

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0181
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Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 12 DP 539274, 90 Alameda Way WARRIEWOOD NSW 2102
Proposed Development:	Modification of Development Consent DA2020/1210 granted for the construction of retaining walls and associated landscaping
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Shae Kathleen Knights Daniel David Knights
Applicant:	Shae Kathleen Knights

Application Lodged:	20/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	27/04/2021 to 11/05/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

### PROPOSED DEVELOPMENT IN DETAIL

*"The development proposes amending the approved landscape to remove the (second) retaining wall to the rear of yard of the existing dwelling with all works instead to be retained by one wall. The removal of this wall is proposed to complement the renovation of the existing pool in the rear yard and allow for more usable paved and turfed areas.*

*The remaining retaining wall will be slightly altered but will retain a maximum RL52.4 and allow for a more usable yard on a site which has significant slope. It has also been designed to require less cut from the upper level."*

### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 12 DP 539274 , 90 Alameda Way WARRIEWOOD NSW 2102
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Alameda Way.</p> <p>The site is regular in shape with a frontage of 19.21m along Alameda Way and a depth of 38.095m along the eastern side boundary and 37.77m along the western side boundary. The site has a surveyed area of 728.7m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two (2) storey dwelling with attached garage and swimming pool in the rear yard with landscaped gardens.</p> <p>The site is quite steep with a slope of 22% grade falling from the rear northern boundary down to the southern front boundary.</p> <p>The site has a mix of native and exotic species of plant. shrubs and trees.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by</p>

one (1) and two (2) storey dwellings with associated structures/outbuildings with landscaped gardens.

Map:



## SITE HISTORY

**BLD2020/00990** - Investigate Building Works - "Excavation works being carried out at the rear of the property. Cinder block walls are starting to be installed."

**DA2020/1210** - Construction of retaining walls and associated landscaping approved 16 November 2020.

This proposed application seeks to modify the approved installation of the retaining walls and associated landscaping.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the

Assessment Report for DA2020/1210, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The proposed modification alters the approved retaining structures from two (2) retaining walls to one (1) retaining wall.</p>
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2020/1210 for the following reasons:</p> <p>The proposed modification alters the approved retaining structures from two (2) retaining walls to one (1) retaining wall.</p>
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require, or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

#### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:



Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to updated geotechnical information. The applicant responded on 28 May 2021 with a letter from Ascent Geotechnical Consulting.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>

Section 4.15 'Matters for Consideration'	Comments
	(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 27/04/2021 to 11/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Withheld	AVALON BEACH NSW 2107
Withheld	MONA VALE NSW 2103

The following issues were raised in the submissions and each have been addressed below:

- No revised geotech report or structural plans
- No arborist report
- *"We note that there are fundamental inconsistencies between the approved architectural / landscape plans ("the Approved Plans") and the Structural Plans."*
- *"In light of the information detailed above, we put the Council on notice that it has no power to determine the Modification Application in its current form. The Council has no option but to require further information to be submitted to address the matters raised in our letter and to re-notify the Modification Application in order to give our Client an opportunity to respond."*

The matters raised within the submissions are addressed as follows:

- No revised geotech report or structural plans

Comment: Objection was raised that no revised geotechnical information/assessment was submitted with this application (MOD2021/0181). Council requested additional geotechnical information/assessment from the applicant and on 26 May 2021 received Geotechnical Assessment Letter from Ascent Geotechnical Consulting stating:-

*"Ascent Geotechnical Consulting Pty Ltd ('Ascent') has reviewed our original geotechnical assessment report (AG 20195; attached to this letter), the related architectural plans and the recent updated architectural plans for proposed new landscaping, retaining walls and associated works prepared by Jamie King Landscape Architect, Job number 21024, Drawing numbers Sheet number 101–105 and 201, Issue D, dated 30 March 2021 for 90 Alameda Way, Warriewood NSW (the 'Site').*

*Ascent visited the Site on the 6 August 2020 to conduct a visual assessment of the Site and its surrounds.*

*The proposed works which include the construction of a new retaining wall, paved pool surround, pool fencing and associated works, as detailed in the landscape plans referenced above, do not require any significant modifications to the recommendations presented in Table 3 of our original report, or our assessment that provided the recommendations are followed, the existing Site conditions and proposed development are considered to constitute an "Acceptable" risk to life and a "Low" risk to property."*

Structural Plans are not a requirement for consideration under this assessment and will be required for the construction certificate or amended construction certificate.

Given the above it is considered that issue has been addressed and does not warrant refusal and/or further amendment via condition(s).

- No arborist report

The following points (in red) were raised within the submission from the legal representation (confidential submission).

*"6. Neither the DA nor the Modification Application have been assessed by an arborist. This is despite the fact that a retaining wall is proposed within 1 to 2 metres of five (5) x 8 to 10 metre tall Cypress trees.*

*7. We assume that you have carried out an inspection of 90 Alameda Way. In this regard, you will have noted the extent of excavation that has been carried out adjacent to the 5 x Cypress trees. We also draw your attention (if you have not seen already) to the fact that there already exists at the bottom of the embankment large cracks indicative of subsidence.*

*8. The proximity of the trees to the proposed walls means that the roots are likely to be damaged due to the works. Further, impact to existing trees has not been assessed as an Arborist's report has not been made available.*

9. We put the Council on notice that any purported determination of the Modification Application will be a legal error in the absence of an arborist's report which properly considers the likely impacts of the proposed modification."

Comment:

The following comments were provided by Council's Senior Landscape Architect:-

*"The excavation works pre date the submission of the DA. Upon site review of the existing batter cut in vicinity of existing trees it was clear that no major roots (over 50mm) were removed by the batter cut. Much of this can be explained by the nature of the clay soil that restricts root expansion.*

*It is also worthy to note that the existing trees within the development site are Cypress and thus are Exempt Species that do not require Council consent for removal or management.*

*The modification proposal removes one wall closest to existing trees and thus any future root expansion will benefit from the removal of this wall and infill with soil."*

**"Condition 12 of the Consent**

*13. Condition 12 of the Consent requires, inter alia, that all tree planting will be located at least 1.5 metres from common boundaries and located to minimise significant impacts on neighbours in terms of blocking winter sunlight or significant views. However, we note that the Approved Plans show Bambusa textilis 'Slender Weavers' (bamboo) to be planted closer than 1.5 m to the common boundary with our Client's property. Further, the planting of that bamboo will significantly impact our Client's water and district views of Warriewood Valley, Ingleside, and Elanora Heights from her living rooms and bedrooms, which she and her family have enjoyed for the past 30 years.*

*Similarly, the Approved Plans show:*

*(a) Syzygium to be planted in extremely narrow rows closer to the common boundary than the 1.5m required by Condition 12 of the Consent;*

*(b) Waterhousia, an extremely tall and wide tree, to be planted between*

*Bambusa textilis and Syzygium, at the southeast meeting point of the common boundaries between our Client and 88 Alameda Way.*

*14. Our Client also submits that the following trees, approved in the Consent, are not appropriate to the landscape: Bambusa textilis 'Slender Weavers' (Bamboo) (4.0 – 6.0 m), Syzygium ausrale 'Hinterland Gold' (Brush Cherry, Scrub Cherry) (5.0 – 10.0 m), Waterhouse floribunda (Weeping Lilly Pilly) (5.0 – 10.0m). These trees can grow significantly taller and wider*



*than is suggested by the Approved Plans. In our opinion there is a fundamental inconsistency in the Consent between the Approved Plans and Condition 12 of the Consent."*

Comment:

The following comments were provided by Council's Senior Landscape Architect:-

*"Condition 12 relates to the proposed trees which include only Waterhousia floribunda and Syzygium australe and the condition is appropriate and achievable.*

*The proposed bamboo planting is typically seen at mature heights of 6 metres and may achieve further heights is optimal conditions but the soil type (clay) here is not optimal. Plants are living and it is not black and white when determining mature heights.*

*It is noted the existing Cypress exist to 8 to 10 metres high and the bamboo is not anticipated to achieve this height."*

Planners Comments: Council's Planner has previously attended the adjoining property to the north of the subject site (No. 146 Elimatta Road, Mona Vale during the assessment of the previous Development Application (DA2020/1210 - Construction of retaining walls and associated landscaping) and noted at the time Cypress Pine Trees obscure a large portion of very distant water views to the southeast (which are over 2.5km away). It is considered that reasonable district views from living spaces and bedrooms will be maintained.

It is considered that this has been addressed and does not warrant refusal and/or further amendment via condition(s).

- *"We note that there are fundamental inconsistencies between the approved architectural / landscape plans ("the Approved Plans") and the Structural Plans."*

Comment: The current architectural/landscape plans will supersede the previous approved architectural/landscape plans approved via DA2020/1210 and amended structural plans will be required for the construction certificate or amended construction certificate.

Given the above it is considered that issue has been addressed and does not warrant refusal and/or further amendment via condition(s).

- *"In light of the information detailed above, we put the Council on notice that it has no power to determine the Modification Application in its current form. The Council has no option but to require further information to be submitted to address the matters raised in our letter and to re-notify the Modification Application in order to give our Client an opportunity to respond."*

Comment: Council notes the submission from the legal representations and has received the updated geotechnical advice from the Geotechnical Consultant representing the applicant and the owners of the subject. Additionally, landscape advice from Council's Senior Landscape Architect has been sought and these matters addressed above.

It is considered that these all matters raised been adequately addressed and that the Council has sufficient information to determine this application. Re-notified for this application is not required and Council will determined this application based on this planning assessment including the submission(s), additional information and the merits of the proposed

modifications.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	The modification proposes amendment to development consent DA2020/1210 as follows: remove the (second) retaining wall to the rear of yard of the existing dwelling with all works instead to be retained by one wall. This modification does not impact upon the landscape outcome of the development and no further conditions are warranted.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

### SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### SEPP (Infrastructure) 2007

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an

application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

**Pittwater Local Environmental Plan 2014**

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	2.2m	1.6m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
1.9A Suspension of covenants, agreements and instruments	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 5 Miscellaneous provisions	Yes
5.10 Heritage conservation	Yes
Part 7 Additional local provisions	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

## 7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, 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.*

### Comment:

The proposed development is supported by a revised geotechnical risk assessment and architectural/landscape plans that demonstrate all geotechnical risks have been taken into account.

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*

### Comment:

The proposed development is supported by a revised geotechnical risk assessment and Council who is supportive of the proposal.

- (b) *the consent authority is satisfied that:*

- (i) *the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*
- (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.*

### Comment:

Council is satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	32.9m	27.4m	Yes
Rear building line	6.5m	2m	Unaltered	Unaltered
Side building line	2.5m	Nil	Unaltered	Unaltered
	1m	0.4m	Nil	Yes*
Building envelope	3.5m	Within envelope	Within envelope	Yes

	3.5m	Within envelope	Within envelope	Yes
Landscaped area	60% (423.8sqm)	51.8% (377.3sqm) + 6% (22.6sqm) = 57.8% (399.9sqm)	Unaltered	Yes

\* Retaining walls are allowable encroachments

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Section A Shaping Development in Pittwater	Yes	Yes
A1 Introduction	Yes	Yes
A1.7 Considerations before consent is granted	Yes	Yes
A4 Localities	Yes	Yes
A4.14 Warriewood Locality	Yes	Yes
Section B General Controls	Yes	Yes
B1 Heritage Controls	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3 Hazard Controls	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4 Controls Relating to the Natural Environment	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5 Water Management	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6 Access and Parking	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8 Site Works Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
Section C Development Type Controls	Yes	Yes
C1 Design Criteria for Residential Development	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
Section D Locality Specific Development Controls	Yes	Yes
D14 Warriewood Locality	Yes	Yes
D14.1 Character as viewed from a public place	Yes	Yes
D14.2 Scenic protection - General	Yes	Yes
D14.3 Building colours and materials	Yes	Yes
D14.7 Front building line	Yes	Yes
D14.8 Side and rear building line	Yes	Yes
D14.11 Building envelope	Yes	Yes
D14.13 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D14.15 Fences - General	Yes	Yes
D14.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## POLICY CONTROLS

### Northern Beaches Section 7.12 Contributions Plan 2019

Section 7.12 contributions were levied on the Development Application.

## CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2021/0181 for Modification of Development Consent DA2020/1210 granted for the construction of retaining walls and associated landscaping on land at Lot 12 DP 539274,90 Alameda Way, WARRIEWOOD, subject to the conditions printed below:

### A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

#### a) Modification Approved Plans


Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Sht-101 (Issue D)	30 March 2021	Jamie King Landscape Architect
Sht-102 (Issue D)	30 March 2021	Jamie King Landscape Architect
Sht-103 (Issue D)	30 March 2021	Jamie King Landscape Architect
Sht-104 (Issue D)	30 March 2021	Jamie King Landscape Architect
Sht-105 (Issue D)	30 March 2021	Jamie King Landscape Architect
Sht-201 (Issue D)	30 March 2021	Jamie King Landscape Architect

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Phil Lane, Principal Planner**

The application is determined on 04/06/2021, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**