



**90 ALAMEDA WAY  
WARRIEWOOD**

**SECTION 4.55 (1A) MODIFICATION TO VARY  
DEVELOPMENT CONSENT DA-2020/1210**



Report prepared for  
**Shae Knights**  
April 2021

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## 1.0 Introduction

- 1.1 This statement has been prepared in order to provide information and a planning assessment in relation to an application under the provisions of Section 4.55(1a) of the Environmental Planning and Assessment Act 1979, to modify an existing development consent for “*Construction of retaining walls and associated landscaping*” at 90 Alameda Way, Warriewood.

Development Application DA 2020/1210 was granted consent by Northern beaches Council by Notice dated 16 November 2020.

It is proposed that the existing Consent be modified to refer to the revised plans.

Condition 1 is proposed to be altered as follows:

### 1. Approved Plans and Supporting Documentation

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

- a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Sht - 101	18 September 2020	Jamie King Landscape Architect
Sht - 102	18 September 2020	Jamie King Landscape Architect
Sht - 103	18 September 2020	Jamie King Landscape Architect
Sht - 104	18 September 2020	Jamie King Landscape Architect
Sht - 105	18 September 2020	Jamie King Landscape Architect
Sht - 201	18 September 2020	Jamie King Landscape Architect
Sheet 1	25 August 2020	Taylor Consulting Civil & Structural Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Assessment	12 August 2020	Ascent Geotechnical Consulting

- b) Any plans and/or documentation submitted to satisfy the Conditions of this consent.
- c) The development is to be undertaken generally in accordance with the following:

<b>Waste Management Plan</b>
<b>Drawing No./Title.</b>
Waste Management Plan

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

And replaced with a revised Plans and Supporting Documentation which reads:

#### **1. Approved Plans and Supporting Documentation**

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

- a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Sht – 101 Iss. D	30/03/2021	Jamie King Landscape Architect
Sht – 102 Iss. D	30/03/2021	Jamie King Landscape Architect
Sht – 103 Iss. D	30/03/2021	Jamie King Landscape Architect
Sht – 104 Iss. D	30/03/2021	Jamie King Landscape Architect
Sht – 105 Iss. D	30/03/2021	Jamie King Landscape Architect
Sht – 201 Iss. D	30/03/2021	Jamie King Landscape Architect

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Assessment	12 August 2020	Ascent Geotechnical Consulting

- b) Any plans and/or documentation submitted to satisfy the Conditions of this consent.
- c) The development is to be undertaken generally in accordance with the following:

<b>Waste Management Plan</b>
<b>Drawing No/Title.</b>
Waste Management Plan

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

1.2 In preparation of this submission, consideration has been given to the following documents:

- Section 4.55 of the Environmental Planning and Assessment Act, 1979 as amended
- Pittwater Local Environmental Plan 2014
- Pittwater Development Control Plan
- The heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

1.3 This statement of environmental effects has been prepared with reference to the following:

- Site visit
- Review of the original development consent
- Review of the original development assessment report
- Review of approved and proposed plans

1.4 The proposed development will allow for changes to the development to better address the landscaping in the rear yard, is considerate of

neighbouring properties and results in improved amenity for the residents of the site. It is an appropriate development and is worthy of Council consent.



## 2.0 The site and its locality

- 2.1 The site is located on the northern side of Alameda Way, approximately 200 metres northeast of its intersection with Warriewood Road in Warriewood.
- 2.2 It is a rectangular shaped lot with front and rear boundaries of 19.21 metres, and side boundaries of 38.095 metres (south-eastern) and 37.77 metres (north-western). The site has a total area of 728.7m<sup>2</sup> and slopes towards Alameda Way (rear to the front of the property).
- 2.3 The site is currently occupied by a one and two storey brick dwelling with a tiled roof. An attached double garage is provided within the front of the site and the dwelling is set within landscaped gardens with a pool in the rear yard.
- 2.4 The site is surrounded by detached residential dwellings in all directions set within landscaped gardens. It is midway between the retail/commercial precincts of Ponderosa Parade and the junction of Mona Vale Road and Pittwater Road.



Figure 1. The site and its immediate surrounds





## 4. Statutory Framework

### 4.1 Section 4.55 of Environmental Planning and Assessment Act 1979

4.1.1 Section 4.55(1a) of the Environmental Planning and Assessment Act, 1979 (as amended) (the Act) provides that a consent authority may modify the consent if:

- (a) 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*
- (b) It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) It has notified the application in accordance with:*
  - (i) The regulations, of 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*
- (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.*

4.1.2 The proposed modifications will have minimal environmental impact as demonstrated in this document. The development to which the consent, as modified, applies is substantially the same development, as the development granted consent in Development Consent DA2020/1210, notwithstanding the proposed modifications.

4.1.3 S96(3) of the Act requires Council to consider those matters referred to in Section 4.15(1) of the Act that are of relevance to the development the subject of the application. It is not believed that the minor modifications proposed will alter the favourable assessment provided to the original Development Consent. In particular, the site and surrounding built and natural environments will remain essentially the same and the amenity for the local residents will be maintained.

## 4.2 Pittwater Local Environmental Plan 2014

The relevant sections of the LEP are discussed below.

### Zoning

The site is zoned E4 Environmental Living pursuant to the provisions of the Pittwater Local Environmental Plan 2014.

The proposed development is a permissible use in the E4 zone which permits residential dwelling with development consent. The proposed retaining walls are a permissible use in the E4 zone which permits residential dwellings and ancillary uses with development consent.



Figure 3 Extract from PLEP2014 zoning map

### Minimum Lot Size

A minimum lot size of 550m<sup>2</sup> applies to the site. No subdivision is proposed as a part of this development.

**Height**

The LEP restricts the height of any development on the subject site to 8.5 metres. The proposed development continues to comply being retaining walls with a maximum height above existing ground level of 1.6 metres (maximum).

**Development within the coastal zone**

The site is not nominated on the coastal risk map.

**Floor Space Ratio**

The floor space ratio development standard has not been adopted for the subject site.

**Acid Sulphate soils**

The site is located in an area nominated as Acid Sulphate soils Class 5. No additional information is required for the proposed development. The proposal will comply with all relevant conditions of consent in this regard.

**Earthworks**

Earthworks, typical of landscaping construction are required and will be undertaken according to relevant standards and conditions of consent. The earthworks are designed in conjunction with a structural and geotechnical engineer and are of appropriate impact for the site and surrounds.

**Flood Planning**

The site is not located in an area impacted by flooding.

**Geotechnical Hazard**

The site is located within the geotechnical hazard zone mapped by Council's LEP and accordingly a Geotechnical Assessment Report was provided with the DA application.

**Biodiversity**

The site is not nominated on the biodiversity maps within the Pittwater LEP.

**Essential services**

The site is already developed with an existing dwelling and, accordingly, appropriately serviced. The proposed development will have no impact in this regard.

### **4.3 Pittwater Development Control Plan**

The relevant sections of the DCP are addressed below.

#### **Objectives**

The proposed development is entirely consistent with the ecologically sustainable, environmental, social and economic objectives as specified in the DCP. The proposed development is appropriate to the site and the locality and has been designed with fulfilment of these objectives as essential criteria.

#### **Warriewood Locality**

The site is located within the Warriewood Locality. The proposed development has been designed taking into consideration the desired character of the location. The addition of the retaining walls is typical of the area and well designed to ensure retention of the character sought by Council and enhance amenity for the site.

#### **Site works and management**

All Council controls and conditions of consent will be complied with in the construction works. Appropriate devices will be used during the construction process to ensure no issues arise with regard to erosion and sedimentation.

#### **Landscaping**

The landscaped area in the front setback will remain unchanged.

#### **Visual Privacy**

The proposal as amended will have a negligible impact for neighbour's visual privacy with the walls to occupy an existing area of yard already used by the occupants as recreational space.

The levelling of land will increase privacy closer to neighbouring sites with the level changes ensuring that the more usable area is closer to the pool level.

#### **Acoustic Privacy**

The proposal will have an appropriate impact for neighbour's acoustic privacy, with impacts typical of what can be anticipated in a residential environment.

#### **Private Open Space**

Private open space will remain and be improved, with the 80m<sup>2</sup> required by the DCP existing and retained.

**Swimming Pool Safety**

Signage and fencing will be provided as is required according to the Swimming Pools Act 1992, regulations and according to Council conditions of consent.

**Part D – Warriewood Locality**

The site is located in the Warriewood Locality and will be appropriate within the desired character, built form and natural environment criteria as specified in the DCP. The addition of the retaining walls will be appropriate within the grounds of the dwelling and will be an asset to this space and the site.

**Character**

The proposed retaining walls will not be visible from the street frontage and are appropriate when considered with regard to the character of the locality.

**Building colours, materials and construction**

The walls will be part of a landscaped area and be an appropriate addition to the area.

**Front Building Line**

A front setback is unaffected by the proposal.

**Side and Rear setbacks**

Side setback of 2.5 m on one side and 1 m for the other side are provided in the DCP. The landscape structures remain appropriate to site within the rear yard and form part of the garden area. They have varying setbacks as detailed on the plans. All setbacks are ample to satisfy the requirements for privacy, separation from neighbours and landscaping.

**Building envelope**

The building envelope is unaffected by the proposed development.

**Landscaped Area – Environmentally Sensitive Land**

The approved landscaped area is unaffected.

**Construction, retaining walls, terracing and undercroft areas**

The retaining wall will be constructed in appropriate material and set within the existing garden area of the dwelling as required by the DCP.



## **5. Section 4.15 Considerations**

- 5.1 The minor amendments to the approved development have been considered with reference to Section 4.15 of the Environmental Planning and Assessment Act 1979. This assessment has found the proposed modification will not alter the impacts of the proposed development from that which was originally deemed to be acceptable and worthy of approval in the original development.

The impacts of the proposed modifications will have a negligible impact on the subject site, the neighbouring site and the streetscape with regards to all relevant factors including design, amenity, landscaping and privacy.

## **6.0 Expected impacts of the proposed modifications**

- 6.1 The revisions will have a positive impact on the streetscape without being to the detriment of neighbours or the environment.

## **7.0 Suitability of the site**

- 7.1 The proposed modifications do not raise any additional issues relating to the suitability of the site.

## **8.0 Development substantially the same**

- 8.1 The alterations proposed by virtue of the modification request do not render the development different in terms of its essential character.

In a comparison of the development as currently approved and as proposed to be modified, the development will remain essentially and materially the same, with only minimal changes proposed. As such the development will be substantially the same notwithstanding the modifications that are sought.

## 9.0 Conclusion

- 9.1 The development, as modified, represents substantially the same development as was approved by Council in Development Consent DA2020/1210. The proposed modifications will have no significant environmental impact.

The proposed modifications to the development do not raise any additional issues relating to the relevant provisions of:

- Pittwater Local Environmental Plan 2014
- Pittwater Development Control Plan 2014
- The heads of consideration contained in Section 4.15 of the Environmental Planning and Assessment Act 1979.