

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0953
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Responsible Officer:	Penny Wood
Land to be developed (Address):	Lot 32 DP 5464, 41 Warriewood Road WARRIEWOOD NSW 2102
Proposed Development:	Construction of a dwelling house
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Woolwich Pty Ltd
Applicant:	Wincrest Group Pty Ltd

Application Lodged:	03/09/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	16/09/2019 to 30/09/2019
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	\$ 323,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The subject Development Application proposes the following works:

- Construction of a two (2) storey dwelling house; and
- Associated landscaping works

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 - 1.9A Suspension of covenants, agreements and instruments
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - D16.7 Side and rear building lines
 Pittwater 21 Development Control Plan - D16.13 Building colours and materials

SITE DESCRIPTION

Property Description:	Lot 32 DP 5464 , 41 Warriewood Road WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern eastern side of Bubalo Street.</p> <p>The site is regular in shape with a frontage of 7.82m along Bubalo Street and a depth of 30m. The site has a surveyed area of 270m².</p> <p>The site is located within the R3 Medium Density Residential zone is currently vacant.</p> <p>The site slopes gently from the rear to the street and has a north westerly orientation.</p> <p>The site is currently vacant and clear of any canopy trees and vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by other vacant lots of a similar size.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

13 June 2013

Planning Proposal to increase residential densities; PP0003/13.

5 February 2015

Planning Proposal to amend Pittwater LEP 2014 consistent with recommendations of the Warriewood Valley Strategic Review Addendum Report 2014; PP0001/14.

28 October 2016

Development Application for the subdivision of land and provision of infrastructure, resulting in 30 Torrens Title residential lots, 4 Community Title lots, dedication of the creekline corridor, and the creation of a new public road; N0491/16. Refused by Council and under appeal it was approved under Court consent.

14 March 2018

A pre-lodgement meeting was held for the construction of a new dwelling; PLM2018/0044.

31 May 2018

A Construction Certificate was lodged with Council for the commencement of subdivision works; CC2018/0680.

7 June 2018

The Principal Certifying Authority was appointed and the relevant documentation was lodged with Council for the subdivision of land and provision of infrastructure, resulting in 30 Torrens Title residential lots, 4 Community Title lots, dedication of the creekline corridor, and the creation of a new public road; PCA2018/0082.

28 June 2018

A Traffic Control/Traffic Management Permit was created and completed for the provision of traffic control and traffic management; PERM2018/00542.

13 July 2018

An Out of Hours Works Permit was lodged; PERM2018/00617. A Stand Plan Permit was created and approved; PERM2018/00618.

20 November 2018

A Works Zone permit was created; PERM2018/01047.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under 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	None applicable.
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&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to the correct Lot and DP being indicated on the applicaiton form, updated plans referencing only Proposed Lot 13, and owners Consent required on a company letterhead with an ASIC Company Extract.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p>

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clause 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&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 of consent.</p> <p><u>Clause 98</u> of the EP&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 of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<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>	<p>(i) Environmental Impact 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) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal, in terms of landscape outcome is acceptable, subject to conditions.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D16.5 Landscaped Area for Newly Created Individual Allotments</p> <p>A Landscape Plan is provided with the development application, and this satisfies DA Lodgement Requirements. No Arboricultural Impact Assessment report is provided. The site does not contain any trees of significance.</p> <p>Existing street trees within the road reserve fronting development sites must be protected during all stages of works.</p>
NECC (Bushland and Biodiversity)	<p>The lot was created as part of an approved subdivision within the Warriewood Valley release area. The site has been previously cleared and is not within or interface with the riparian zone or portion of the parent lot mapped as Biodiversity under the Pittwater LEP 2014. The development will not have a significant effect on biodiversity and therefore no further assessment is required.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>State Environmental Planning Policy (Coastal Management) 2018</p> <p>The subject land has not been included on the 'Coastal Vulnerability Area', 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, only Clause 15 of the CM SEPP apply for this DA.</p> <p>However, the subject land is located under the coastal wetlands proximity area and this will be assessed separately within the council.</p>

Internal Referral Body	Comments
	<p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clause 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018</p>
NECC (Development Engineering)	No objections are raised to the proposed development, subject to conditions.
NECC (Water Management)	<p>This application has been assessed for compliance with the Water Management Report Rev 7 for 41 Warriewood Road and the Warriewood Valley Water Management Specification. The lot is limited to 65% impervious area.</p> <p>Water management has largely been dealt with under the subdivision application.</p> <p>The sediment controls are adequate, and they have the appropriately sized rainwater tank for the subdivision. Sediment and erosion controls must be installed prior to any work on site and maintained until work is complete and groundcover re-established. Due to there being an online bio-retention water treatment basin, particular care should be taken to ensure sediment does not wash into the gutter, as the residents will be responsible for cleaning sediment out of the basin in future.</p>

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1033966S_02, 12 August 2019).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	52

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

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.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
 - (d) *any other development.*

Comment:

The subject site is not considered to be within coastal wetlands or littoral rainforests, therefore this Clause does not apply.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The subject site is not considered to be within coastal wetlands or littoral rainforests, therefore this Clause does not apply.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
 - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*

- (c) *measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

Comment:

This Clause has been assessed against the subject site and proposed development. Council's Natural Environment Officer reviewed the application against this Clause and determined that the proposed development is unlikely to result in an increased risk to coastal hazards on the subject site and adjoining lots.

13 Development on land within the coastal environment area

- (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.*

Comment:

The subject site is not considered to be within the coastal environment area, therefore this Clause does not apply.

- (2) *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 an adverse impact referred to in subclause (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.

Comment:

The subject site is not considered to be within the coastal environment area, therefore this Clause does not apply.

14 Development on land within the coastal use area

- (1)
- (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
 - (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.

Comment:

The subject site is not considered to be within the coastal use area, therefore this Clause does not apply.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

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.

Comment:

This Clause has been assessed against the subject site and it is determined that the proposed development will not result in an increased risk to coastal hazards.

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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10.5m	7.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

1.9A Suspension of covenants, agreements and instruments

There are a number of covenants and restrictions which will be required to be created upon the title of the subject lot in accordance with the conditions of consent for N0491/16. These are as follows:

- Restriction on Use of Land burdening Lots 201-229 inclusive, the terms of which limit the footprint, height and garage location of future development in the manner depicted on the approved 'Building Envelope Plan' referenced in Condition A 1 of this consent.
- The registered proprietor shall not occupy the dwelling house unless the registered proprietor has first constructed a 4kL rainwater tank on the lot.
- Restriction so that no lot within the subdivision is to be developed such that the overall impervious fraction exceeds 65%.

The proposal has been reviewed against the above restrictions and has satisfied each of the above in that:

- The proposal is consistent with the height, garage location and setbacks (front, rear, ground

floor side setbacks) as detailed in the 'Approved Building Envelope Plan'. Clause 1.9A(2)(a) allows for the variation of a covenant imposed by Council. This relates to the approved 'Building Envelope Plan' which outlines a first floor side setback of 1.5m. The subject development proposes a 1.16m setback at first floor level to both side boundaries. This is discussed in more detail within 'D16.7 - Side and rear building lines' within the report.

- 4kL rainwater tank is provided.
- Proposed site coverage is 46.3%.

The proposal is therefore consistent with the restrictions to be created upon the title of the lot.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	1.5m Articulation Zone	> 1.5m Articulation Zone	N/A	Yes
	4m Garage/Carport	6.9m Garage/Carport	N/A	Yes
	3m Dwelling	6.5m Dwelling	N/A	Yes
Rear building line	4m Ground Level	7.8m Ground Level	N/A	Yes
	6m Upper Level	10.15m Upper Level	N/A	Yes
Side building line	<u>One Side (north eastern)</u>			
	0.9m Ground Level	1.0m	N/A	Yes
	1.5m Upper Level	1.16m	22.7%	No
	<u>Other Side (south western)</u>			
0.9m Ground Level	0.18m (garage)	88%	No	
1.5m Upper Level	1.16m	22.7%	No	
Landscaped area	35% (67.5sqm)	35.7% (94.5sqm)	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C6.1 Integrated Water Cycle Management	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	Yes	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	No	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.13 Building colours and materials	No	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

86.3 Off-Street Vehicle Parking Requirements

The off-street parking requirements for a dwelling with two (2) or more bedrooms is two (2) vehicle parking spaces. The proposed development provides off-street vehicle parking for one (1) vehicle in an enclosed garage. This is non-compliant with the requirements of this control. The measurements of the proposed enclosed garage are as follows: 3.0m x 6.0m with an entrance of 2.4m. There is a non-compliance with the internal width of the garage, as the control requires a 6.0m internal width. However, the proposed internal dimensions of the garage are considered to be compliant with the current Australian Standards for a single space. While the garage can only facilitate space for one (1) vehicle, the hardstand surface in front of the garage can act as an additional vehicle parking space. Thus providing adequate off-street parking. Additionally, the design of the garage being incorporated into the built form of the dwelling house will allow for safe and convenient pedestrian and vehicular access to the site.

While the proposal is numerically non-compliant with the minimum requirement for off-street parking, it is considered to be consistent and appropriate with the outcomes of the control and is therefore supported on merit.

D16.7 Side and rear building lines

P21 DCP D16.7 outlines the minimum side setback requirements for a detached dwelling 9m to 14m wide as follows:

- One side = 0.9m on the ground level and 1.5m on the upper level.
- Other side = 0.9m on the ground level and 1.5m on the upper level.

The ground level along the south western boundary proposes a 180mm side setback for a length of 6.0m (garage). The side setback increases to 1.0m for the remainder of the dwelling (9.2m) to the rear. Although providing a non compliant setback which is visible from the street, the development is articulated to provide some relief from the bulk and scale towards the rear of the dwelling and the adjoining private open space of the neighboring lot along this side boundary. Given the narrow nature of the site being 9.0m, this is considered acceptable in this instance.

The upper level along the north-eastern side boundary and the south western side boundary is numerically non-compliant, measuring 1.16m from both side boundaries. Whilst this non-compliance provides a 22.7% variation to the side boundary Clause 1.9A(2)(a) allows the indicative building envelope plan to be varied provided objectives of the this clause are met.

In considering this variation, it should be noted that the ground floor, inclusive of the garage complies with the indicative building envelope plan approved as part of the original subdivision development application (N0491/16). Whilst the first floor side setbacks do not comply with the prescribed side boundary lines for the proposed dwelling house, the development complies with the rear setback, front setback and ground floor side setbacks approved as part of the indicative building envelope plan. As the breach is only applicable to the first floor, the variation is not considered to result in an unreasonable impact with regards to bulk, scale, or to the level of privacy, amenity and solar access for adjoining properties. The proposal demonstrates that native canopy trees and future plantings will be incorporated in order to minimise the visual impact of the overall built form. While there remains a non-compliance, the proposal in this instance is considered to satisfy the outcomes of the control and is supported on its merits.

D16.13 Building colours and materials

The colour schedule provided with this application is inconsistent with the colour requirements as outlined under this control. External wall colours are to be dark and earthy tones so as to appropriately blend in with the surrounding natural environment. Colours such as white and light grey are not permitted.

Examples of external colours and materials that are permissible, as outlined under 09.3 Building Colours and Materials of P21

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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.

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

DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a Five (5) year time frame for Deferred Commencement Consents detailed within Section 95 of the EPA Act 1979 to DA2019/0953 for Construction of a dwelling house on land at Lot 32 DP 5464,41 Warriewood Road, WARRIEWOOD, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. Registration of Lot

Proposed Lot 13 is to be registered with NSW Land and Registry Services. Evidence that the lot has been registered with NSW Land and Registry Services is to be provided to Council in order to activate the consent.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance

with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. **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
Site Plan - Rev G	24 September 2019	Wincrest Group Pty Ltd
Ground Floor Plan - Rev G	24 September 2019	Wincrest Group Pty Ltd
First Floor Plan - Rev G	24 September 2019	Wincrest Group Pty Ltd
Elevation A and B - Rev G	24 September 2019	Wincrest Group Pty Ltd
Elevation C and D - Rev G	24 September 2019	Wincrest Group Pty Ltd
Section A - A Rev G	24 September 2019	Wincrest Group Pty Ltd
Soil & Sediment Control Plan	24 September 2019	Wincrest Group Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate 1033966S_02	12 August 2019	Energi Thermal Assessors Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
L/01	14 August 2019	A Total Concept - Landscape Architects & Swimming Pool Designers
L/02	14 August 2019	A Total Concept - Landscape Architects & Swimming Pool Designers
L/03	14 August 2019	A Total Concept - Landscape Architects & Swimming Pool Designers

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	26 August 2019	Wincrest Group Pty Ltd

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.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the

following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are



breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including

but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. Rainwater Tank Installation & Use

A 4000 litres rainwater tank for non-potable purposes is to be installed and used as part of an integrated on-site Stormwater management system in accordance with Development Consent N0491/16.

The non-potable purposes are prescribed in the NSW Code of Practice for Plumbing and Drainage and include toilet flushing, garden irrigation, car washing and cold water laundry.

Reason: To ensure the appropriate rainwater tank is installed for the development.

7. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- Window (W11) located along the south eastern elevation at first floor (W11) is to be frosted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

8. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

9. **External Finishes to Roof and Walls**

The external finish to the walls and roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

11. **Protection of existing street trees**

- i) all existing street trees in the vicinity of the works shall be retained during all construction stages,
- ii) all existing tree guards shall be maintained in place,
- iii) any street tree damaged or removed shall be replaced in accordance with guidelines

provided by Council.

Reason: to retain and protect tree planting on development sites.

12. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by Wincrest Group Pty Ltd.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

13. **Landscape works**

Landscaping is to be completed in accordance with the Landscape Plan numbered L/01, as prepared by A Total Concept Landscape Architects, inclusive of the following requirements:

- i) all tree planting shall be installed at a minimum 75 litre container size,
- ii) the two (2) proposed canopy trees shall each have a minimum area of 3 metres x 3 metres contained wholly within the site, and are to be located a minimum of 5 metres from existing and proposed built structures,
- iii) fencing is not permitted forward of the front building line. Boundaries between public and private land shall be delineated by vegetation such as low hedges, garden beds or the like.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and the conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and ensure appropriate landscape treatment to soften the built form.

14. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

15. **Landscape maintenance**

All landscape components are to be maintained for the life of the development. A 12 month landscape establishment program is to be undertaken for all planting. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar

materials/components and species.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

16. **Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: preservation of environmental amenity.

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

Signed



Penny Wood, Planner

The application is determined on 16/10/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments