

## STATEMENT OF ENVIRONMENTAL EFFECTS

Removal of existing and proposed replacement and extension of  
retaining wall

13 Kuyora Place  
North Narrabeen



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On behalf of The Owners of Lot 14 DP 240799

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## Executive Summary

This statement has been prepared in support of the removal, replacement and extension of a retaining wall at No. 13 Kuyora Place, North Narrabeen. The wall is located on Lot 14 DP 240799 and adjoins lot 15 in DP 240799 (No. 12).

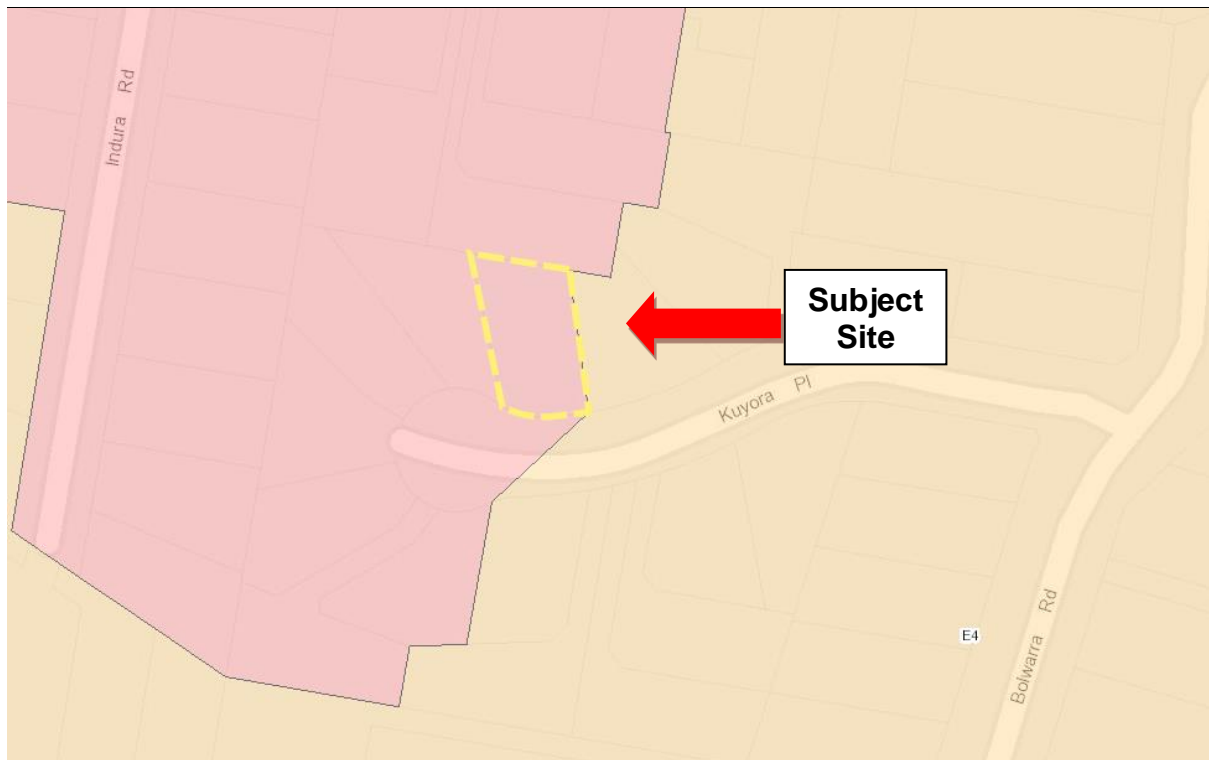
The existing retaining wall is located along the western and northern boundaries of the site, forming the boundary between No.'s 13 Kuyora Place and 12 Kuyora Place. The existing retaining wall has deteriorated in certain sections, hence requiring the replacement. The neighbours (owners of both properties) have prepared this application jointly and provided owners consent to allow this application/work.

The site is zoned R2: Low Density Residential within the *Pittwater Local Environmental Plan 2014* ('the PLEP').

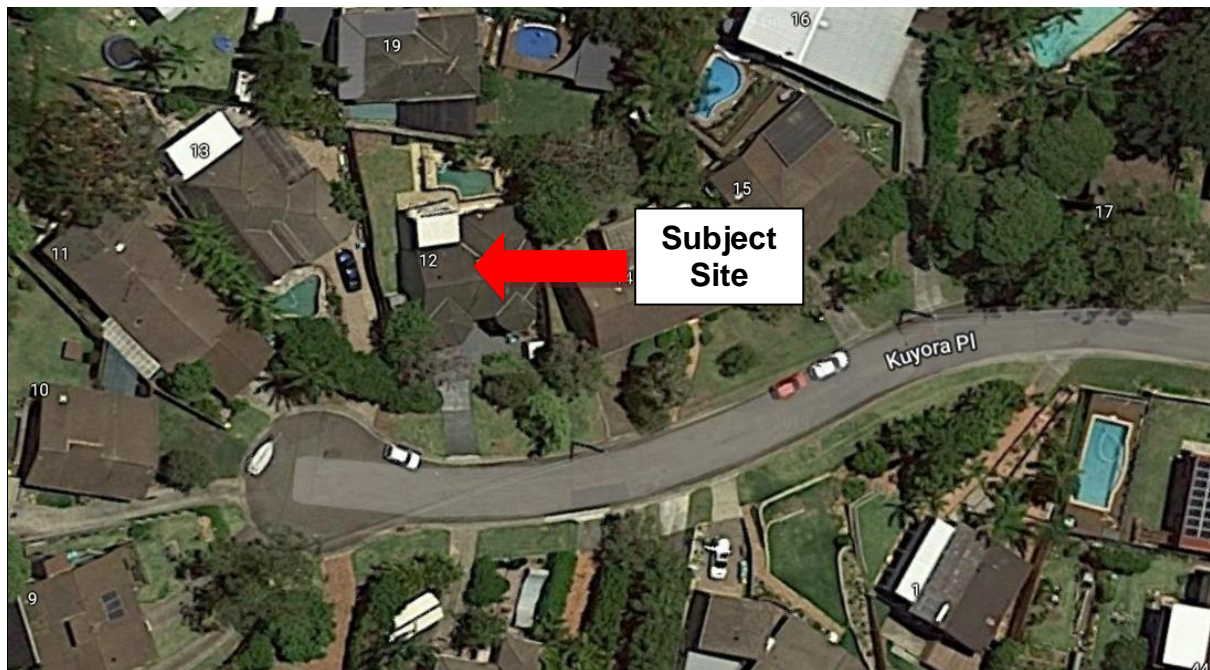
The proposal is permissible as the retaining wall sections are ancillary to the existing residential dwelling.

The proposal represents an overall improvement to the site as it will resolve the current structure which requires repair and will formalise the slope/garden/property boundaries while maintaining the existing residential character of the streetscape.

### **Zoning Extract from Pittwater Local Environmental Plan (PLEP) 2014:**



## Site Location Map, Courtesy of Google Maps:



### 1. Description of the proposal

The proposal involves the removal and replacement of the existing retaining wall located along the western and northern boundaries (side and rear) of No. 13 Kuyora Place, North Narrabeen. The existing wall and fence are visible in the above aerial photograph along the western side boundary/edge of the site.

The scope of works are as follows:

- Existing retaining wall to be removed.
- New core-filled block retaining wall to be constructed as per Engineer's Concept Plan by Taylor Consulting (approximately 28m in length). The sections provided indicate that the wall varies in height between 1000mm (towards the front) and 1800mm (max) towards the rear.

The proposal seeks to remove the existing timber/concrete retaining wall and replace it with an similar and modern core-filled block retaining wall which will complement the existing character of the streetscape and more effectively retain the boundary, for the benefit of the existing property and their neighbour at No.12.

### 2. Planning Controls

#### Statutory Controls

The relevant Statutory Planning Controls include: -

- Environmental Planning and Assessment Act, 1979 (Section 4.15)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Pittwater Local Environmental Plan, 2014

## Policy Controls

The applicable policy control documents are: -

- Pittwater 21 Development Control Plan

### 3. Description of the site and surrounding area

The subject site contains an existing 2 storey detached residential dwelling, driveway and garden areas and a swimming pool at the rear. The existing retaining wall/fence is located predominantly along the western boundary of the site and part of the northern boundary (refer to the site photographs).

The site adjoins other residential dwellings and the existing character of the locality is predominantly low density residential with houses set within landscaping and being well separated from each other in terms of space and privacy.

The proposal will replace the existing wall and improve the structure and given its similar size and presentation, and intended purpose to improve the situation, is not adversely affect the surrounding street and character (which will remain essentially the same). The core-filled block retaining wall will be simple and unobtrusive in design and construction. Planting on the site can remain.

The site is not mapped as containing any particular constraints such as bushfire, flooding, landslide risk, biodiversity, acid sulfate soils or scenic quality. The site is not listed as affected by heritage and trees/significant landscaping are not proposed to be removed.

### 4. Consideration

A summary of the compliance of the proposal with the relevant planning controls is provided below:

#### Environmental Planning and Assessment Act, 1979 – Section 4.15

This statement contains an assessment of the proposed development in line with the following pertinent heads of consideration of Section 4.15:

##### 4.15 Evaluation

###### **(1) Matters for consideration—general**

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

###### *(a) the provisions of:*

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)), that apply to the land to which the development application relates,*

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

*(2) Compliance with non-discretionary development standards—development other than complying development*

*If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:*

- (a) is not entitled to take those standards into further consideration in determining the development application, and*
- (b) must not refuse the application on the ground that the development does not comply with those standards, and*
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.*

*(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:*

- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and*
- (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.*

*Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).*

*(3A) Development control plans*

*If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:*

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) may consider those provisions only in connection with the assessment of that development application.*

*In this subsection, standards include performance criteria.*

*(4) Consent where an accreditation is in force*

*A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.*

*(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).*

*(6) Definitions In this section:*

- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and*

*(b) non-discretionary development standards means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.*

The proposed retaining wall will be of a similar height and alignment of the existing structure. The core-filled block retaining wall is considered a like for like replacement and will maintain the existing residential character of the site and the streetscape (the higher elements of the structure would be less visible from the street, towards the rear of the site).

Consequently, the proposal will have minimal environmental impact and will not impact on the existing residential character of the streetscape. The proposal is in the public interest as it will remove a potential hazard (run down structure) as well as formalising the boundaries between No. 13 Kuyora Place and the western adjoining neighbour.

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

The site is located within the Harbour Catchment. The works are to replace an existing structure and therefore will not adversely impact on water quality or quantity. The development is therefore consistent with the SREP. Conditions can be applied in relation to stormwater management.

### **State Environmental Planning Policy (Coastal Management) 2018**

The development is consistent with the SREP and would not cause impacts in this regard.

### **State Environmental Planning Policy (BASIX) 2004**

The scope of development is not subject to BASIX requirements.

### **Draft SEPP Remediation of Land**

The draft SEPP advises, as part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with councils. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.

The site is unlikely to contain any contamination and further investigation is not warranted given that the site has not been used for any other purpose other than residential development and given the minor scope of the development and alteration of the site/replacement of retaining structures within currently altered areas.

### **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The aims of this Policy are: to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation and to protect the biodiversity values of trees and other vegetation and the amenity of the area through the preservation of the vegetation. Minimal change to site landscaping is proposed with the front fence.

The proposal does not involve the clearing of native vegetation. As the proposal involves the replacement of an existing structure in place, it is not considered to impact unreasonably on any existing biodiversity, trees or vegetation on the site and is considered supportable within the context of the SEPP and environmental provisions.

## Pittwater Local Environmental Plan (PLEP) 2014

### **Zoning:**

The site is zoned as R2 Low Density Residential in the PLEP 2014. The objectives of the zone include to: provide for the housing needs of the community within a low density residential environment. The proposed retaining wall will allow for the continued use of the site as low-density residential developing while have no impact on the existing streetscape.

### **Permissibility:**

The retaining wall is considered ancillary to the existing dwelling house located on 13 Kuyora Place. The proposal supports the use of the site for low density residential development. Development for the purposes of a dwelling house is permissible within the zone.

### **Objectives and Clauses:**

The proposal is not considered to impact on the character of the streetscape being of generally the same size as the existing structure and unobtrusive in design and similar to the existing materials.

The proposal will support the low density residential character, is not considered to result in adverse environmental impacts (rather benefits of stabilising land). As such, it is considered to be consistent with the objectives of the PLEP 2014 and the low density residential zone.

The proposal does not change compliance with relevant development standards and is compliant with the height and lot size standards.

The proposal is considered consistent with the General Provisions within Part 6 of the LEP. Particularly in relation to 'earthworks'. Minimal change is proposed and the replacement retaining structures are similar to existing and accord with the objectives of the clause in that: With the proposed replacement, there is considered to be minimal likely disruption of:

- (a) drainage patterns and soil stability in the locality of the development, (*the structure is away from an existing drainage easement, this will maintain soil stability and existing drainage patterns*),
- (b) the effect of the development on the likely future use or redevelopment of the land (*same residential use – no change*),
- (c) the quality of the fill or the soil to be excavated, or both (*minimal change/same as existing*),
- (d) the effect of the development on the existing and likely amenity of adjoining properties (*improvement in terms of safety and amenity for the neighbouring property where the wall has moved*),
- (e) the source of any fill material and the destination of any excavated material (*no fill proposed*),
- (f) the likelihood of disturbing relics (*no likely relics/already altered area*),
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area (*no catchments within close proximity*),
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development (*wall is engineered and safe/conditions can be applied*),
- (i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area (*no heritage items or sites mapped*).

## Pittwater 21 Development Control Plan

Controls relevant to the Pittwater 21 Development Control Plan are tabled below. Any controls that are not listed below are not considered to be relevant to the subject scope of work in terms of planning controls and detailed assessment.

<b>Pittwater 21 Development Control Plan</b>		
<b>Section B General Controls</b>	<b>Complies</b>	<b>Comments</b>
<b>B2 Density Controls</b>		
No change is proposed to the density of the site.	Y	No change to the existing single dwelling use/scale.
<b>B3 Hazards</b>		
Bushfire, landslip, flooding, coastline, contamination, flooding, climate change.	Y	The site is not mapped as being affected by hazards and the proposed retaining wall is consistent with these controls
<b>B4 and 5 Natural Environment and Water</b>		
Vegetation, wildlife, bushland,	Y	No change to the existing situation with the replacement wall and the proposal is not considered to raise issue in terms of environmental considerations/drainage. Drainage would be as existing/and can be conditioned according to current requirements. No impact is proposed on the existing drainage easement which will remain unencumbered.
<b>B8 Site Works and Management</b>		
Sedimentation, waste management, excavation and earthworks	Y	The proposal is consistent with controls. The proposal is appropriate in terms of planning and environmental considerations and will improve the site. The proposal will improve sediment and erosion by stabilising the land and replacing the structure. Minimal earthworks are involved with the replacement of an existing structure/as is. Conditions can be included to deal with specific council site work requirements. WMP provided – minimal change to existing and minimal waste will be generated by the proposed minor replacement/development.
<b>Section C Residential Development Controls</b>		
<b>C.1 Landscaping C.5 Visual Privacy and C 1.7 Private Open Space</b>		
Soften built form with landscaping. Landscaping reflects the scale and form of development. Retention of canopy trees by encouraging the use of pier and beam footings. Development results in retention of existing native vegetation. Landscaping results in the long-term retention of Pittwater's locally native tree canopy. Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species. Landscaping enhances habitat and amenity value. Landscaping results in reduced risk of landslip. Landscaping results in low watering requirement.	Y	No change is proposed to the existing landscaping on the site with the replacement wall. Therefore, the proposal is considered consistent with the development controls.  The proposal does not seek to remove any additional trees and is considered to retain the landscaped/low density character, for the benefit of the area. Retaining is considered suitable in respect of the particular site conditions and levels/stability issues, in line with the controls.  The proposal will maintain and protect privacy between dwellings and maintains the existing private open space for the existing dwelling, consistent with the planning controls.  The proposal is considered to repair and maintain the existing boundary situation for the benefit of the owners of No.'s 12 and 13. The neighbours have worked together on this application for mutual improvement, safety and benefit.

Section D Locality Specific Development Controls		
D11 North Narrabeen Locality		
D11.14 Construction, Retaining walls, terracing and undercroft areas		
Control applies to land in the North Narrabeen Locality zoned R2 Low Density Residential.  Where retaining walls and terracing are visible from a public place, preference is given to the use of sandstone or sandstone like materials.	Y	The site is located within North Narrabeen Locality and is zoned R2 Low Density Residential.  The proposed retaining wall is of the same alignment as the existing structure and will only be partially be visible from the public street. While the proposed retaining wall is not made of sandstone, it is made of core-filled blocks which are appropriately simple, unobtrusive and not considered to have any adverse or unreasonable visual impact on the streetscape.

## 5. Conclusion

The proposed removal of and construction of new retaining wall is consistent with the statutory and merit considerations of the *Environmental Planning and Assessment Act, 1979* and the relevant Council planning instruments and controls.

The proposed is considered an overall improvement to the site as it removes a wall which requires repair, results in minimal change (replacement of an existing structure) and does not alter the character of the existing streetscape.

The proposal is considered consistent with planning and environmental objectives and development controls as detailed.

Given the merits described within this statement, the benefits of the proposal and the absence of adverse environmental impacts the application is submitted to Council for assessment and approval.

## Appendix 1: Photographs



Front view of No. 13 Kuyora Place



Existing timber retaining wall and fence on the property



Existing timber retaining wall, from the street along the boundary of No.'s 12 and 13



Existing streetscape showing wall types in the area having regard for the slope



Existing section of retaining wall at the eastern side – not proposed to change