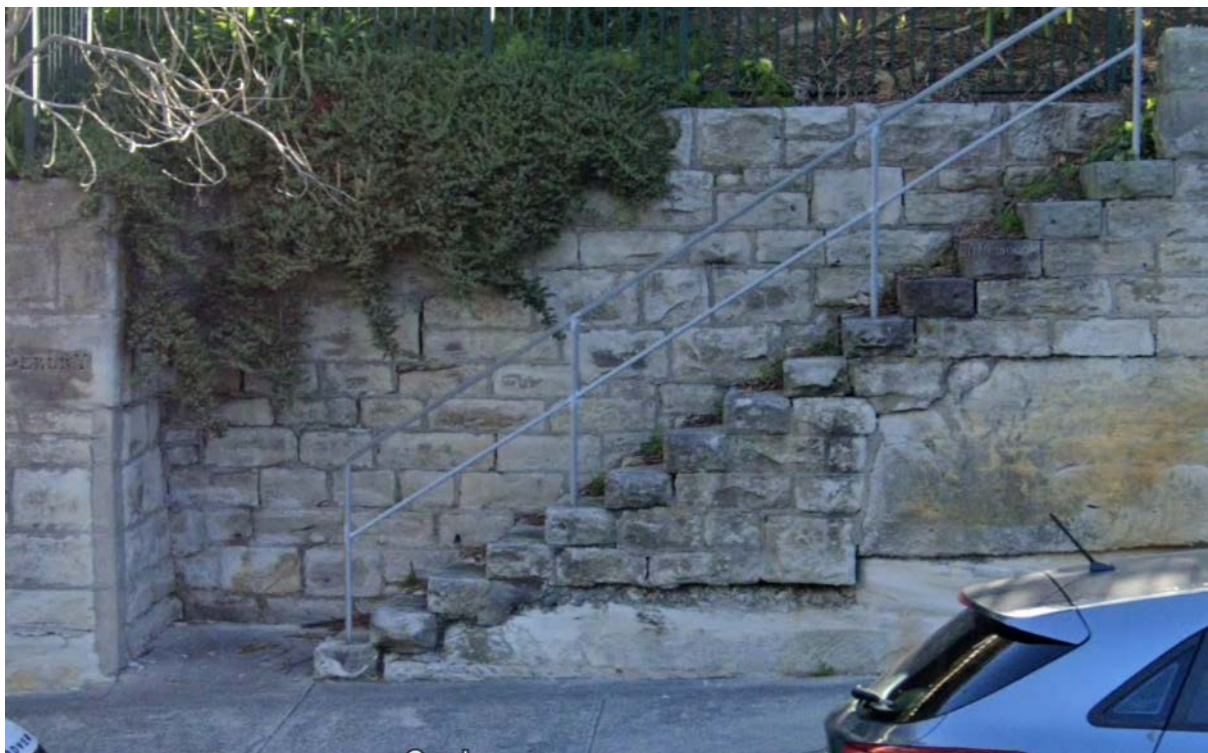


Photo 6 – View of Works Area B from Birkley Road.

3. Site Context

The Site is located in the western extent of the suburb of Manly.

This locality is characterised by predominantly medium and low density residential which enjoys views from the elevated position.

Manly Town Centre is located 700m to the southeast. Sydney Road is located 160 to the south and functions as a major throughfare connecting Manly with roads connecting to Sydney, Mosman and Balgowlah.

Raglan Street and Birkley Road are both local streets that contain streetscapes characterised by varying designs, scales, and eras of buildings, landscaping, and fencing/walls; however, no surrounding properties exhibit as extensive retaining wall structures as provided for on the subject site.

The site context is indicated in **Figure 2**, with properties nearby the Works Areas shown in **Photos 7 to 9** below.

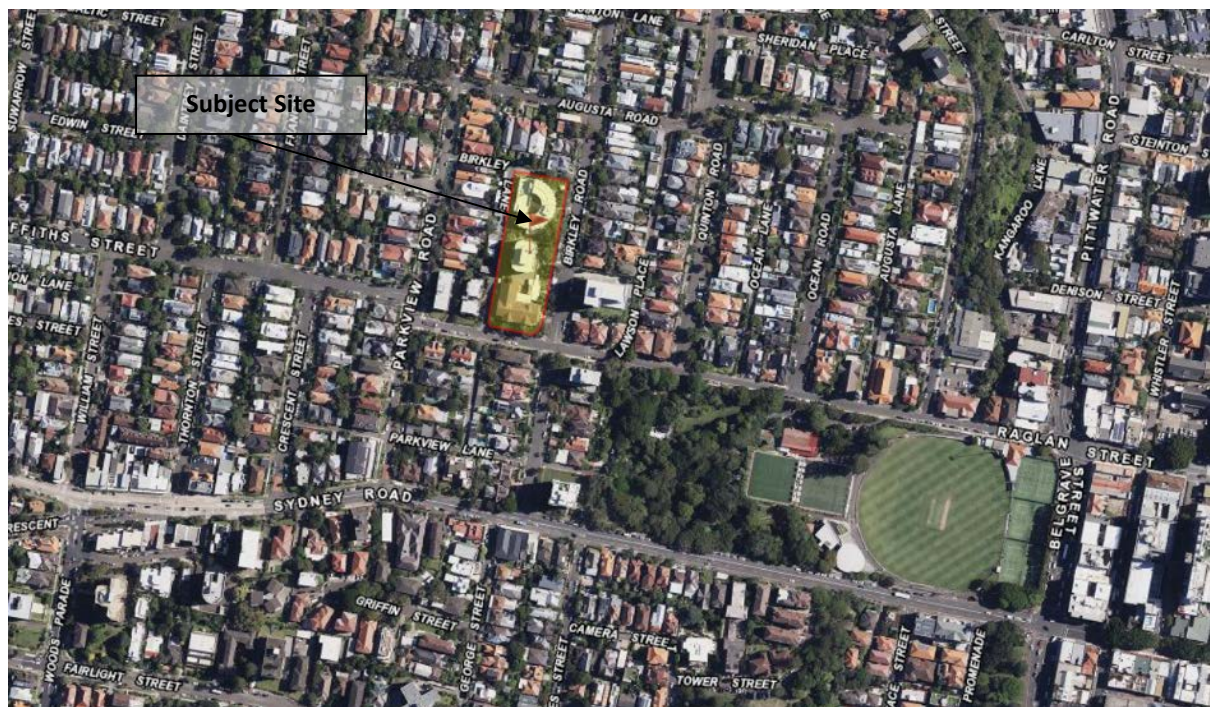


Figure 2. Site Context (Source: Land and Property Information, 2024)



Photo 6 – View of streetscape adjacent to Work Area A looking southward along Birkley Road.



Photo 7 – View of properties opposite Work Area A along Birkley Road.



Photo 8 – View of streetscape adjacent to Work Area B looking northward along Birkley Road.



Photo 9 – View of properties opposite Work Area B along Birkley Road.

4. Background

Work Area A was inspected by a structural engineer (Birzulis Associates Pty Ltd) in November 2022. At that time, it was noted by the structural engineer that the northern side of the stairway/pedestrian entry and along the street façade of the wall showed visible evidence of cracking. The wall was also noted to have been pushed outwards by more than 50mm. Cracks were measured to be up to 55mm in width.

A large eucalyptus tree located in proximity to this part of the wall was identified by the structural engineer as the cause of the damage to the wall and stairs.

A large Swamp Mahogany tree (*Eucalyptus robusta*) located in proximity to this part of the wall was identified by the structural engineer as the cause of the damage to the wall and stairs. The tree was recommended for removal and a subsequent approval was granted (Permit TA2022/0736 dated 20 December 2022).

A second tree (Cook pine, *Araucaria columnaris*) affecting the walls in Work Area B was also identified as causing damage and was approved for removal under permit TA2023/0017.

Both trees were removed on February 1st 2023 and replacement trees (2 in total) were planted on Friday 21st April 2023.

A follow-up inspection was undertaken by the structural engineer on 17 March 2023 to identify necessary repairs. It was recommended that the wall and stairs be demolished and rebuilt. In order to ensure the new works presented a consistent appearance from the street rather than patched repairs, parts retaining wall and returns to the stair entry are to be removed and replaced.

The proposed works will provide a new concrete strengthening course near the base of the wall, with the façade being reused sandstone blocks to match existing. Drainage is to be provided behind the concrete course, with weepholes provided at every second joint in the sandstone course.

The engineers note that in reconstructing the walls at Work Area A, it is possible to reduce the height by 2 stone courses as the top section of the existing wall is not required for retaining purposes. This recommendation has been included in the proposed reconstruction design.

The Structural Engineers Advice Letters accompanying this application for background.

5. Proposed Development

The proposed development seeks approval for the demolition and reconstruction of retaining walls associated with the Uniting Wesley Heights seniors housing complex at 27 Birkley Road, Manly (also known as 31-33 & 47 Birkley Road, Manly).

The proposed development relates to two (2) parts of the retaining wall and stairs located along the Birkley Road frontage, referred to as Areas A and B on accompanying plans:

- A. Work Area A: Main entry stairs and adjacent walls in the northern part of the Site which provides pedestrian access to the building known as 47 Birkley Road; and
- B. Work Area B: Stairs and adjacent walls located approximately half-way along the Birkley Road frontage which provides pedestrian access to landscaped grounds.

The existing retaining structure and stairs are predominantly constructed from sandstone blocks around 500mm long, 280mm high, and 240mm deep. The wall is up to 2m in height with soil estimated retaining height up to 1.6m.

The proposed new design will provide a new concrete strengthening course near the base of the wall, with the façade being reused sandstone blocks to match existing. Drainage is to be provided behind the concrete course, with weepholes provided at every second joint in the sandstone course.

The engineers note that in reconstructing the walls at Work Area A, it is possible to reduce the height by 2 stone courses as the top section of the existing wall is not required for retaining purposes. This recommendation has been included in the proposed reconstruction design.

Parts of the wall associated with the retaining wall adjacent to Work Area B utilises the natural sandstone terrain. These areas will not be altered.

Ancillary items including parts of the existing fencing and signage which are erected on or adjacent to the Works Areas will be removed to allow for the works to take place and reinstated upon completion. New handrail will also be provided to the stairs in Work Area A.

Removal of soil material behind the walls will also be required to allow for the work to be undertaken. Backfilling will occur as specified by the engineers. Residual materials for excavation can be retained on site and spread within existing landscaped areas. It is noted that approximately 300mm of material behind the wall in Work Area B comprises the heaped remnants/mulch of the tree that was removed.

The proposal does not involve any change to the use of the Site, nor any changes associated with the number of residents or bedrooms, parking, gross floor area, or the like. The existing buildings will be unaffected, and the total amount of landscaping provided will be maintained following completion of the works.

An Arborist Report has been prepared for the intended works and notes that the excavation required for new wall construction and to create space for drainage aggregate and conduits for work Area A will extend into the Structural Root Zone of a Weeping Bottlebrush, *Callistemon viminalis*, which may lead to its removal.

In the first instance, retention is to be sought, with root damage to be inspected by a Project Arborist during excavation who will then determine if removal is necessary. It is noted that retention should be available if major root loss is avoidable.

6. Environmental Assessment

This section examines the proposed development against the matters for consideration listed under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

6.1 State Environmental Planning Policy (Housing) 2021

The proposed development is ancillary to the existing seniors housing development occupying the Site.

State Environmental Planning Policy (Housing) 2021 (the Housing SEPP) was finalised on, and effective from, Friday 26 November 2021 and repealed the former *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*.

Relevant provisions of the Housing SEPP are addressed in **Table 1** below.

Table 1 – Housing SEPP Provisions

SEPP Provision	Compliance
CHAPTER 1 – Preliminary	
7 Land to which Policy applies This Policy applies to the State.	Noted.
8 Relationship with other environmental planning instruments (1) Unless otherwise specified in this Policy, if there is an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency. (2) <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> , Chapter 2 prevails over this policy, Chapter 4, to the extent of an inconsistency.	Noted. Of relevance, this Policy prevails over Manly LEP 2013 to the event of any inconsistency.
CHAPTER 3 – Diverse Housing, Part 5 – Housing for Seniors and People with a Disability	
Division 1 Land to which Part applies	
79 Land to which Part applies This Part applies to land in the following zones— (a) Zone RU5 Village, (b) Zone R1 General Residential, (c) Zone R2 Low Density Residential, (d) Zone R3 Medium Density Residential, (e) Zone R4 High Density Residential, (e1) Zone E1 Local Centre, (e2) Zone E2 Commercial Centre, (e3) Zone E3 Productivity Support, (e4) Zone MU1 Mixed Use, (f) Zone B1 Neighbourhood Centre, (g) Zone B2 Local Centre, (h) Zone B3 Commercial Core, (i) Zone B4 Mixed Use, (j) Zone B5 Business Development, (k) Zone B6 Enterprise Corridor, (l) Zone B7 Business Park, (m) Zone B8 Metropolitan Centre, (n) Zone SP1 Special Purposes, (o) Zone SP2 Infrastructure, (o1) Zone SP4 Enterprise under the following local environmental plans—	The Site is zoned R1 General Residential under Manly LEP 2013.

(i) Canada Bay Local Environmental Plan 2013, (ii) Central Coast Local Environmental Plan 2022, (iii) Penrith Local Environmental Plan 2010, (iv) Pittwater Local Environmental Plan 2014, (v) Port Macquarie-Hastings Local Environmental Plan 2011, (vi) Sutherland Shire Local Environmental Plan 2015, (vii) The Hills Local Environmental Plan 2019, (viii) Warringah Local Environmental Plan 2011, (o2) Zone SP5 Metropolitan Centre, (p) Zone RE2 Private Recreation.	
80 Land to which Part does not apply—general (1) This Part does not apply to the following land— (a) land to which <i>Warringah Local Environmental Plan 2000</i> applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North) under the Plan, (b) land described in Schedule 3. (2) Nothing in Schedule 4 operates to preclude the application of this Part to land only because— (a) the land is identified under <i>State Environmental Planning Policy (Coastal Management) 2018</i>, or (b) in relation to land used for the purposes of an existing registered club—the land is described in another environmental planning instrument as— (i) private open space, or (ii) open space where dwellings or dwelling houses are permitted.	The land is not excluded from the operation of the SEPP by any matter identified in clause 80.
81 Seniors housing permitted with consent Development for the purposes of seniors housing may be carried out with development consent— (a) on land to which this Part applies, or (b) on land on which development for the purposes of seniors housing is permitted under another environmental planning instrument.	Development consent is being sought for ‘development for the purposes of’ seniors housing. The use is permitted under both Manly LEP and the Housing SEPP.
Division 3 – Development Standards	
84 Development standards—general (1) This section applies to development for the purposes of seniors housing involving the erection of a building. (2) Development consent must not be granted for development to which this section applies unless— (a) the site area of the development is at least 1,000m², and (b) the frontage of the site area of the development is at least 20m measured at the building line, and (c) for development on land in a residential zone where residential flat buildings are not permitted—the development will not result in a building—	The development is only alterations to existing built form; however, the development standards remain satisfied: Site Size: The proposal will be undertaken on a Site with an areas in excess of 1,000sqm. The Site/lot area is 5,175sqm. Site Frontage: The Site/lot has a frontage in excess of 20m at the building line on all street frontages. The shortest frontage is 43m at the building line along southern Raglan Street boundary and Birkley Lane to the north.

(i) the development will not result in a building with a height of more than 9.5m, excluding servicing equipment on the roof of the building, and (ii) if the roof of the building contains servicing equipment resulting in the building having a height of more than 9.5m—the servicing equipment complies with subsection (3), and (iii) if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site. (3) The servicing equipment must— (a) be fully integrated into the design of the roof or contained and suitably screened from view from public places, and (b) be limited to an area of no more than 20% of the surface area of the roof, and (c) not result in the building having a height of more than 11.5m. (4) Subsection (2)(a) and (b) do not apply to development the subject of a development application made by the following— (a) the Land and Housing Corporation, (b) another social housing provider.	Height: Residential flat buildings are permitted under Manly LEP 2013 on the Site. Notwithstanding, the proposal does not relate to an element that is equivalent to more than 2 storeys and is not higher than 9.5m in height.
85 Development standards for hostels and independent living units (1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the relevant standards specified in Schedule 4. (2) An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 4, sections 2, 7–13 and 15–20 if the development application is made by, or by a person jointly with, a social housing provider. Note— Development standards concerning accessibility and usability for residential care facilities are not specified in this Policy. For relevant standards, see the Building Code of Australia.	The Site contains a combination of independent living units and residential care facilities; however, the works for the ancillary retaining wall structures are not relevant to any of the matters outlined in Schedule 4 of the Housing SEPP.
86 Development standards for seniors housing—Zones RE2, SP1, SP2, and RU5 (1) Development consent must not be granted for development for the purposes of seniors housing unless the consent authority is satisfied as follows— (a) for development on land in Zone RE2 Private	The land is not zoned RE2, SP1, SP2, or RU5. The Site is zoned R1 under Manly LEP 2013.

Recreation— (i) the development is carried out on land used for the purposes of an existing registered club, and (ii) the land adjoins land in a prescribed zone, (b) for development on land in Zone SP1 Special Purpose or Zone SP2 Infrastructure— (i) development for the purposes of a place of public worship, an educational establishment, a hospital or seniors housing is permitted on the land, and (ii) the land adjoins land in a prescribed zone, (c) for development on land in Zone RU5 Village— (i) the development is carried out on land within 50km of a 24-hour health services facility, and (ii) the land is serviced by reticulated water and sewerage, (d) (Repealed) (2) Nothing in this section prevents a consent authority from granting development consent for development for the purposes of seniors housing on land on which development for the purposes of seniors housing is permitted under another environmental planning instrument. (3) (Repealed)	
87 Additional floor space ratios (1) This section applies to development for the purposes of seniors housing on land to which this Part applies if— (a) development for the purposes of a residential flat building or shop top housing is permitted on the land under another environmental planning instrument, or (b) the development is carried out on land in Zone B3 Commercial Core. (2) Development consent may be granted for development to which this section applies if— (a) the site area of the development is at least 1,500m², and (b) the development will result in a building with the maximum permissible floor space ratio plus— (i) for development involving independent living units—an additional 15% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units, or (ii) for development involving a residential care facility—an additional 20% of the maximum permissible floor space ratio if the additional floor space is used only for	The proposal does not seek a floor space ratio bonus.

the purposes of the residential care facility, or (iii) for development involving independent living units and residential care facilities—an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units or a residential care facility, or both, and (c) the development will result in a building with a height of not more than 3.8m above the maximum permissible building height.	
88 Restrictions on occupation of seniors housing (1) Development permitted under this Part may be carried out for the accommodation of only the following— (a) seniors or people who have a disability, (b) people who live in the same household with seniors or people who have a disability, (c) staff employed to assist in the administration and provision of services to housing provided under this Part. (2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in subsection (1) will occupy accommodation to which the development relates.	Noted. The development will continue to comply with this requirement.
89 Use of ground floor of seniors housing in business zones (1) This section applies to a building used for the purposes of seniors housing on land in a business zone. (2) Development consent must not be granted for development under this Part unless the part of the ground floor of the building that fronts a street will not be used for residential purposes. (3) Subsection (2) does not apply to a part of a building that— (a) faces a service lane that does not require active street frontages, or (b) is used for 1 or more of the following purposes— (i) a lobby for a residential, serviced apartment, hotel or tenanted component of the building, (ii) access for fire services, (iii) vehicular access. (4) Subsection (2) does not apply if another environmental planning instrument permits the use of the ground floor of the building for residential purposes.	The development does not relate to a business zone.

90 Subdivision (1) Development consent may be granted for the subdivision of land on which development has been carried out under this Part. (2) Development consent must not be granted for the subdivision of a building resulting from development carried out under this Part on land in Zone E2 Commercial Centre or Zone B3 Commercial Core.	No subdivision is proposed.
91 Fire sprinkler systems in residential care facilities (1) A consent authority must not grant consent for development for the purposes of a residential care facility unless the facility will include a fire sprinkler system. (2) Development for the purposes of the installation of a fire sprinkler system in a residential care facility may be carried out with development consent. (3) In this section— fire sprinkler system means a system designed to automatically control the growth and spread of fire that may include components like sprinklers, valves, pipework, pumps, boosters and water supplies.	The development will not alter the existing fire sprinkler system arrangements.
92 Development on land used for the purposes of an existing registered club (1) Development consent must not be granted for development under this Part on land used for the purposes of an existing registered club unless the consent authority is satisfied that— (a) the development includes appropriate measures to separate the club from residential areas to avoid land use conflicts, and (b) an appropriate protocol will manage the relationship between the seniors housing and the gambling facilities on the site of the club to minimise harm associated with the misuse and abuse of gambling activities by residents of the seniors housing. Note— The <i>Gaming Machines Act 2001</i> provides for gambling harm minimisation measures. (2) For the purposes of subsection (1)(a), appropriate measures include the following— (a) separate pedestrian access points for the club and the residential areas of the seniors housing, (b) design principles underlying the building aimed at ensuring acceptable noise levels in bedrooms and living areas in the residential areas of the seniors housing.	The development does not apply to land used for the purposes of an existing registered club.

Division 4 – Site-related Requirements	
93 Location and access to facilities and services— independent living units (1) Development consent must not be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to facilities and services— (a) by a transport service that complies with subsection (2), or (b) on-site. (2) The transport service must— (a) take the residents to a place that has adequate access to facilities and services, and (b) for development on land in the Eastern Harbour City, Central River City, Western Parkland City or Central Coast City— (i) not be an on-demand booking service for the transport of passengers for a fare, and (ii) be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day, and (c) for development on land that is not within the Greater Sydney region—be available both to and from the site during daylight hours at least once each weekday. (3) For the purposes of subsections (1) and (2), access is adequate if— (a) the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and (b) the distance is accessible by means of a suitable access pathway, and (c) the gradient along the pathway complies with subsection (4)(c). (4) In subsection (3)— (a) a suitable access pathway is a path of travel by means of a sealed footpath or (a) other similar and safe means that is suitable for access by means of an electric (b) wheelchair, motorised cart or the like, and (c) the distance is to be measured by reference to the length of the pathway, and (d) the overall average gradient must be not more than 1:14 and the gradients along the pathway must be not more than— (i) 1:12 for a maximum length of 15m at a time, or (ii) 1:10 for a maximum length of 5m at a time, or (iii) 1:8 for a maximum length of 1.5m at a time.	The Site contains independent living units along with other forms of seniors housing. The proposal is for ancillary works to this existing development and does not alter the location or access to facilities. It is noted that the access stairs in the Works Areas are not the only points of entering and egressing from the Site.

(5) In this section— facilities and services means— (a) shops and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner. provide a booking service has the same meaning as in the <i>Point to Point Transport (Taxis and Hire Vehicles) Act 2016</i>, section 7. Note— Provide a booking service is defined as carrying on a business taking bookings for taxis or hire vehicles to provide passenger services, whether immediately or at a later time, and communicating the bookings to drivers for passenger services or providers of passenger services.	
94 Location and access to facilities and services—residential care facilities (1) Development consent must not be granted for development for the purposes of a residential care facility unless the consent authority is satisfied that residents of the facility will have access to facilities and services— (a) on-site, or (b) by a transport service other than a passenger service. (2) In this section— facilities and services—see section 93. passenger service has the same meaning as in the <i>Point to Point Transport (Taxis and Hire Vehicles) Act 2016</i>. Note— A passenger service is defined as the transport, by a motor vehicle other than a bus, of passengers within, or partly within, this State for a fare.	The Site contains care facilities units along with other forms of seniors housing. The proposal is for ancillary works to this existing development and does not alter the location or access to facilities. It is noted that the access stairs in the Works Areas are not the only points of entering and egressing from the Site.
95 Water and sewer (1) A consent authority must not consent to development under this Part unless the consent authority is satisfied the seniors housing will— (a) be connected to a reticulated water system, and (b) have adequate facilities for the removal or disposal of sewage. (2) If the water and sewerage services will be provided by a person other than the consent authority, the consent authority— (a) must consider the suitability of the site in relation to the availability of reticulated water and sewerage infrastructure, or (i) if reticulated services are not available—must satisfy the relevant authority that the	The site is serviced with water and sewer.

provision of water and sewerage infrastructure, including environmental and operational considerations, is satisfactory for the development. (3) In this section— relevant authority means the public authority responsible for water and sewerage services in the area in which the seniors housing is located.	
96 Bush fire prone land (1) A consent authority must not consent to development under this Part on bush fire prone land unless the consent authority is satisfied the development complies with the requirements of Planning for Bushfire Protection. (2) In determining a development application for development under this Part on land near bush fire prone land, the consent authority must— (a) consult with the NSW Rural Fire Service and consider its comments, and (b) consider the following including— (i) the location of the development, (ii) the means of access to and egress from the location, (iii) the size of the existing population within the area, (iv) age groups within the population and the number of persons within the age groups, (v) the number of hospitals and other facilities providing care to the residents of the facilities within the area, and the number of beds within the hospitals and facilities, (vi) the number of schools within the area and the number of students at the schools, (vii) existing seniors housing within the area, (viii) the road network within the area and the capacity of the road network to cater for traffic to and from existing development if there were a need to evacuate persons from the area in the event of a bush fire, (ix) the adequacy of access to and from the site of the development for emergency response vehicles, (x) the nature, extent and adequacy of bush fire emergency procedures that can be applied to the development and its site, (xi) the requirements of Fire and Rescue NSW.	The land is not bushfire prone land.

(3) In this section— bush fire prone land means land identified on a bush fire prone land map, certified under the Act, section 10.3, as the following— (a) “Bush fire prone land—vegetation category 1”, (b) “Bush fire prone land—vegetation category 2”, (c) “Bush fire prone land—vegetation category 3”, (d) “Bush fire prone land—vegetation buffer”.	
Division 5 – Design requirements	
97 Design of seniors housing (1) In determining a development application for development for the purposes of seniors housing, a consent authority must consider the <i>Seniors Housing Design Guide</i>, published by the Department in December 2023. (2) Development consent must not be granted to development for the purposes of seniors housing unless the consent authority is satisfied the design of the seniors housing demonstrates that adequate consideration has been given to the design principles for seniors housing set out in Schedule 8.	The proposal is not inconsistent with anything in the Seniors Housing Design Guide, noting the works relate only to the rectification of ancillary retaining wall structures. The Design Principles in Schedule 8 are addressed in Table 2 below.
98 Design of seniors housing (Repealed)	Noted.
Division 6	
(Repealed)	Noted.
Division 7 - Non-discretionary development standards	
106 Application of Design Principles for seniors housing Nothing in this division affects the operation of section 97(2).	Noted.
107 Non-discretionary development standards for hostels and residential care facilities—the Act, s 4.15 (1) The object of this section is to identify development standards for particular matters relating to development for the purposes of hostels and residential care facilities that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. (2) The following are non-discretionary development standards in relation to development for the purposes of hostels or residential care facilities— (a) no building has a height of more than 9.5m, excluding servicing equipment on the roof of a building, (b) servicing equipment on the roof of a building, which results in the building having a height of more than 9.5m— (i) is fully integrated into the design of the roof	Height The proposed work will not exceed the maximum 9.5m control. Density The proposal does not provide additional gross floor area. Communal Areas The provision of communal areas will not be altered. Landscaped Area The proposal retains the landscaped area as existing. Deep Soil The existing amount of deep soil is to be retrained.

or contained and suitably screened from view from public places, and (ii) is limited to an area of no more than 20% of the surface area of the roof, and (iii) does not result in the building having a height of more than 11.5m, (c) the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less, (d) internal and external communal open spaces with a total area of at least— (i) for a hostel—8m² for every bed, or (ii) for a residential care facility—10m² for every bed, (e) at least 15m² of landscaped area for every bed, (f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 6m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site, (g) for a hostel—at least 1 parking space for every 10 beds in the hostel, (h) for a residential care facility—at least 1 parking space for every 15 beds in the facility, (i) at least 1 parking space for every 2 employees who are on duty at the same time, (j) at least 1 parking space for the purpose of ambulance parking.	Parking No parking demand is generated by the proposal.
108 Non-discretionary development standards for independent living units—the Act, s4.15 (1) The object of this section is to identify development standards for particular matters relating to development for the purposes of independent living units that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. (2) The following are non-discretionary development standards in relation to development for the purposes of independent living units— (a) no building has a height of more than 9.5m, excluding servicing equipment on the roof of a building, (b) servicing equipment on the roof of a building, which results in the building having a height of more than 9.5m— (i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and (ii) is limited to an area of no more than 20% of the surface area of the roof, and (iii) does not result in the building having a height of more than 11.5m, (c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less, (d) a minimum landscaped area that is the lesser of— (i) 35m² per dwelling, or	Height The proposed work will not exceed the maximum 9.5m control. Density The proposal does not provide additional gross floor area. Communal Areas The provision of communal areas will not be altered. Landscaped Area The proposal retains the landscaped area as existing. Deep Soil The existing amount of deep soil is to be retrained. Solar Access No change to solar access for dwellings will occur. Balcony Access No change to balcony access is required or proposed. Parking No parking demand is generated by the proposal.

(ii) 30% of the site area, (e) (Repealed) (f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site, (g) at least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces, (h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building— (i) at least 15m² of private open space per dwelling, and (ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor, <i>Note—</i> <i>The open space needs to be accessible only by a continuous accessible path of travel, within the meaning of AS 1428.1, if the dwelling itself is an accessible one—see Schedule 4, section 2.</i> (i) for a dwelling in a multi-storey building not located on the ground floor—a balcony accessible from a living area with minimum dimensions of 2m and— (i) an area of at least 10m², or (ii) for each dwelling containing 1 bedroom—an area of at least 6m², (j) for a development application made by, or made by a person jointly with, a social housing provider or Landcom—at least 1 parking space for every 5 dwellings, (k) if paragraph (j) does not apply—at least 0.5 parking spaces for each bedroom.,	
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6.2 State Environmental Planning Policy (Resilience and Hazards) 2021

The former provisions of State Environmental Planning Policy No. 55 – Remediation of Land are now included in Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021. The Policy outlines that Council shall not consent to the carrying out of any development on land unless it has considered the provisions of the SEPP.

- Contamination
No history of the Site suggests that contamination.
- Coastal Management
The site is not located within the Coastal Zone.

6.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

- Vegetation in Non-Rural Areas

An Arborist Report has been prepared for the intended works and notes that the excavation required for new wall construction and to create space for drainage aggregate and conduits for work Area A will extend into the Structural Root Zone of a Weeping Bottlebrush, *Callistemon viminalis*, which may lead to its removal.

In the first instance, retention is to be sought, with root damage to be inspected by a Project Arborist during excavation who will then determine if removal is necessary. It is noted that retention should be available if major root loss is avoidable.

Eight (8) other trees assessed will be retained and protected in accordance with the Arborist Report recommendations, noting minor root pruning may be required to three (3) of these trees without impact.

- Koala Habitat

Former provisions of *State Environmental Planning Policy No. (Koala Habitat Protection) 2021* are included the Biodiversity and Conservation SEPP and aim to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

No impact on koala habitat is to occur from the proposal.

- Sydney Harbour Catchment

The Site is located within the area defined as the Sydney Harbour Catchment.

The development is consistent with the planning principles for the Catchment Area as it applies only to an existing structure has been undertaken on previously disturbed land without the need for any additional vegetation clearing or earthworks that would otherwise cause disturbance to soils or water quality. No additional increase in impermeable area and no impact on any existing environmental processes will occurred.

The site is not within the area defined as the 'Foreshore or Waterways Area', identified as a 'strategic foreshore site' and is not zoned under the Plan.

Additionally, the site is not identified as an item of heritage significance under the Sydney Harbour Catchment Plan and is both physically and visual removed from identified heritage sites.

No protection areas for Wetlands or Critical Habitat are located on or near the subject site.

6.4 Manly Local Environmental Plan 2013

Manly Local Environment Plan 2013 (MLEP 2013) applies to the subject site. The provisions of MLEP 2013 as they relate to the proposed development are considered below:

Zoning and Permissibility

The Site is zoned R1 General Residential (**Figure 3**). The objectives of the R1 zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is ancillary to the seniors housing complex on the premises and is permitted with consent in the R1 zone. The works enable ongoing use of the Site for this purpose which is consistent with the zone objectives.



Figure 3. Manly Local Environmental Plan 2013 Zoning Map (Source: NSW Planning Portal, 2024)

Subdivision

No subdivision is proposed.

Height of Buildings

The maximum permitted height is 8.5m (**Figure 4**). The proposal will not result in a change to the overall height of any structures on the Site. The reconstructed retaining walls and fencing on top will also remain well below 8.5m in height, having a maximum height around 2m (noting there will be a minor reduction in the new wall height for Work Area A).



Figure 4. Manly Local Environmental Plan 2013 Height of Buildings Map (Source: NSW Planning Portal, 2024)

Floor Space Ratio

The proposal will not alter the gross floor area of the Site as the proposal relates only to retaining wall reconstruction.

Heritage Conservation

The Site is not within a heritage conservation area and does not contain any heritage-listed item (Figure 5). The proposal will not affect any surrounding sites of heritage significance.



Figure 5. Manly Local Environmental Plan 2013 Heritage Map (Source: NSW Planning Portal, 2024)

Acid Sulfate Soils

The Site is identified as having potential for Class 5 acid sulfate soils (**Figure 6**). While the works will occur within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum, the works will not lower the watertable below 1 metre Australian Height Datum on that nearby Class 1, 2, 3 or 4 land.



Figure 5. Manly Local Environmental Plan 2013 Acid Sulfate Soils Map (Source: NSW Planning Portal, 2024)

Earthworks

Removal of soil material behind the walls will also be required to allow for the work to be undertaken. Backfilling will occur as specified by the engineers. Residual materials for excavation can be retained on site and spread within existing landscaped areas. It is noted that approximately 300mm of material behind the wall in Work Area B comprises the heaped remnants/mulch of the tree that was removed.

Appropriate measures for erosion and sediment control can be implemented during the works.

Stormwater Management

Drainage is to be provided behind the concrete course, with weepholes provided at every second joint in the sandstone course.

No change to the stormwater management for the remainder of the Site will be undertaken.

Terrestrial Biodiversity

The site is not identified land as “Biodiversity” on the Terrestrial Biodiversity Map.

Riparian Land and Watercourses

The Site is not land identified as “Watercourse” on the Watercourse Map, and is not land that is within 40 metres of the top of the bank of each watercourse on land identified as “Watercourse” on that map.

Wetlands

The Site is not land identified as “Wetland” on the Wetlands Map.

Landslide Risk

The Site is not land identified as “Landslide risk” on the Landslide Risk Map.

Foreshore Scenic Protection Area

The Site is not identified as land that is shown as “Foreshore Scenic Protection Area” on the Foreshore Scenic Protection Area Map.

Limited Development on Foreshore Area

The Site is not in the Foreshore Area.

Active Street Frontages

The Site is not land identified as “Active street frontages” on the Active Street Frontages Map.

Essential Services

All services are provided to the Site.

Design Excellence

The proposal is not of a type that is subject to the design excellence provisions.

Requirement for Development Control Plan

The Site is not land identified as a “Key Site” on the Key Sites Map.

6.5 The Provisions of any Draft Environmental Planning Instruments

There are no draft Environmental Planning Instruments that relevant to the proposal.

6.6 Manly Development Control Plan 2013

Manly Development Control Plan 2013 (Manly DCP) applies to the land that was within the former Manly Local Government. The relevant controls are considered as follows:

Part 3 – General Principles of Development

Streetscapes and Townscapes

The development will have no significant adverse impact on the street or townscape. The works seek to rectify the structural issues and return the streetscape to a similar appearance as existing.

Heritage Considerations

No heritage is to be impacted as part of the proposed works.

Landscaping

The existing landscaped area and appearance will be retained upon completion, noting that avoidance for the need to remove the one (1) tree closest is being pursued in this first instance, as outlined in the Arborist Report.

Amenity

Noise

No acoustic impacts are expected from the development.

Views

No views are to be impacted given the works are contained to locations of existing development of a similar nature.

Overshadowing

No overshadowing or solar restriction is to be created by the proposal.

Privacy and Security

No overlooking of adjoining properties will occur.

Security will be provided through access prevention, casual surveillance, secure storage areas, and staff control.

Statement of Environmental Effects

Proposed Rectification Works to Retaining Walls | Uniting Wesley Heights – 27 Birkley Road, Manly

Other Nuisance

No activities that have the potential for odours or fumes are to be undertaken.

Sustainability

The proposal does not require any significant building works or changes to any building efficiency, greenhouse gas emissions, climate control or other sustainability measures.

Existing sandstone blocks will be re-used where possible.

Accessibility

No changes are proposed to the existing accessibility arrangements.

Stormwater Management

The existing stormwater management of the main facility will not be altered. New subterranean drainage will be provided behind the reconstructed walls.

Mechanical Plant Equipment

No change to the existing mechanical plant is required.

Safety and Security

No adverse impact to safety and security is to result from the proposal. The works will improve the safety of the wall's stability.

Part 4 – Development Controls and Development Types

Residential Development Controls

- **Height of Buildings and Wall Heights**
No change to existing building heights of any existing building will be altered.

The proposed retaining walls will not exceed the building height or wall height.
- **Floor Space Ratio**
The proposal does not alter the floor space ratio of the Site.
- **Setbacks and Building Separation**
The proposal does not alter the setbacks or building separation of existing buildings on the Site.

The retaining walls are to be reconstructed at the same zero-lot setbacks to Birkley Street.
- **Open Space and Landscaping**
The proposal does not alter the proportion of the Site that is landscaped.

As outlined, tree removal will be limited to one (1) tree only if required – See Arborist Report. This tree can be replaced if removed.
- **Parking, Vehicular Access and Loading (Including Bicycle Facilities)**
No change to parking, access or loading is proposed or required.
- **First Floor and Roof Additions**
No first floor or roof additions are proposed.
- **Development on Sloping Sites**
The proposal relates to replacement of retaining structures on a sloping Site.

The Site is not identified as being at risk of landslip or in a geotechnical hazard area.

- Swimming Pools, Spas and Water Features
Not swimming pool, spa or water feature is proposed.
- Fencing
No new fencing is proposed. Parts of the existing fencing located on the retaining walls will be removed and reinstated as existing following rectification works.

Other Development

- Demolition
The proposal includes demolition only for the purposes of allowing reconstruction of the structures in the same located and of similar design.

Appropriate measures can be implemented to protect the environment and amenity, as well as minimise waste during the works phase.

Earthworks

Disturbance of earth will only occur to the works area. Due to the terrain and height of the existing retained material, excavation and backfilling will be in excess of 1m in height.

The existing retaining walls are also in excess of 1m and located on the boundary. The reconstructed walls will remain above 1m in order to maintain the required stability of the terrain.

6.7 The Likely Impacts of the Development

Context and Setting

The development aims to specifically address the requirement of the Site with respect to adjoining properties to ensure a high level of amenity is maintained.

No surrounding natural or built form constraint prevents a restriction to the carrying out of the development.

Access and Car parking

No alteration to approved access and car parking is proposed or required.

Visual Impact

The reconstruction of the retaining walls will result in a similar visual appearance as the existing design so as to not cause any significant impact on streetscape or visual quality to adjoining properties.

Heritage Impacts

The proposal does not affect any item or area of heritage significance.

Vegetation

The excavation required for new wall construction and to create space for drainage aggregate and conduits for work Area A will extend into the Structural Root Zone of a Weeping Bottlebrush, *Callistemon viminalis*, which may lead to its removal.

In the first instance, retention is to be sought, with root damage to be inspected by a Project Arborist during excavation who will then determine if removal is necessary. It is noted that retention should be available if major root loss is avoidable.

Eight (8) other trees assessed will be retained and protected in accordance with the Arborist Report recommendations, noting minor root pruning may be required to three (3) of these trees without impact.

Earthworks

Removal of soil material behind the walls will also be required to allow for the work to be undertaken. Backfilling will occur as specified by the engineers. Residual materials for excavation can be retained on site and spread within existing landscaped areas. It is noted that approximately 300mm of material behind the wall in Work Area B comprises the heaped remnants/mulch of the tree that was removed.

Drainage

Drainage is to be provided behind the new concrete course of the retaining walls, with weepholes provided at every second joint in the sandstone course.

6.8 The Suitability of the Site for the Development

The site is capable of accommodating the proposal with little to no environmental impact.

6.9 Any Submissions made in Accordance with the Act

No submissions are apparent at the time of writing.

6.10 The Public Interest

The proposed development will have no adverse impact on the public interest.

7. Conclusion

The proposed rectification to parts of the retaining walls for Uniting Wesley Heights at 27-47 Birkley Road Spit Road, Manly is permitted with consistent as an ancillary component to the seniors housing complex.

The design has been developed to address the rectification requirements of the existing retaining walls and to minimise changes to the streetscape presentation.

No significant adverse environmental, economic or social impacts have been identified as likely to arise from the proposed development which has been favourably assessed against the relevant provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant provisions of *State Environmental Planning Policy (Housing) 2021*, *Manly Local Environmental Plan 2013*, and *Manly Development Control Plan*.

It is therefore requested that Council grant development consent to the proposal, subject to appropriate conditions.