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Statement of Environmental Effects

Continuing use of existing sea retaining wall (lower tier) and addition of new (upper tier) section of the wall

Nominated Integrated Development

Precise Planning

FILE: P100369

July 2024

152 SAILORS BAY ROAD, NORTHBRIDGE, NSW, 2063
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This Statement of Environmental Effects has been prepared exclusively for submission to Northern Beaches Council as an accompaniment to a Nominated Integrated Development Application, which seeks approval to the continuing use of an existing sea retaining wall and the addition of a new (upper tier) section of the wall at 55 Robertson Road Scotland Island.

The information contained in this Report has been compiled from both primary and secondary information sources.

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Executive Summary

1. This Statement of Environmental Effects (**'SEE'**) accompanies a nominated integrated development application (**'the Application'**) made under s 4.12 of the *Environmental Planning & Assessment Act 1979* (**'EPA Act'**), which seeks consent from the Northern Beaches Council, as the relevant consent authority, for the *continuing use* of an existing, unlawfully constructed sea retaining wall (lower tier), as well as the *proposed construction* of a new (upper tier) section of the wall (**'the Proposal'**) at 55 Robertson Road Scotland Island (**'Subject Site'**).

2. A sea retaining wall has been constructed adjacent to the northern boundary of the Subject Site. Development consent had previously been issued by Council for the construction of a wall (see DA No 113/14). However, the development consent had expired at the time the sea retaining wall was erected and therefore was unlawfully constructed.

3. This Application relies, in part, on the provisions of s 4.69(1)(b) EPA Act, which enables a consent authority to grant development consent to the use of a building, work or land which was unlawfully commenced.

4. In addition to the continuing use of the existing section of the sea retaining wall (lower tier), this Application also seeks consent to the construction of an additional section of the wall (upper tier), to be located approximately 4 metres back into the Subject Site from the existing lower tier sea retaining wall. The proposed additional section of the wall (upper tier) forms part of and integrates with the existing lower tier and is necessary to protect and improve the integrity and resilience of the shoreline, by retaining the ground and reducing instability and risk of ground failure as a result of natural processes.

5. Therefore, this Application seeks consent for **both** the continuing use of the existing lower tier sea retaining wall (already constructed, but without consent) as well as the construction of the additional upper tier section of wall (not yet constructed), which is stepped back approximately 4 metres from the existing lower tier of the sea retaining wall.

6. As well as addressing other matters, this SEE provides the details of the circumstances which led to the existing lower tier sea retaining wall being constructed without consent.

1. Application Details	
Applicant	Steven Speter
Proposal	Continuing use of an existing unapproved sea retaining wall and proposed construction of an additional upper tier section of the wall
Subject Site	55 Robertson Road Scotland Island (Lot 122 DP 12749)
Owner	Steven Speter
Development Cost	$59,500 (incl GST)

2. Relevant Statutes		
Environmental Planning and Assessment Act 1979	S 4.12(1) and (2)	This Application is made pursuant to these sections
	S 4.14(1)(a)	The Proposal does not contravene any requirements of Planning for Bushfire Protection 2019
	S 4.15(1)	The Proposal is satisfactory when considered in respect of mandatory matters
	S 4.46(1)	This Application is lodged as nominated integrated development, requiring approval from DPE Water

	S 4.69(1)(b)	The Application relies on this subsection to enable development consent to be granted to the continuing use of the unauthorized lower tier of the sea retaining wall
Coastal Management Act 2016	S 5(c) and (d)	The Subject Site is located in a *coastal zone*
	S27	The SEE addresses the relevant requirements
Water Management Act 2000	S 91	Following the granting of development consent, a controlled activity approval will be required

3. Pittwater LEP 2014	
Zone	C3 Environmental Management
Use and Definition	In terms of land use definitions, the Proposal is categorized as ***Coastal Protection Works*** ***Coastal protection works*** *means–* *(a) beach nourishment activities or works, and* *(b) activities or works to reduce the impact of coastal hazards on land adjacent to tidal waters, including (but not limited to)* ***seawalls****, revetments and groynes*[1].
Permissibility	*Coastal Protection Works* are permitted with consent pursuant to Chapter 2, Part 2.3, cl 2.16(1) of the SEPP (Resilience and Hazards) 2021 (the Subject Site is within the *"coastal zone"* as defined by the *Coastal Management Act 2016*, s 5).

[1] *Coastal Management Act 2016*, Part 1, s 4.

Standards	Minimum subdivision lot size	5800m^2
	Maximum height of buildings	8.5m
EPI Maps	Land Zoning Map	C3 Environmental Management
	Lot Size Map	5800m^2
	Height of Buildings Map	8.5m
	Geotechnical Hazard Map	H1
	Foreshore Building Line Map	Foreshore building line
	Terrestrial Biodiversity Map	Biodiversity
	Acid Sulphate Soils Map	Class 5
Non-EPI Maps	Biodiversity Values Map	Biodiversity values
	Bushfire Prone Land Map	Vegetation Category 1; Vegetation Buffer
LEP variations sought	The Proposal does not seek to vary any PLEP 2013 development standards	

3. SEPPs		
SEPP (Biodiversity and Conservation) 2021		
SEPP (Housing) 2021		
SEPP (Industry and Employment) 2021		
SEPP (Planning Systems) 2021		
SEPP (Precincts – Central River City) 2021		Not relevant to this Application
SEPP (Precincts – Eastern Harbour City) 2021		
SEPP (Precincts – Regional) 2021		
SEPP (Precincts – Western Parkland City) 2021		
SEPP (Primary Production) 2021		
SEPP (Resilience and Hazards) 2021	Chapter 2 Coastal Management Cl 2.10, 2.11 and 2.12	The SEE addresses the relevant matters

	Chapter 4 Remediation of Land – Cl 4.6	A preliminary site investigation was considered unnecessary for this Proposal
SEPP (Resources and Energy) 2021		
SEPP (Sustainable Buildings) 2022		Not relevant to this Application
SEPP (Transport and Infrastructure) 2021		

4. Pittwater DCP		
Relevant Sections	Sections A and B	The Proposal does not offend any relevant objectives or contravene and relevant standards
DCP Maps	Landscaped Area Map	Area 1
	Estuarine Hazard Map	Wave Action and Tidal Inundation

5. External Referral/Concurrence		
Agency	DPE Water	Nominated integrated development

6. Other Matters	
	The Application and/or Proposal does not raise any other matters of relevance

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1 Introduction

This Statement of Environmental Effects (**'SEE'**) accompanies a nominated integrated development application (**'the Application'**) made under s 4.12 of the *Environmental Planning & Assessment Act 1979* (**'EPA Act'**), which seeks consent from the Northern Beaches Council, as the relevant consent authority, for the *continuing use* of an existing, unlawfully constructed sea retaining wall (lower tier), as well as the *proposed construction* of a new (upper tier) section of the wall (**'the Proposal'**) at 55 Robertson Road Scotland Island (**'Subject Site'**).

Proposal:

- Continuing use of an existing, unlawfully constructed sea wall (lower tier);
- Proposed construction of a new (upper tier) section of the wall.

The SEE has been prepared in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (**'EPA Act'**) and the *Environmental Planning and Assessment Regulation 2021* (**'EPA Reg'**). The SEE meets the mandatory requirements set out on the Approved Form[2] and addresses all matters necessary to enable Council to make a determination of the Application.

Subject to consent being granted by Council for the Application, proposed works within the Subject Site will require a Construction Certificates (**'CC'**) to be issued by an appropriately accredited Certifier. Works carried out without consent will be the subject of a Building Information Certificate (**'BIC'**) application, following the granting of development consent.

On balance, it is considered that the Application seeks consent to a reasonable Proposal. It will result in an improved environmental outcome, with no adverse social or economic impacts in the locality. It is requested that Council approve the Application and issue development consent in due course.

[2] See cl 24(1)(b)(i) EPA Reg.

2 The Subject Site

2.1 Description and Location

The Subject Site is legally described as Lot 122 in DP 12749. The Subject Site is generally rectangular in shape, with a frontage of 10.06 metres to the northern side of Robertson Road and a depth of around 64.6 metres to the Mean High Water Mark (**'MHWM'**). The Subject Site comprises an area of approximately 720.8m^2 (By DP 12749). Robertson Road is a bitumen sealed, two-way road.

Figure 1 - Subject site and surrounds

2.2 Existing Improvements

Erected upon the Subject Site is a timber clad residence. The Subject Site is located in a residential area, with its northern boundary abutting Pittwater. Residential dwellings are erected to the east and west of the Subject Site. A sandstone block seawall is located along the northern boundary of the Subject Site.

2.3 Topography

The Subject Site slopes down from south to north (front to rear), with a steep downward slope of around 30° from the rear of the dwelling to the water's edge. A significant, steep, unretained fall is evident at the Subject Site.

2.4 PLEP 2014 Mapping

The Subject Site is identified on the following PLEP 2014 maps, where relevant to the Proposal:

- **Land Zoning Map**

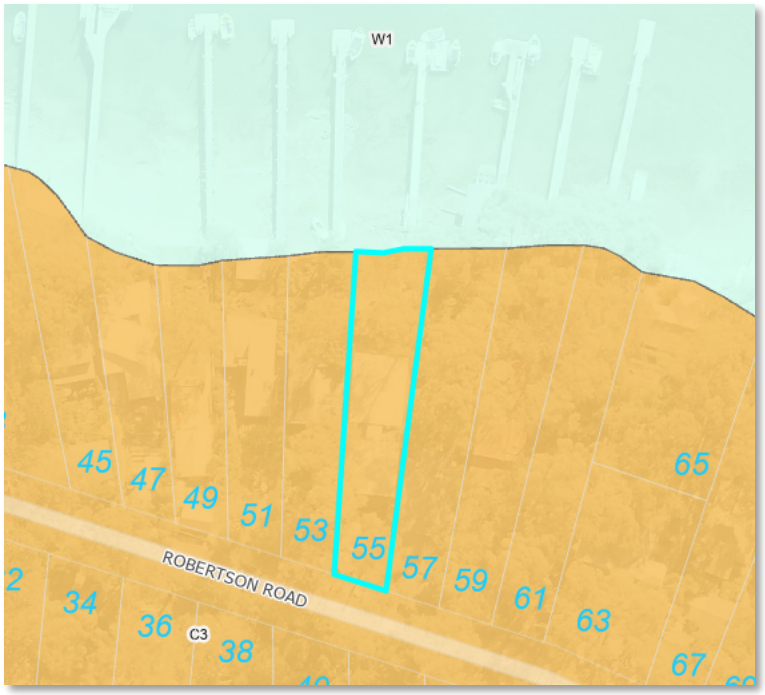


Figure 2 - PLEP 2014 Land Zoning Map

- **Foreshore Building Line Map**

Figure 3 - PLEP 2014 Foreshore Building Line Map

- **Land Below Foreshore Building Line Map**

Figure 4 - PLEP 2014 Land Below Foreshore Building Line Map

- **Acid Sulphate Soils Map**

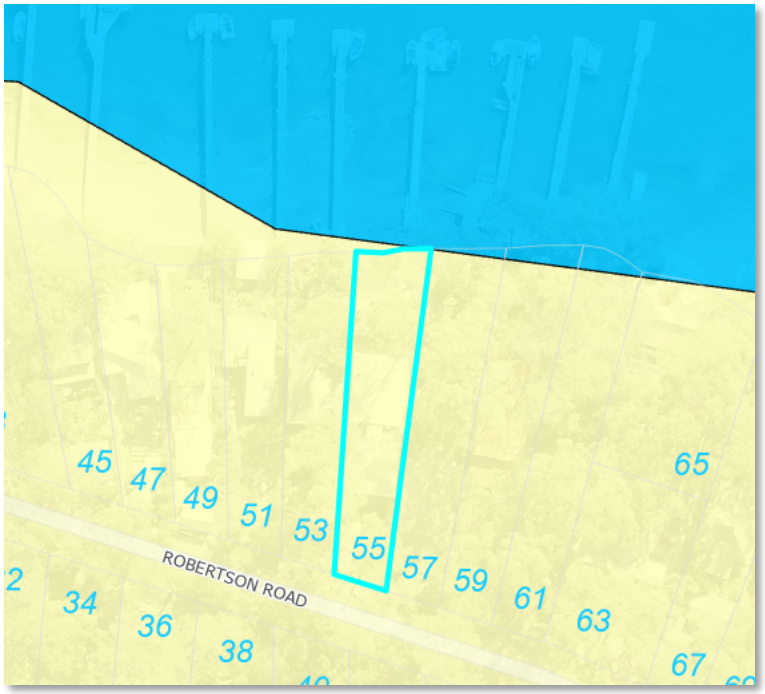


Figure 5 - PLEP 2014 Acid Sulphate Soils Map (Yellow = Class 5)

- **Terrestrial Biodiversity Map**

Figure 6 - PLEP 2014 Terrestrial Biodiversity Map

- **Geotechnical Hazard Map**

Figure 7 - PLEP 2014 Geotechnical Hazard Map (Burgundy colour = Geotechnical Hazard H1)

2.5 Non-EPI Mapping

- **Bush Fire Prone Land**

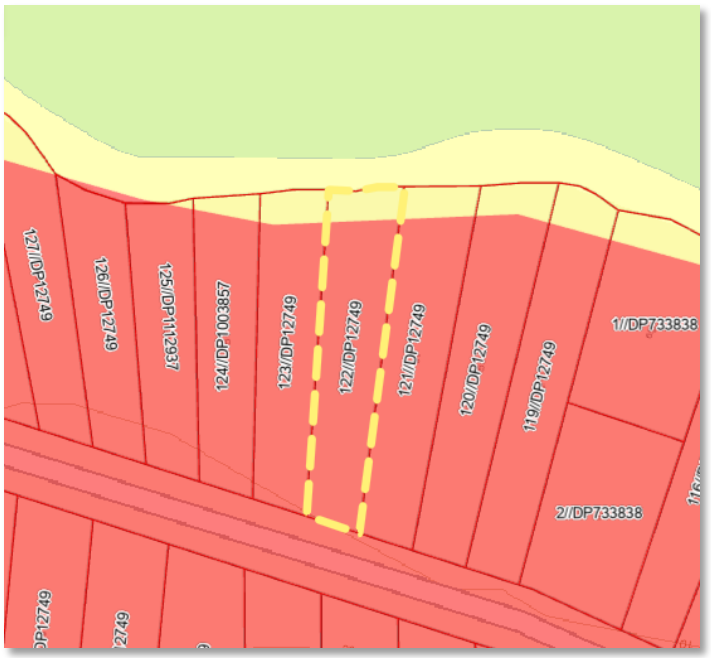


Figure 8 - Bush Fire Prone Land Map

- **Biodiversity Values Map**

Figure 9 - Biodiversity Values Map

2.6 SEPP Mapping

- **SEPP (Resilience and Hazards) 2021**

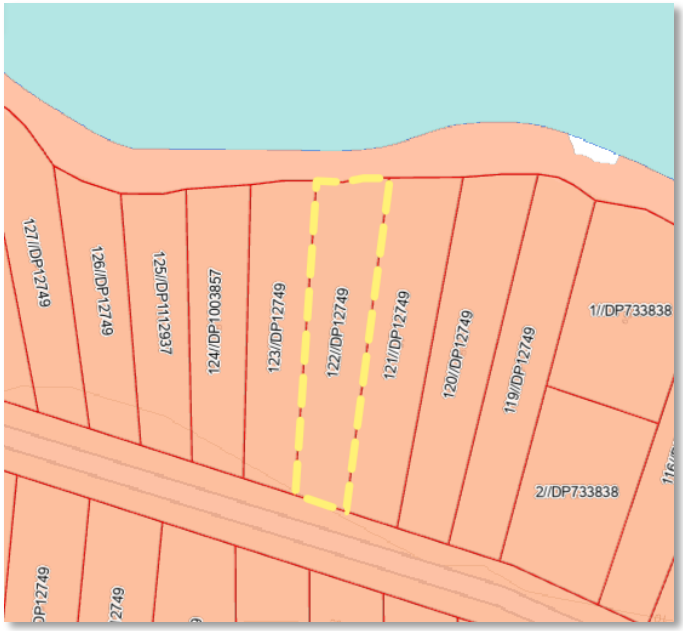


Figure 10 - Coastal Use Area Map

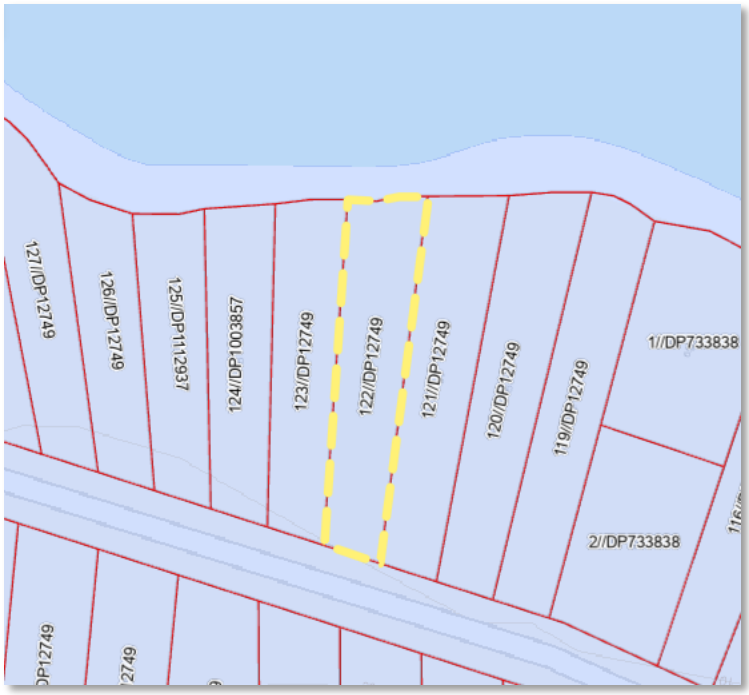


Figure 11 - Coastal Environment Area Map

2.7 Pittwater DCP Mapping

- **Estuarine Hazard Map**

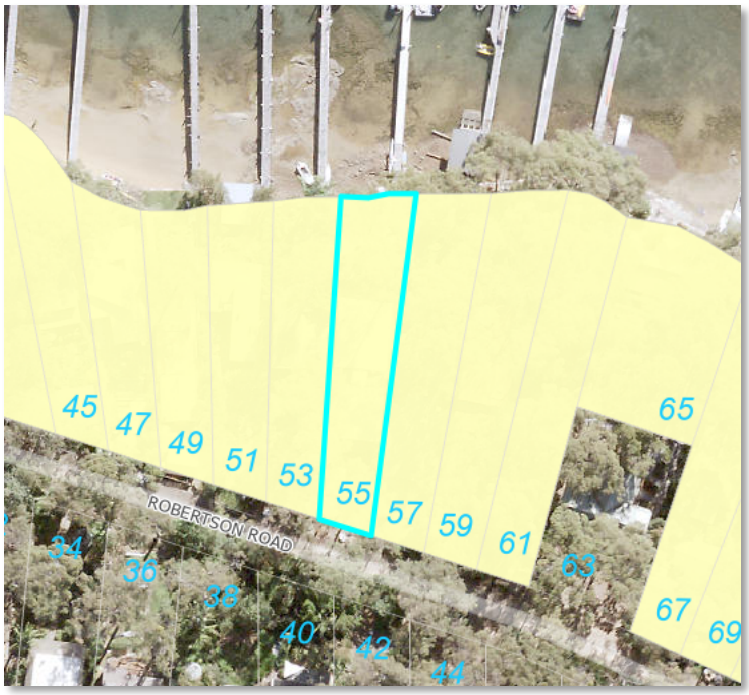


Figure 12 - Pittwater 21 DCP 2014 Estuarine Hazard Map

- **Landscaped Area Map**

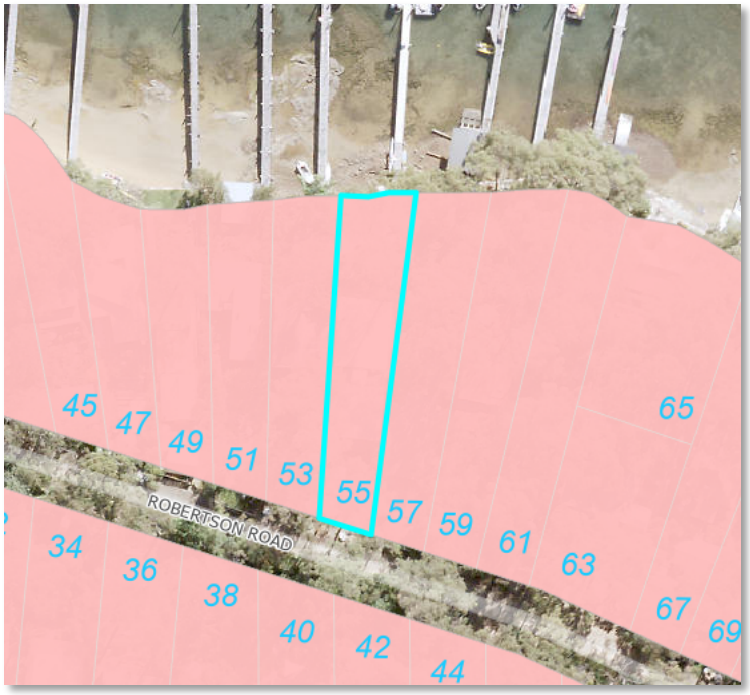


Figure 13 - Pittwater 21 DCP 2014 Landscaped Area Map (Pink colour = Area 1)

3 The Proposal

3.1 Continuing Use of Existing Lower Tier of Sea Retaining Wall

The Application seeks consent to the *continuing use* of the existing lower tier of the sea retaining wall, pursuant to the provisions of s 4.69(1)(b) EPA Act. The wall was erected without consent.

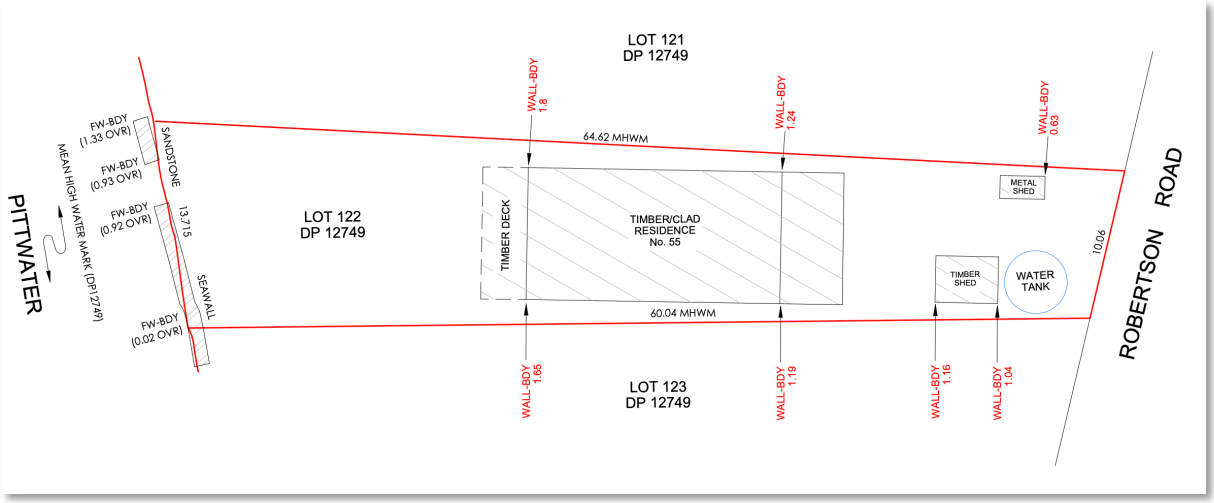


Figure 14 - Site Plan showing location of existing sea retaining wall

3.1.1 Circumstances and timeline of events in relation to the sea retaining wall

The following table provides a timeline of events in relation to the existing lower tier of the sea retaining wall:

Date	Event
13 October 2014	Council issued development consent in respect of the Subject Site (DA 113/14) for "Proposed boat shed, deck, skid ramp, access stairs and retaining wall".
Early 2017	The current owners made enquiries with Council as part of their pre-purchase due diligence process regarding the validity of the development consent referred to above. The current owners' understanding of Council's response to their

Date	Event
	enquiry was that a Notice of Commencement on DA 113/14 had previously been provided to Council, thus the development consent was considered to be active and work could proceed.
28 April 2017	The current owners purchased the Subject Site.
During 2018	Temporary access stairs were constructed and inspected by Council. This work was undertaken as part of the approved development, during the 5-year validity period of the development consent.
2018/2019	Construction work was postponed due to one of the current owner's work circumstances.
During 2020	Work recommenced and a two-tiered sea retaining wall was constructed using sandstone blocks (see Figure 15).
20 August 2020	Council issued a Stop Work Order (ref EPA2020/0213) to the current owners, following receipt of a complaint, which led to an inspection undertaken by a Council officer on 11 August 2020. o The Stop Work Order was in the following terms: *"Immediately stop and cease all building works for which development consent is required but has not been obtained at the properties known as 55 Robertson Road Scotland Island (Lot 122 DP 12749), 53 Robertson Road Scotland Island (Lot 123 DP 12749) and the adjacent Roads and Maritime Services controlled waterway until further notice from Northern Beaches Council".* o The Stop Work Order states that the inspection undertaken by the Council officer on 11 August 2020 revealed *"what appeared to be a sandstone seawall/retaining wall under construction at the north boundary of the property".*
Early June 2021	A slope failure occurred at the northern end of the Subject Site, which damaged the upper tier of the sea retaining wall. The lower tier of the sea retaining wall was not damaged.

Date	Event
Mid June 2021	The current owners noticed that the damage to the upper tier of the sea retaining wall had caused it to lean precariously toward the water. Consequently, for safety reasons, the current owners arranged for the sandstone blocks comprising the damaged upper tier to be removed and placed into the water, in front of the lower tier of the wall.
21 June 2021	Council issued a Notice of Intention to Give a Development Control Order (ref EPA2021/0150) under the EPA Act, following an inspection by Council on 8 June 2021. The Notice included a proposed Order to demolish or remove the structure.
Post 21 June 2021	The current owners had numerous communications with Council officers in relation to the matter and the Notice of Intention to Give a Development Control Order.
12 August 2022	Council issued a Notice of Intention to issue an Order (ref LGA2022/0042) under s 132 *Local Government Act 1993*. o The Notice of Intention to Issue an Order was in the following terms: *"To remove an object or matter from a public place or prevent any object or matter being deposited there, specifically:* *Schedule of Works:* *1. Remove and lawfully dispose and/or store all building materials, including sandstone blocks, pallets of concrete, geofabric and bulka bags from the Crown Land (known as Pittwater) adjoining the northern boundary of 55 Robertson Road SCOTLAND ISLAND NSW 2105 Lot 122 DP 12749 within fifty six (56) days from the date of this Order* *2. For the purposes of item 1, the reference to "Crown Land" is a reference to the Crown Land within 20m seaward of the northern boundary and between the longitudinal (eastern and western) boundaries of 55 Robertson Road SCOTLAND ISLAND NSW 2105 Lot 122 DP 12749."*

Date	Event
20 September 2022	Council issued an Order under s 124 *Local Government Act 1993*, in the terms referred to above.
26 October 2023	A development application was lodged with Council seeking consent to a retaining wall ancillary to the sea retaining wall.
7 March 2024	Following discussions with Council's planning staff, the development application was withdrawn.

Table 1 - Timeline of events in relation to the sea retaining wall

Figure 15 - Photograph of lower and upper tiers of the sea retaining wall, (taken prior to the ground failure)

3.1.2 Engineering advice provided to the current owners

3.1.2.1 Geotechnical advice

On 30 June 2021, the current owners received geotechnical advice in relation to the remediation of the failed retaining wall (see Annexure C of this SEE).

In relation to the upper tier, the advice states, in part:

> *"The undersigned, Mr Woodie Theunissen, visited the above site to inspect the slope failure that has occurred at the front of the property along the waterfront. From the north of the house the ground drops down steeply to water at an angle of about 30°. A sandstone block wall was located along the front of the property which was approximately 2m high and was in a state of failure. Large tension cracks had opened up in the slope above the wall and were located approximately 5m back from the seawall.*
>
> *Based on our observation of the site it is clear that works are urgently required to remediate the site. The existing wall will need to be replaced, which will require the removal of the wall and excavation of unstable material in the slope. This is anticipated to result in excavation extending at least 5m back from the existing seawall. It is understood that the new retaining wall will comprise a conventional cantilevered wall supported on the underlying sandstone bedrock. The existing seawall will prevent the erosion and loss of material from below the proposed new retaining wall and should be left in place to protect the toe of the slope."*

The engineer provided separate advice, also dated 30 June 2021 and following a second site visit (see Annexure D). The advice states, in part:

> *"On 28 June 2021 the undersigned, Mr Woodie Theunissen, visited the above site to inspect the slope failure that has occurred at the front of the property along the waterfront. From the north of the house the ground drops down steeply to water at an angle of about 30°. The sandstone block wall located along the front of the property had been dismantled and excavation was underway to remove that portion of the slope that had already failed, the extent of which was about 5m from the seawall and was defined by tension cracks.*

At the back of the removed sandstone block wall a cut face with a height of about 2.5m had been created. The materials exposed in this cut comprised approximately 1.6m of clay fill overlying natural clay and extremely weathered siltstone bedrock. Siltstone bedrock of at least very low strength was exposed at the base of the cut, which is at roughly the top of the seawall. Immediately behind the wall fill was exposed. The seawall had a height of about 1.5m with sandstone bedrock generally visible at the toe of the sea wall."

3.1.2.2 Structural advice

Peter Blacker and Associates, Structural Engineers, has advised that the upper tier wall would need to be replaced with an engineered wall, integrally connected to the lower tier (see advice letter dated 20 October 2023 at Annexure E of this SEE).

The advice states, in part:

"I did not design the log sea wall but I designed an inner reinforced concrete wall formed in a Dincel formwork system as an extension to the design and construction of the existing outer log sea wall and to work in unison with the lower wall for the protection of the hinterland.

I have been to site a couple of times and I am aware of the erosion at this location and of other coastal locations from some wave actions and primarily from inundation at high tides and specifically with king high tides.

And further, in line with the general principles of global warming and inherent sea level rise then structures at high tide level and above are to be designed for the immediate and the future long term affects from such high tides and the associated scouring wave actions.

To this end I make the following comments:

1. The structural integrity of the existing lower sandstone log sea wall remains vulnerable to extraordinary but to expected or anticipated weather events due to its close proximity to the steep topography behind that area where erosion of that hill can lead to landslip that can have a deleterious effect on the existing lower sea wall.

2. The existing lower outer sea wall is at a low discrete level and it is expected that some overtopping of the lower wall by waves will or can occur such that the inner wall is really an extension of protection with some offset of the existing lower sea wall.
3. From an engineering perspective, the best solution to ensure the structural integrity of the existing lower sea wall is a secondary wall behind the lower sea wall.
4. The secondary inner retaining like wall forms an integral part of the design of the existing sea wall, because it is necessary for the long-term structural integrity and viability of the existing lower sea wall and the protection of the hill.
5. In the absence of the secondary inner wall, the existing lower sea wall as constructed will remain vulnerable to failure in an extreme weather event."

The proposed upper tier of the sea retaining wall, which is discussed in s 3.2 of this SEE, has been designed to integrate with the lower tier of the sea retaining wall, as recommended by the engineer's advice.

3.1.3 Structural stability of the existing (lower tier) sandstone sea retaining wall

Amongst other things, the existing (lower tier) sandstone sea retaining wall was inspected by Peter Blacker of Peter Blacker and Associates on 27 August 2020 and a letter provided to the current owners dated 2 September 2020 (see Annexure D of this SEE).

At the date of the inspection, the lower tier wall was complete. In relation to this wall, the letter states:

"The lower break water wall is founded on sandstone bedrock with some mortar bedding below the bottom course.

This wall is only two course high so it is very stable.

….

The lower break water wall appears to be adequately constructed and supported."

3.1.4 Knowledge and experience of the current owners

The current owners of the Subject Site have no experience in property development or town planning matters. Their comprehension of the advice received by Council was that the consent had been activated. They assumed this meant that all relevant approvals had been

granted and that work could commence There was no deliberate intention on the part of the current owners to undertake works when the appropriate approvals were not in place.

Since the time of the Stop Work Order in 2020, no further works have been undertaken at the Subject Site, in compliance with the Order, except the removal of the upper tier of the wall for safety reasons. Since that time, the owners have had numerous discussions with various Council officers to understand how to regularise the works.

The intent of this Application is to regularise the works undertaken, as well as obtain consent to the ancillary retaining wall, which the client's geotechnical engineer considers necessary in order to minimise the likelihood of another slope failure.

3.1.5 Building Information Certificate Application

It is anticipated that a condition of development consent for continuing use of the existing lower tier of the sea retaining wall will be to obtain a building information certificate (**'BIC'**) relating to the unauthorised works.

3.2 Proposed additional section (upper tier) of the sea retaining wall

In addition to the continuing use of the existing lower tier of the sea retaining wall, this Application seeks consent to the construction of an additional section (upper tier) of the sea retaining wall, set back approximately 4 metres from the existing lower tier. As noted, the geotechnical engineering advice is that an engineered secondary wall is required to minimise the likelihood of a future ground failure, as well as to protect the structural integrity of existing (lower tier) wall.

The geotechnical engineering advice at Annexure D provided the following design parameters:

> *"It is understood that a new Dincel retaining wall will be constructed to support the cut. This wall will be founded on the underlying sandstone bedrock. For the design of this wall we recommend the that the following design parameters be adopted:*
>
> - *A triangular earth pressure distribution,*
> - *A coefficient of active earth pressure, Ka, of 0.8,*
> - *A bulk unit weight of 20kN/m3,*

- *All surcharge loads and appropriate hydrostatic pressures must be added to the above pressures,*
- *Unless the existing seawall has sufficient capacity to resist the applied lateral loads all lateral loads must be transferred to the underlying sandstone bedrock by socketing piers into the bedrock. A lateral resistance of 200kPa may be adopted for that part of the pile that extends greater than 0.5m into the underlying sandstone bedrock.*
- *Where piles are founded on the underlying sandstone bedrock of at least very low strength they may be designed for an allowable bearing pressure of 600kPa. All piles should have a nominal socket of 0.3m."*

In accordance with these parameters, a structural design has been prepared for the upper tier of the wall by Peter Blacker and Associates (see excerpt at Figure 16).

The proposed upper tier of the wall will be constructed in 275 Dincel, concrete filled and clad with a sandstone cladding, flagstone or similar, to provide a muted, natural look and complement the sandstone of the lower tier. In accordance with the engineer's specification, the area between the base of the proposed upper tier section of the wall and the existing sandstone lower section will be concreted. The concrete will be patterned to complement the sandstone of the lower tier and sandstone cladding of the upper tier.

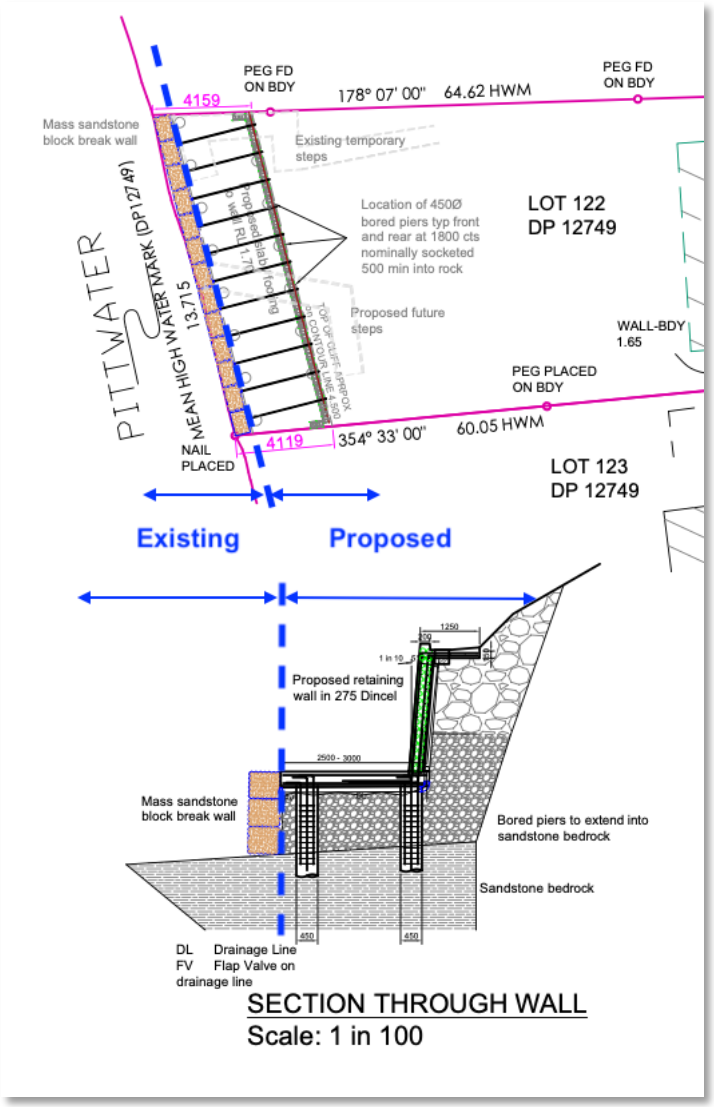


Figure 16 - Detail of proposed ancillary (secondary) retaining wall, integrated with the existing sandstone sea retaining wall

The proposed upper tier will vary in height, in accordance with the level of the land to be retained.

Planter boxes will be installed on the concrete at the base of the proposed upper tier, for the length of the wall. Each individual planter box will measure 1.5m to 2m in length, 0.6m high and 0.6m wide. The planter boxes will be a neutral colour that complements to sandstone setting and will be planted out with a range of plants and shrubs and the intent is to provide relief to the sandstone clad wall behind, when viewed from the water.

The geotechnical engineer's advice at Annexure D provides the following in terms of construction technique:

"At the time of our site visit the existing excavation had extended to roughly the alignment of the proposed wall. Near vertical cuts had been formed through the fill and natural soil. It should be noted that vertical cuts through soils are potentially unstable and may collapse at any time without warning. Consequently, we recommend that temporary batters be formed through the soil at no steeper than 1 Vertical(V):1 Horizontal(H) or the cut be temporarily propped. Even where propping is proposed, we recommend that the soils which have already slipped (i.e. those soils on the downhill side of the tension cracks) be removed and the soils behind battered. The contractor must take care during construction that the slope is appropriately supported such that the works can be safely constructed.

Drilling of piles will be completed in the intertidal zone and at times will be below sea level. Consequently, care must be taken that that portion of the pile that extends through the soils is supported and that the piles can be appropriately dewatered and cleaned prior to pouring concrete. It is possible that high strength sandstone bedrock may be encountered during the drilling of the piles and, consequently, appropriate drilling methods must be adopted to penetrate the bedrock."

3.3 Documents accompanying the Application

Document	Author	Reference
Geotechnical advice 1	JK Geotechnics	34227Ylet dated 30 June 2021 (at Annexure C of this SEE)
Geotechnical advice 2	JK Geotechnics	34227Ylet2 dated 30 June 2021 (as Annexure D of this SEE)
Statement of environmental effects	Precise Planning	Document 100363_REV_02 dated July 2024
Structural engineering advice	Peter Blacker and Associates	Ref 21053 dated 20 October 2023
Structural engineering review	Peter Blacker and Associates	Ref 18067 dated 2 September 2020
Structural engineering site plan and detail	Peter Blacker and Associates	Drawing No 20041-2 Rev A dated June 2023
Survey report	Axiom Spatial Surveyors	Ref 20-285 dated 21 August 2024
Waste management plan	Precise Planning	

Table 2 - Documents accompanying the Application

4 Statutory Assessment

4.1 Acts and Regulation

Reference	Requirement	Response
Environmental Planning and Assessment Act 1979		
S 4.14(1)	(a) Consent authority must be satisfied that development conforms to the specifications and requirements of Planning for Bushfire Protection 2019 (PBP 2019) as relevant.	A retaining wall is a Class 10b structure in accordance with the National Construction Code (NCC). There are no bush fire protection requirements for Class 10 structures, provided they are more than 6 metres from a dwelling. The proposed upper tier wall is greater than 6 metres from the rear of the existing dwelling on the Subject Site. Therefore, in relation to s 4.14(1)(a), the consent authority can be satisfied that the proposed upper tier of the wall conforms to the requirements of PBP 2019.
S 4.15(1)	(a)(i) Environmental planning instruments	Consistent – see Section 4.2, Table 4
	(ii) draft instruments	N/A
	(iii) development control plans	Generally compliant – see Annexure A of this SEE
	(iiia) planning agreements	N/A
	(iv) the regulations	Consistent – see below
	(b) Likely impacts	Acceptable - see s 4.5 of this SEE
	(c) Suitability of the site	Based on compliance with the relevant controls and standards contained in the applicable EPI and DCP, as well as the consideration of likely impacts at s 4.5 of this SEE, the Subject Site is suitable for the Proposal

Reference	Requirement	Response
	(d) Submissions	A matter for consideration by Council. The proponent will address any issues raised in public submissions if requested by Council
	(e) Public interest	The Proposal is consistent and/or compliant with the EPA Act and Regulation, other relevant Acts, relevant SEPPs, PLEP 2014 and PDCP 2014. It will not result in unsatisfactory impacts on either the natural or built environment. It will result in neutral social and economic benefits. The proposed upper tier section of the wall is considered necessary to reduce ground instability, control erosion and protect the structural integrity of the existing lower tier of the wall. On these bases, the Proposal is in the public interest.
S 4.46(1)	Approval required under s 91 *Water Management Act 2000*	The Application is lodged as nominated integrated development, as works are proposed within 40m of waterfront land.
Environmental Planning and Assessment Regulation 2021		
	Part 3 Development applications, cl 23 – cl 36	Cl 23 – owner's consent provided Cl 24 – information required has been provided. The Application will be lodged via the Planning Portal Cl 25 – See above – approvals required from DPE Water Cl 26 – the Proposal does not rely on any provisions of the SEPP (Housing) 2021 Cl 27 – the Proposal is not BASIX development Cl 28 – the proposal does not trigger *Biodiversity Conservation Act 2016* Cl 29 – N/A Cl 30 – N/A Cl 30A – N/A Cl 30B – N/A Cl 31 – N/A Cl 32 – N/A to nominated integrated development (see subclause (3)(b)) Cl 33 – N/A Cl 34 – N/A Cl 35 – N/A Cl 35A – N/A Cl 35B – The Application does not propose development that contravenes a development standard imposed by an EPI

Reference	Requirement	Response
		Cl 35BA – N/A. Cl 35C – N/A. Cl 35D – N/A. Cl 36 - Noted
Coastal Management Act 2016		
S 5 Coastal zone		The Subject Site is in a 'coastal zone', as it is mapped within the coastal environment area and the coastal use area
S 8 Coastal environment area		The sea retaining wall, both existing (lower) and proposed (upper) sections, have been considered in relation to the management objectives outlined in subsection (2). The sea retaining wall, both existing (lower) and proposed (upper) sections, is either consistent with, or else does not hinder the attainment of, the relevant management objectives.
S 9 Coastal use area		The sea retaining wall, both existing (lower) and proposed (upper) sections, have been considered in relation to the management objectives outlined in subsection (2). The sea retaining wall, both existing (lower) and proposed (upper) sections, is either consistent with, or else does not hinder the attainment of, the relevant management objectives.
S 27 Granting of development consent relating to coastal protection works	(1) Development consent must not be granted under the Environmental Planning and Assessment Act 1979 to development for the purpose of coastal protection works, unless the consent authority is satisfied that– (a) the works will not, over the life of the works– (i) unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or (ii) pose or be likely to pose a threat to public safety, and	(a)(i) Neither the existing (lower), nor the proposed (upper), tiers of the sea retaining wall will affect public access to a beach or headland, because the works are constructed or proposed to be constructed on private land. (ii) The purpose of the proposed upper tier section is to provide greater structural stability, thereby reducing any threat to public safety. (b) The imposition of consent conditions is a matter for Council

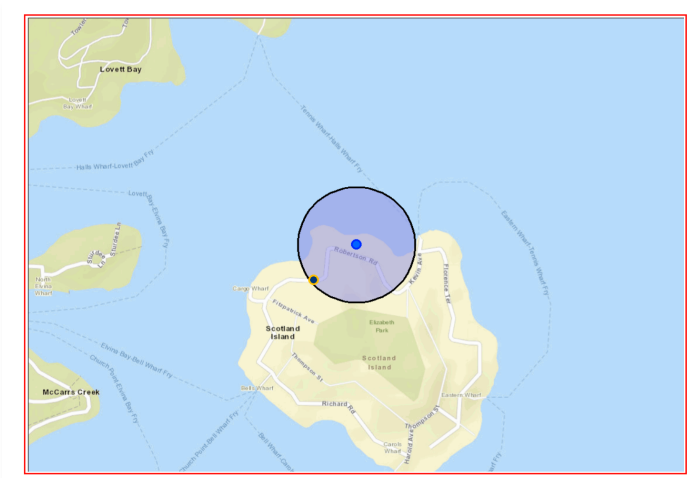
Reference	Requirement	Response
	(b) satisfactory arrangements have been made (by conditions imposed on the consent) for the following for the life of the works– (i) the restoration of a beach, or land adjacent to the beach, if any increased erosion of the beach or adjacent land is caused by the presence of the works, (ii) the maintenance of the works.	
	(2) The arrangements referred to in subsection (1) (b) are to secure adequate funding for the carrying out of any such restoration and maintenance, including by either or both of the following– (a) by legally binding obligations (including by way of financial assurance or bond) of all or any of the following– (i) the owner or owners from time to time of the land protected by the works, (ii) if the coastal protection works are constructed by or on behalf of landowners or by landowners jointly with a council or public authority–the council or public authority, (b) by payment to the relevant council of an annual charge for coastal protection services (within the meaning of the Local Government Act 1993).	Noted. This is a matter for Council
	(3) The funding obligations referred to in subsection (2) (a) are to include the percentage	Noted.

Reference	Requirement	Response
	share of the total funding of each landowner, council or public authority concerned.	
Biodiversity Conservation Act 2016		
S 7.21	For the purposes of this Part, development or an activity is likely to significantly affect threatened species if: (a) it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or (b) the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or (c) it is carried out in a declared area of outstanding biodiversity value.	(a) The test in s 7.3 has not been applied in this circumstance, because the existing (lower) tier and the proposed (upper tier) sections of the wall is being constructed on bare earth and the works will not necessitate the clearance of any native vegetation. (b) The area threshold for entry to the biodiversity offsets scheme is 0.25ha (see cl 7.2(4) Biodiversity Conservation Regulation 2017). Therefore, neither the existing nor proposed works will trigger this threshold. Whilst the existing and proposed works are located in an area identified on the Biodiversity Values Map (see Figure 9), the existing and proposed works have been/will be constructed on bare earth, thus no "clearing of native vegetation, or other action prescribed by cl 6.1" (see cl 7.1(1)(b) BV Reg) is required. (c) The Subject Site is not a declared area of outstanding biodiversity value Consequently, there is no requirement under the BV Act for any further assessment.
Water Management Act 2000		
S 91	Activity approvals	The Application is lodged as nominated integrated development. Following the granting of development consent, an application for a Controlled Activity Approval will be made.

Table 3 - Assessment against relevant Acts and Regulations

4.2 Environmental Planning Instruments

Reference	Requirement	Response
State Environmental Planning Policy (Resilience and Hazards (2021)		
Chapter 2 Coastal Management	**Division 3 Coastal environment area** Cl 2.10 (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following— (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, (b) coastal environmental values and natural coastal processes, (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1, (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability, (f) Aboriginal cultural heritage, practices and places, (g) the use of the surf zone.	The Subject Site is mapped within the 'Coastal environment area'. The continuing use of the existing lower tier section of the sea retaining wall and the construction of the proposed upper tier section forms part of an ongoing effort to protect and improve the integrity and resilience of the local environment, by retaining the ground and reducing instability and risk of ground failure and a result of natural coastal processes. The existing and proposed works are unlikely to cause an adverse impact to the integrity and resilience of the biophysical, hydrological (surface and ground water) and ecological environment, coastal environmental values and natural coastal processes, the water quality of the marine estate, or to marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. The existing and proposed works do not impact on existing public open space or safe access along the foreshore for members of the public, including persons with a disability. The existing and proposed works will improve water quality entering Pittwater as it will reduce the potential for soil erosion. The existing and proposed works will not result in an adverse impact on marine vegetation, native vegetation and fauna and their habitats.

Reference	Requirement	Response
		A basic AHIMS search conducted on 20 September 2023 with a buffer of 200m from the Subject Site identified no Aboriginal places and one Aboriginal site (see Figure 17). However, the proposed ancillary retaining wall is located within a privately-owned residential allotment, well clear of the Aboriginal place identified and is unlikely to adversely impact any Aboriginal cultural heritage, practices or places. Nevertheless, a protocol will be followed to ensure that if any Aboriginal engravings or relics are unearthed during the course of construction, works will cease immediately and the relevant authorities notified.  A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that: 1 Aboriginal sites are recorded in or near the above location. 0 Aboriginal places have been declared in or near the above location. * *Figure 17 - Result of AHIMS basic search*

Reference	Requirement	Response
		The existing and proposed works will have no adverse impact on the surf zone.
	(2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that– (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or (b) if that impact cannot be reasonably avoided–the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised–the development will be managed to mitigate that impact.	The existing and proposed works will not result in any adverse impacts identified in subclause (1).
	Division 4 Coastal use area Cl 2.11 (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority– (a) has considered whether the proposed development is likely to cause an adverse impact on the following– (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability, (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores, (iii) the visual amenity and scenic qualities of the coast, including coastal headlands, (iv) Aboriginal cultural heritage, practices and places, (v) cultural and built environment heritage, and (b) is satisfied that– (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	The Subject Site is mapped within the 'Coastal use area'. There is no public access to the foreshore at the location of the existing and proposed works. It will not result in overshadowing, wind funnelling or view loss from public places to the foreshore. The existing and proposed works will not adversely impact the visual amenity and scenic qualities of the coast, Aboriginal cultural heritage, practices or places or the cultural and built environment heritage. The existing and proposed works will not result in any adverse impacts identified in subclause (1).

Reference	Requirement	Response
	(ii) if that impact cannot be reasonably avoided–the development is designed, sited and will be managed to minimise that impact, or (iii) if that impact cannot be minimised–the development will be managed to mitigate that impact, and (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	
	Division 5 General Cl 2.12 Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.	The Subject Site is located within the coastal zone, pursuant to the *Coastal Management Act 2016*. The existing and proposed works are unlikely to cause increased risk of coastal hazards.
	Part 2.3 Miscellaneous Cl 2.16 Coastal protection works (1) Coastal protection works by person other than public authority Development for the purpose of coastal protection works may be carried out on land to which this Chapter applies by a person other than a public authority only with development consent.	The Proposal is categorised as ***'Coastal protection works',*** which is defined, in part, as *"activities or works to reduce the impact of coastal hazards on land adjacent to tidal waters, including (but not limited to) seawalls, revetments and groynes"*. Cl 2.16 makes coastal protection works permissible with consent on land within the coastal zone (see cl 2.3).
Chapter 4 Remediation of land		
Chapter 4 Remediation of land	Cl 4.6 A consent authority must not consent to the carrying out of any development on land unless– (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The Subject Site has a long history of continuous residential use and is unlikely to be contaminated. A Stage 1 contamination assessment is not warranted in this circumstance.

Reference	Requirement	Response
	(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	
Pittwater Local Environmental Plan 2014		
Cl 2.1 Land use zones	The Subject Site is in zone C3 Environmental Management	***'Coastal protection works'*** is not a permissible use in the zone. Coastal protection works are permitted with consent pursuant to Chapter 2, Part 2.3, cl 2.16(1) of the SEPP (Resilience and Hazards) 2021 (the Subject Site is within the "coastal zone" as defined by the Coastal Management Act 2016, s 5).
Cl 2.3 Zone objectives and Land Use table	(2) Consent authority must have regard to the objectives for development within a zone	The existing and proposed works are consistent with the objectives of the zone, insofar as they will protect, manage and restore the water's edge and do not hinder the attainment of the remaining objectives.
Cl 7.1 Acid sulphate soils	(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulphate Soils Map as being of the class specified for those works: Class 5 - Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	The Subject Site is mapped as Class 5 and is adjacent to Class 1 and below 5m AHD (being the water). However, the existing and proposed works are unlikely to lower the watertable below 1 metre.
Cl 7.6 Biodiversity	(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider– (a) whether the development is likely to have– (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and (iv) any adverse impact on the habitat elements providing connectivity on the land, and	The Subject Site is mapped on the Terrestrial biodiversity map. The existing and proposed works are unlikely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, or the importance of the vegetation on the land to the survival of native fauna, as they have/will be constructed on bare earth. The works are unlikely to fragment, disturb or diminish the biodiversity structure, function and composition of the land or the habitat elements providing connectivity on the land.

Reference	Requirement	Response
	(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The existing and proposed works have been designed and sited to avoid significant environmental impact, as not trees or native vegetation will be removed.
	(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that– (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or (b) if that impact cannot be reasonably avoided by adopting feasible alternatives–the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised–the development will be managed to mitigate that impact.	
Cl 7.7 Geotechnical hazards	(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks– (a) site layout, including access, (b) the development's design and construction methods, (c) the amount of cut and fill that will be required for the development, (d) waste water management, stormwater and drainage across the land, (e) the geotechnical constraints of the site, (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The Subject Site is mapped Geotechnical Hazard H1. The geotechnical constraints of the Subject Site have been considered by the structural engineer in the design of the proposed works, with expert geotechnical advice (see Annexures B and C of this SEE).
	(4) Development consent must not be granted to development on land to which this clause applies unless– (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and (b) the consent authority is satisfied that– (i) the development is designed, sited and will be managed to avoid any geotechnical risk or significant adverse impact on the development and the land surrounding the development, or	

Reference	Requirement	Response
	(ii) if that risk or impact cannot be reasonably avoided–the development is designed, sited and will be managed to minimise that risk or impact, or (iii) if that risk or impact cannot be minimised–the development will be managed to mitigate that risk or impact.	
Cl 7.8 Limited development on foreshore area	(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes– (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area, (b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).	Subclause (b) permits 'sea retaining walls' on foreshore area
	(3) Development consent must not be granted under this clause unless the consent authority is satisfied that– (a) the development will contribute to achieving the objectives for the zone in which the land is located, and (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and (c) the development will not cause environmental harm such as– (i) pollution or siltation of the waterway, or (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or (iii) an adverse effect on drainage patterns, or (iv) the removal or disturbance of remnant riparian vegetation, and (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and	The existing and proposed works: • contribute to achieving the objectives for the zone, as noted above. • are modest in scale and will to compatible with the surrounding area. • will not cause environmental harm. • will not cause congestion or generate conflict between people using open space areas or the waterway. • will not compromise opportunities to provide continuous public access along the foreshore and to the waterway. • will maintain the significance of the land • is a necessary structural component to the existing lower tier section of the sea retaining wall for the long-term stability of the locality The existing and proposed works will not impede any existing public access and reinforce the foreshore character and respect for existing environmental conditions.

Reference	Requirement	Response
	(f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and (h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.	
	(4) In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following— (a) continuous public access to and along the foreshore through or adjacent to the proposed development, (b) public access to link with existing or proposed open space, (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land, (d) public access to be located above mean high water mark, (e) the reinforcing of the foreshore character and respect for existing environmental conditions.	

Table 4 - Assessment against relevant EPIs

4.3 Applicable Draft Environmental Planning Instruments

There are no provisions within any draft EPI's which are relevant to the assessment of this Application.

4.4 Applicable Development Control Plan(s)

4.4.1 Pittwater Development Control Plan (2014)

Refer to Annexure A to this SEE.

4.5 Likely Impacts

Impacts were identified through a combination of:

- Site visit
- Feedback from consultant engineers
- Discussions with proponents
- Consideration of statutory and local requirements
- Consideration of existing surrounding development
- Consideration of existing vegetation on the Subject Site and adjoining land
- Consideration of the existing character and desired future character of the area
- Consideration of proper waste protocols

Potential impact	Response
Arboricultural	The existing and proposed works do not require the removal of any existing vegetation
Construction	All construction work will be carried in accordance with the conditions of development consent and relevant Australian Standards, including permitted hours of work and appropriate construction fencing
Contamination	It is considered that the likelihood of contamination at the site is low.
Demolition	No demolition is proposed by this Application
Economic	The proposed works will create short-term positive economic impacts during construction, through the employment of tradespeople and suppliers, together with additional custom for suppliers of goods to satisfy the daily needs of the workers.

Potential impact	Response
Erosion	During construction works, erosion and sediment control measures will be implemented to prevent erosion and soil loss. In the long-term, the objective of the existing and proposed works is to reduce the likelihood of further erosion of the shoreline.
Heritage	No European or indigenous heritage impacts will likely
Services	The existing and proposed works do not require services to be connected.
Social	The existing and proposed works is likely to have a neutral social impact
Stormwater	The engineering plans detail proposed stormwater arrangements
Streetscape and visual impact	The existing section (lower tier) of the sea retaining wall is constructed of sandstone and contributes positively to the shoreline when viewed from the water. The proposed upper tier, being a Dincel wall, has the potential for an adverse visual impact. Consequently, it is proposed to clad the face of the upper section with a sandstone cladding, so that it complements the existing lower tier. In addition, planter boxes with plants and shrubs are proposed along the length of the upper tier, situated on the patterned concrete at the tow of the upper tier, to help reduce the impact of the height of the upper tier
Surrounding development	The existing and proposed works are unlikely to adversely impact adjoining properties.
Traffic	No impact
Waste management	Building material waste (offcuts etc) will be re-used onsite, or else disposed of at Kimbriki Resource Recovery Centre (refer to waste management plan).

Table 5 - Summary of potential impacts and responses

4.6 Suitability of the Site for the Proposed Development

The Subject Site is suitable for the existing and proposed works, as it complies in all respects with the relevant controls and improves environmental outcomes. Potential impacts are considered to be acceptable.

4.7 Community Consultation and Public Submissions

Community consultation is to be undertaken by Council through the public exhibition of the development application at the time of lodgement. Public submissions made during the exhibition period are to be take into consideration by Council as part of the evaluation process under s. 4.15 of the EPA Act. Should Council require a response to public submission by the proponent, one can be prepared and submitted as additional information at a later date.

4.8 Public Interest

The existing and proposed works are/will be consistent and/or compliant with the EPA Act and Regulation, other relevant Acts, relevant SEPPs, PLEP 2014 and PDCP 2014. They will not result in unsatisfactory impacts on either the natural or built environment and will result in neutral social and economic benefits. The existing and proposed works will not impede public access to the water and are considered necessary to reduce ground instability and control erosion. On these bases, the Proposal is in the public interest.

5 Conclusion

This Statement of Environmental Effects (**'SEE'**) accompanies a nominated integrated development application (**'the Application'**) made under s 4.12 of the *Environmental Planning & Assessment Act 1979* (**'EPA Act'**), which seeks consent from the Northern Beaches Council, as the relevant consent authority, for the *continuing use* of an existing, unlawfully constructed sea retaining wall (lower tier), as well as the *proposed construction* of a new (upper tier) section of the wall (**'the Proposal'**) at 55 Robertson Road Scotland Island (**'Subject Site'**).

This SEE has assessed the Proposal in accordance with s 4.15 EPA Act and is considered appropriate for the Subject Site and the locality generally.

- The Proposal satisfies the relevant planning controls and requirements of the EPA Act 1979, the EPA Regulation 2021, other applicable Acts, all relevant and draft EPIs, including PLEP 2014, PDCP 2014 and other relevant codes and policies of Northern Beaches Council.
- The Proposal is either consistent with, or else does not hinder the attainment of, the objects of the EPA Act 1979, the objectives of relevant EPIs including PLEP 2014, the zone objectives of the C3 Environmental management zone and the objectives of the PDCP.
- The Proposal will not result in any adverse environmental impacts, nor will it result in unacceptable adverse impacts on the amenity of adjoining uses.
- The Proposal will not result in adverse social and economic impacts.
- The Proposal will improve the geotechnical stability of the Subject Site
- The Proposal is in the public interest.

On balance, it is considered that this Application seeks consent to a reasonable Proposal. It is requested that Council officers exercise delegated authority to approve this Application.

PRECISE PLANNING
July 2024

ANNEXURE A – Pittwater 21 DCP 2014 Compliance assessment

The Proposal is assessed against the relevant provisions of the *Pittwater Development Control Plan 2014 (PDCP 2014).*

Reference	Component	Compliance	Comment
Section A Shaping development in Pittwater			
A1 Introduction			
A1.7 Considerations before consent is granted	*i. Pittwater LEP 2014* *ii. Desired character of the locality* *iii.Applicable development controls*	✓	**Complies** i. Refer to Table 4 ii. Lower Western Foreshores and Scotland Island Locality. The existing and proposed structures are necessary to safely and responsibly manage the existing topographical constraints of the land. Their design, scale and location is compatible with the landscape setting and does not offend or impede the desired future character of the locality iii. This Table considers the applicable controls
A4.8 Lower Western Foreshores and Scotland Island Locality	*Consider context, desired character, hazards, natural environment and heritage*	✓	**Complies** The context of the existing and proposed works is a residential lot with relatively steep topography to the water. The existing and proposed works are necessary to safely and responsibly manage the existing topographical constraints of the land. The existing and proposed works will improve the natural environment and reduce instability and erosion.
Section B General Controls			

Reference	Component	Compliance	Comment
B1.3 Heritage Conservation - General			
		N/A	The Subject Site is not listed as an item of local heritage significance, nor is it located within a Heritage Conservation Area. The Subject Site is unlikely to meet any of the criteria for heritage listing (historical, aesthetic, scientific and social significance). No further heritage assessment is warranted.
B1.4 Aboriginal Heritage Significance			
		N/A	A basic AHIMS search conducted on 20 September 2023 with a buffer of 200m from the Subject Site identified no Aboriginal places and one Aboriginal site (see Figure 17). However, the existing and proposed works are located within a privately-owned residential allotment, well clear of the Aboriginal place identified and is unlikely to adversely impact any Aboriginal cultural heritage, practices or places. Nevertheless, a protocol will be followed to ensure that if any Aboriginal engravings or relics are unearthed during the course of construction, works will cease immediately and the relevant authorities notified.
B3.1 Landslip Hazard			
	i. Comply with Geotechnical Risk management Policy for Pittwater; *ii. Every reasonable and practical means available is used to remove risk to an acceptable level;* *iii. Must not adversely affect or be adversely affected by geotechnical processes or increase risk for people, assets and*	✓	**Complies** The purpose of the proposed works is to reduce risk of instability to an acceptable level by forming part of the existing lower tier section sea retaining wall. The proposed ancillary retaining wall (upper tier) has been designed by a practising structural engineer, with expert geotechnical input.

Reference	Component	Compliance	Comment
	infrastructure in the vicinity due to geotechnical hazards		
B3.6 Contaminated Land and Potentially Contaminated Land			
	Consider cl 4.6 SEPP (Resilience and Hazards) 2021	✓	**Complies** The Subject Site has a long history of continuous residential use and is unlikely to be contaminated. A Stage 1 preliminary contamination assessment is not warranted in this circumstance.
B3.7 Estuarine Hazard – Low Density Residential			
	i. Obtain Estuarine Planning Level; *ii. Estuarine Risk Management Policy for Development in Pittwater;* *iii. Protection of Development from Wave Action and Tidal Inundation.*	✓	**Complies** The existing and proposed works are unlikely to require special consideration in relation to estuarine hazards.
B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community			
	i. No adverse impact; *ii. Restore and/or regenerate and provide links between remnants;* *iii. Be in accordance with relevant recovery plan;*	✓	**Complies** The location of the existing and proposed works is bare earth and will have no impact on the Pittwater Spotted Gum Forest

Reference	Component	Compliance	Comment
	iv. No significant onsite loss of canopy; *v. Retain and enhance habitat and wildlife corridors;* *vi. Prevent domestic animals from entering wildlife habitat;* *vii. Fencing to allow safe passage of native wildlife* *viii. At least 80% of new planting incorporates native vegetation;* *ix. Landscaping works to be outside existing EEC areas and do not include environmental weeds.*		
B4.15 Saltmarsh Endangered Ecological Community			
	i. Retain and enhance saltmarsh vegetation; *ii. Restore and/or regenerate saltmarsh vegetation;* *iii. Comply with Water Management for Development Policy;* *iv. Adequate buffer to saltmarsh and foreshore vegetation.*	✓	**Complies** The location of the existing and proposed works is bare earth and will have no impact on the Saltmarsh EEC.
B4.16 Seagrass Conservation			

Reference	Component	Compliance	Comment
	i. Not significantly affect seagrass beds; *ii. Replace seagrass where lost or damaged;* *iii. No filling, dredging or other disturbance within 50m of seagrass beds;* *iv. Development adjacent to seagrass beds to incorporate a buffer zone of 50m;* *v. Requirements for jetties, ramps, wharves, pontoons etc;* *vi. Comply with Water Management for Development Policy.*	✓	**Complies** The existing and proposed works are unlikely to result in adverse impact on seagrass beds
B4.19 Estuarine Habitat			
	i. No development that could result in destruction of mangroves or seagrass beds, saltmarsh or other estuarine habitats; *ii. No adverse impact on wetlands;* *iii. Comply with Water Management for Development Policy;* *iv. Provide adequate buffering to estuarine habitat;* *v. Maintain existing wildlife corridors and functional habitat links where possible;* *vi. Requirements for landscaping;*	✓	**Complies** The existing and proposed works are unlikely to adversely affect the estuarine habitat

Reference	Component	Compliance	Comment
	vii. Have regard to important estuarine habitats at all times; *viii. Adequate compensatory works to be undertaken where damage to estuarine habitats occurs;* *ix. No reduction or degradation of habitat for local or migratory birds and no increased disturbance to migratory wading bird habitat.*		
B5.13 Development on Waterfront Land			
	i. Retain waterfront land in natural state to carry stormwater/flood flows, maintain aquifers, retain stability, provide habitat functions; *ii. No diversion of watercourses onto adjoining lands;* *iii. Degraded waterfront land to be restored and rehabilitated;* *iv. Incorporate riparian corridor zones;* *v. Landscape with local native plants;* *vi. Replacement of piped stormwater with restored watercourse wherever feasible;*	✓	**Complies** The existing and proposed works are unlikely to interfere with stormwater/flood flows, aquifers or habitat functions. It will increase stability. No watercourses affect the Subject Site.

Reference	Component	Compliance	Comment
	vii. No piping or artificial channelling of natural watercourses.		
B8.1 Construction and Demolition – Excavation and Landfill			
	Controls relating to excavation and landfill	✓	**Complies** The proposed upper tier of the sea retaining wall will be backfilled on the high side in accordance with the engineer's plan
B8.3 Construction and Demolition – Waste Minimisation			
	Waste to be minimised by re-use onsite, recycling or disposal at an appropriate waste facility	✓	**Complies** Building material waste (offcuts etc) will be re-used onsite, or else disposed of at Kimbriki Resource Recovery Centre.
B8.4 Construction and Demolition – Site Fencing and Security			
	Site fencing to be installed for the duration of the works	✓	**Noted** Site fencing will be installed
D8.1 Character as viewed from a public place			
	Various controls	**N/A**	The specific controls are not relevant
D8.2 Scenic Protection - General			

Reference	Component	Compliance	Comment
	Minimise visual impact on the natural environment when viewed from the waterway	✓	**Complies** The existing section (lower tier) of the sea retaining wall is constructed of sandstone and contributes positively to the shoreline when viewed from the water. The proposed upper tier, being a Dincel wall, has the potential for an adverse visual impact. Consequently, it is proposed to clad the face of the upper section with a sandstone cladding, so that it complements the existing lower tier. In addition, planter boxes with plants and shrubs are proposed along the length of the upper tier, situated on the patterned concrete at the tow of the upper tier, to help reduce the impact of the height of the upper tier
D8.3 Building Colours and Materials			
	External colours and materials to be dark and earthy tones	✓	**Complies** The north face of the proposed upper tier of the sea retaining wall will be lined with sandstone cladding to achieve an earthy tone
D8.11 Construction, retaining walls, terracing and undercroft areas			
	i. Lightweight construction, pier and beam preferred for environmentally sensitive areas; *ii. Where visible from a public place, preference should be sandstone or sandstone like materials.*	✓	**Complies** The Dincell system as detailed on the engineer's drawing has been selected following consultation with the engineer in relation to the context and requirements of the proposed upper tier of the sea retaining wall. The north face of the proposed upper tier will be lined with a sandstone product.
D8.15 Site Disturbance			

Reference	Component	Compliance	Comment
	Site disturbance not to exceed 25% of site area	✓	**Complies** The existing and proposed works do not disturb more than 25% of the site area
D8.16 Scenic Protection Category 1 areas			
	i. Screen planting between structures and boundaries facing waterway; *ii. Canopy trees between dwellings and boundaries facing waterways;* *iii. Minimise impact on existing significant vegetation;* *iv. Demonstrate retention and regeneration of existing native vegetation outside of the immediate area of the development;* *v. Incorporate measures for planting and maintenance of native vegetation within cleared areas;* *vi. The siting, building form, orientation and scale of the development must not compromise the visual integrity of the site by removal of canopy trees along ridges and upper slopes;* *vii. Incorporate unobtrusive and non-reflective materials and colours that help*	✓	**Complies** For structural reasons, the land between the toe of the proposed upper tier section of the wall and the existing lower tier section will be concrete, as the two tiers of the wall interrelate. However, it is intended to install landscaping in pots at the base of the upper tier, for its full length, to ameliorate visual impacts from the waterway. The north face of the proposed upper tier will be lined with a sandstone cladding product.

Reference	Component	Compliance	Comment
	blend structures into the natural environment; *viii. Use dark and earthy colours.*		

Table 6 - Pittwater DCP 2014 Compliance assessment

ANNEXURE B – Approved form

Reference / Requirement	Response
1.1 Information required for development applications	
a. the name and address of the applicant	Steven Speter, 55 Robertson Road Scotland Island
b. a description of the development to be carried out	See s 3 of this SEE
c. the address and formal particulars of title of the land on which the development is to be carried out	See s 2.1 of this SEE
d. an indication as to whether the land is, or is part of, critical habitat	The Subject Site is not critical habitat
e. an indication as to whether the development is likely to significantly affect threatened species, populations or ecological communities, or their habitats, unless the development is taken to be development that is not likely to have such an effect because it is biodiversity compliant development	The Proposal is unlikely to significantly affect threatened species, populations or ecological communities or their habitats
f. the estimated cost of the development	$59,500 (incl GST)
g. evidence that the owner of the land on which the development is to be carried out consents to the application, but only if the application is made by a person other than the owner and the owner's consent is required by the Regulation	Owner's consent document is submitted as part of the Application documentation
h. a list of the documents accompanying the application	See s 3.3 Table 2 of this SEE
i. a statement of environmental effects	This document
j. a site plan of the land	See Application documentation
k. drawings of the development	See Application documentation

Table 1 requirements (as relevant)		
Circumstance	**Requirements**	**Response**

Reference / Requirement	Response	
Arrangements before consent can be granted under an environmental planning instrument	a. Documentary evidence that such arrangements have been made	No arrangements are required
Building work to alter, expand or rebuild an existing building	b. A scaled plan of the existing building	N/A
Change of use of a building (other than a dwelling-house or a building or structure that is ancillary to a dwelling- house and other than a temporary structure)	c. A list of the Category 1 fire safety provisions that currently apply to the existing building. d. A list of the Category 1 fire safety provisions that are to apply to the building following its change of use	N/A
Concurrence	e. A list of any authorities from which concurrence must be obtained before the development may lawfully be carried out or from which concurrence would have been required but for section 4.13(2A) or 4.41 of the Act f. A statement by the applicant that the relevant matters in the Development referrals guide have been considered	No mandatory concurrence requirements The Applicant confirms that the relevant matters in the Development referrals guide have been considered
Development involving mining for coal (within the meaning of section 380AA of the *Mining Act 1992)*	g. Documentary evidence that the applicant holds an authority under the *Mining Act 1992* in respect of coal and the land concerned, or has the written consent of the holder of such an authority to make the development application	N/A
Development referred to in State Environmental Planning Policy (Housing) 2021, clause 45(1)	h. Evidence or information demonstrating whether the development is likely to result in the loss of low-rental dwellings on the land to which the application relates during the relevant period, within the meaning of State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 3	
Development permitted under State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Division 1 or 2	i. The name of the registered community housing provider who will be managing the boarding house	
Development for a boarding house or co-living house	j. A plan of management	

Reference / Requirement	Response	
Entertainment venues, function centres, pubs, registered clubs or restaurants	k. A statement that specifies the maximum number of persons proposed to occupy, at any one time, that part of the building to which the use applies	
Erection of a building	l. An A4 plan of the building that indicates its height and external configuration, as erected, in relation to its site	N/A
Integrated development	m. A list of any approvals of the kind referred to in section 4.46(1) of the Act that must be obtained before the development may lawfully be carried out n. A statement by the applicant that the relevant matters in the Development referrals guide have been considered	Approval from DPE Water in accordance with s 91 *Water Management Act 2000*. The Applicant confirms that the relevant matters in the Development referrals guide have been considered
Land that is, or is part of, critical habitat or development that is likely to significantly affect threatened species, populations or ecological communities, or their habitats	o. A species impact statement	N/A
Land that is in a wilderness area and is the subject of a wilderness protection agreement or conservation agreement within the meaning of the *Wilderness Act 1987*	p. A copy of the consent of the Minister for Energy and Environment to the carrying out of the development	
Manor houses or multi-dwelling houses (terraces) to which State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Division 1 applies	q. A statement, in the form approved by the Planning Secretary, by a qualified designer or a person accredited as a building designer by the Building Designers Association of Australia that– ○ verifies that the designer or person designed, or directed the design of, the development ○ addresses how the design is consistent with the relevant design criteria set out in the Low Rise Housing Diversity Design Guide	

Reference / Requirement	Response	
Subdivision	r. Preliminary engineering drawings of the work to be carried out	
Temporary structure	s. Documentation that specifies the live and dead loads the temporary structure is designed to meet t. A list of any proposed fire safety measures to be provided in connection with the use of the temporary structure u. In the case of a temporary structure proposed to be used as an entertainment venue—a statement as to how the performance requirements of Part B1 and NSW Part H102 of Volume One of the Building Code of Australia are to be complied with (if a performance solution, to meet the performance requirements, is to be used) v. Documentation describing any accredited building product or system sought to be relied on for the purposes of section 4.15(4) of the Act w. Copies of any compliance certificates to be relied on	N/A

1.2 Requirements for a statement of environmental effects

Reference/Requirement		Response
a.	The environmental impacts of the development	See s 4.5 of this SEE
b.	How the environmental impacts of the development have been identified	See s 4.5 of this SEE
c.	The steps to be taken to protect the environment or to lessen the expected harm to the environment	See s 4.5 of this SEE
d.	Any matters required to be indicated by any guidelines issued by the Planning Secretary	None, other than the Approved Form
e.	Drawings of the proposed development in the context of surrounding development, including the streetscape	See Figures in this SEE
f.	Development compliance with building heights, building height planes, setbacks and building envelope controls (if applicable) marked on plans, sections and elevations	N/A

Reference / Requirement		Response
g.	Drawings of the proposed landscape area, including species selected and materials to be used, presented in the context of the proposed building or buildings, and the surrounding development and its context	
h.	If the proposed development is within an area in which the built form is changing, statements of the existing and likely future contexts	
i.	Photomontages of the proposed development in the context of surrounding development	
j.	A sample board of the proposed materials and colours of the façade	
k.	Detailed sections of the facades	
l.	If appropriate, a model that includes the context	
1.3 Requirements for a Site Plan		
a.	Location, boundary dimensions, site area and north point of the land	See Site Plan
b.	Existing vegetation and trees on the land	
c.	Location and uses of existing buildings on the land	
d.	Existing levels of the land in relation to buildings and roads	
e.	Location and uses of building on sites adjoining the land	
1.4 Requirements for Drawings		
a.	Location of any proposed buildings or works (including extensions or additions to existing buildings or works) in relation to the land's boundaries and adjoining development	N/A
b.	Floor plans of any proposed buildings showing layout, partitioning, room sizes and intended uses of each part of the building	

c.	Elevations and sections showing proposed external finishes and heights of any proposed buildings (other than temporary structures)		
d.	Elevations and sections showing heights of any proposed temporary structures and the materials of which any such structures are proposed to be made (using the abbreviations set out in s 5 of the Reg)		
e.	Proposed finished levels of the land in relation to existing and proposed buildings and roads		
f.	Proposed parking arrangements, entry and exit points for vehicles, and provision for movement of vehicles within the site (including dimensions where appropriate)		
g.	Proposed landscaping and treatment of the land (indicating plant types and their height at maturity)		N/A
h.	Proposed methods of draining the land		
i.	In the case of development that requires a BASIX certificate, such other matters as any BASIX certificate for the development requires to be included on the drawings		
j.	In the case of BASIX optional development – if the application is accompanied by a BASIX certificate or BASIX certificates, such other matters as any BASIX certificate for the development requires to be included on the drawings		
1.5 Other requirements		No additional requirements	

Table 7 - Approved form requirements

ANNEXURE C – Geotechnical advice 1

Date: 30 June 2021
Ref: 34227Ylet

Steven Speter
55 Robertson Road
Scotland Island NSW 2105

Attention: Mr Steven Speter
Email: steve@101-S.com

GEOTECHNICAL ADVICE
REMEDIATION OF FAILED RETAINING WALL
55 ROBERTSON ROAD, SCOTLAND ISLAND, NSW

The undersigned, Mr Woodie Theunissen, visited the above site to inspect the slope failure that has occurred at the front of the property along the waterfront. From the north of the house the ground drops down steeply to water at an angle of about 30°. A sandstone block wall was located along the front of the property which was approximately 2m high and was in a state of failure. Large tension cracks had opened up in the slope above the wall and were located approximately 5m back from the seawall.

Based on our observation of the site it is clear that works are urgently required to remediate the site. The existing wall will need to be replaced, which will require the removal of the wall and excavation of unstable material in the slope. This is anticipated to result in excavation extending at least 5m back from the existing seawall. It is understood that the new retaining wall will comprise a conventional cantilevered wall supported on the underlying sandstone bedrock. The existing seawall will prevent the erosion and loss of material from below the proposed new retaining wall and should be left in place to protect the toe of the slope.

Should you require any further information regarding the above, please do not hesitate to contact the undersigned.

Yours faithfully
For and on behalf of
JK GEOTECHNICS

Woodie Theunissen
Principal Associate | Geotechnical Engineer

ANNEXURE D – Geotechnical advice 2

Date: 30 June 2021
Ref: 34227Ylet2

Steven Speter
55 Robertson Road
Scotland Island NSW 2105

Attention: Mr Steven Speter
Email: steve@101-S.com

GEOTECHNICAL ADVICE
REMEDIATION OF FAILED RETAINING WALL
55 ROBERTSON ROAD, SCOTLAND ISLAND, NSW

On 28 June 2021 the undersigned, Mr Woodie Theunissen, visited the above site to inspect the slope failure that has occurred at the front of the property along the waterfront. From the north of the house the ground drops down steeply to water at an angle of about 30°. The sandstone block wall located along the front of the property had been dismantled and excavation was underway to remove that portion of the slope that had already failed, the extent of which was about 5m from the seawall and was defined by tension cracks.

At the back of the removed sandstone block wall a cut face with a height of about 2.5m had been created. The materials exposed in this cut comprised approximately 1.6m of clay fill overlying natural clay and extremely weathered siltstone bedrock. Siltstone bedrock of at least very low strength was exposed at the

base of the cut, which is at roughly the top of the seawall. Immediately behind the wall fill was exposed. The seawall had a height of about 1.5m with sandstone bedrock generally visible at the toe of the sea wall.

It is understood that a new Dincel retaining wall will be constructed to support the cut. This wall will be founded on the underlying sandstone bedrock. For the design of this wall we recommend the that the following design parameters be adopted:

- A triangular earth pressure distribution,
- A coefficient of active earth pressure, K_a, of 0.8,
- A bulk unit weight of 20kN/m^3,
- All surcharge loads and appropriate hydrostatic pressures must be added to the above pressures,
- Unless the existing seawall has sufficient capacity to resist the applied lateral loads all lateral loads must be transferred to the underlying sandstone bedrock by socketing piers into the bedrock. A lateral resistance of 200kPa may be adopted for that part of the pile that extends greater than 0.5m into the underlying sandstone bedrock.
- Where piles are founded on the underlying sandstone bedrock of at least very low strength they may be designed for an allowable bearing pressure of 600kPa. All piles should have a nominal socket of 0.3m.

At the time of our site visit the existing excavation had extended to roughly the alignment of the proposed wall. Near vertical cuts had been formed through the fill and natural soil. It should be noted that vertical cuts through soils are potentially unstable and may collapse at any time without warning. Consequently, we recommend that temporary batters be formed through the soil at no steeper than 1 Vertical(V):1 Horizontal(H) or the cut be temporarily propped. Even where propping is proposed, we recommend that the soils which have already slipped (i.e. those soils on the downhill side of the tension cracks) be removed and the soils behind battered. The contractor must take care during construction that the slope is appropriately supported such that the works can be safely constructed.

Drilling of piles will be completed in the intertidal zone and at times will be below sea level. Consequently, care must be taken that that portion of the pile that extends through the soils is supported and that the piles can be appropriately dewatered and cleaned prior to pouring concrete. It is possible that high strength sandstone bedrock may be encountered during the drilling of the piles and, consequently, appropriate drilling methods must be adopted to penetrate the bedrock.

Should you require any further information regarding the above, please do not hesitate to contact the undersigned.

Yours faithfully
For and on behalf of
JK GEOTECHNICS

Woodie Theunissen
Principal Associate | Geotechnical Engineer

ANNEXURE E – Structural advice 1

pba

peter blacker + associates

consulting civil structural hydraulic engineers

PETER BLACKER AND ASSOCIATES PTY LTD ABN 34 088 044 062 ACN 088 044 062
t: 02 9899 7923 e: peterblacker@bigpond.com m: 0416 022 883

Our Reference No: 21053

20 October 2023

Sandy and Steve Speter
55 Robertson Road
SCOTLAND ISLAND

Dear Sandy and Steve

Re: Design of a wall across the rear of the landing behind lower sea wall
Subject: STRUCTURAL DESIGN

You have requested I comment on the wall to be built at the rear of the landing at the water's edge at the above address behind the lower or outer sandstone log sea wall.

I did not design the log sea wall but I designed an inner reinforced concrete wall formed in a Dincel formwork system as an extension to the design and construction of the existing outer log sea wall and to work in unison with the lower wall for the protection of the hinterland.

I have been to site a couple of times and I am aware of the erosion at this location and of other coastal locations from some wave actions and primarily from inundation at high tides and specifically with king high tides.

And further, in line with the general principles of global warming and inherent sea level rise then structures at high tide level and above are to be designed for the immediate and the future long term affects from such high tides and the associated scouring wave actions.

To this end I make the following comments:

1. The structural integrity of the existing lower sandstone log sea wall remains vulnerable to extraordinary but to expected or anticipated weather events due to its close proximity to the steep topography behind that area where erosion of that hill can lead to landslip that can have a deleterious effect on the existing lower sea wall.
2. The existing lower outer sea wall is at a low discrete level and it is expected that some overtopping of the lower wall by waves will or can occur such that the inner wall is really an extension of protection with some offset of the existing lower sea wall.
3. From an engineering perspective, the best solution to ensure the structural integrity of the existing lower sea wall is a secondary wall behind the lower sea wall.
4. The secondary inner retaining like wall forms an integral part of the design of the existing sea wall, because it is necessary for the long-term structural integrity and viability of the existing lower sea wall and the protection of the hill.
5. In the absence of the secondary inner wall, the existing lower sea wall as constructed will remain vulnerable to failure in an extreme weather event.

I would inspect at various points in the construction of this inner wall allowing me to certify it on completion. And if I find anything else that needs attention at the inspection I would advise you accordingly.

If you have any questions then please call me.

Yours sincerely
Peter Blacker and Associates

Peter Blacker
BE(Civil), MIEAust, CPEng, NER, APEC Engineer, IntPE(Aus)
EA Id: 284752 Registered for Structural and Civil engineering