

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1150
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 26 DP 271139, 12 Bubalo Street WARRIEWOOD NSW 2102
Proposed Development:	Construction of a dwelling house including a swimming pool
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:	18/10/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	11/11/2019 to 26/11/2019
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	\$ 413,000.00
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PROPOSED DEVELOPMENT IN DETAIL

Construction of a 2 storey dwelling house, including a swimming pool and associated landscape 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 21 Development Control Plan - D16.5 Landscaped Area for Newly Created Individual Allotments

Pittwater 21 Development Control Plan - D16.7 Side and rear building lines

SITE DESCRIPTION

Property Description:	Lot 26 DP 271139 , 12 Bubalo Street WARRIEWOOD NSW 2102
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Bubalo Street. The site is irregular in shape with a frontage of 9.055m along Bubalo Street and a maximum depth of 36.9m. The site has a surveyed area of 313.9m². The site is located within the R3 Medium Density Residential zone under the <i>Pittwater Local Environmental Plan 2014</i>. The site is currently vacant. The site has a southerly orientation and is located on a very minor slope falling in the direction from the street frontage towards the rear of the property. The site is vacant with no canopy trees or vegetation. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by other vacant lots.

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.

April 2019

Multiple Development Applications have been lodged with Council for the construction of two (2) storey residential dwellings, per lot. Some have been approved, subject to deferred commencement conditions, while others have been withdrawn based upon multiple issues of non-compliance.

17 July 2019

A Modification Application (MOD2019/0343) for consent N0491/16 was lodged with Council for the modification of the contribution amount as outlined under Condition C13. This application is currently under assessment.

30 October 2019

A site visit was conducted.

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)(iia) – 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)	<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. <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. <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 provision of a

Section 4.15 Matters for Consideration'	Comments
	Geotechnical Assessment Report on 4 December 2019. Subsequently, the application was approved, subject to a deferred commencement. <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. <u>Clauses 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. <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. <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. <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.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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 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
Environmental Health (Acid Sulphate)	General Comments Environmental Health has considered the impact of the development on Acid Sulphate Soils and reviewed the Statement of Environmental Effects. Unlikely the development including installation of the pool will lower the water table below 1 metre. Environmental Health have identified air conditioning unit for heating/cooling. Noise from air conditioning unit considered however no condition required as offensive noise can be managed under Protection of the Environment Operations Act 1997. Recommendation APPROVAL - no conditions
Landscape Officer	The proposal for the erection of a new dwelling, in terms of landscape outcome is acceptable, subject to conditions. 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 A Landscape Plan is provided with the DA, and satisfies DA Lodgement Requirements. No Arboricultural Impact Assessment report is provided. The site does not contain any trees of significance. The existing street trees along the frontage must be protected during all stages of works. <u><i>Planner's Comment</i></u> Council's Landscape Officer recommends that landscaping shall be

Internal Referral Body	Comments
	completed in accordance with the Landscape Plan provided by A Total Concept (ATC) (Sheet L/01, L/02 and L/03). The Landscape Completion condition provided by Council's landscape officer requires the 2 proposed canopy trees are to have a minimum area of 3 metres x 3 metres contained wholly within the site, located a minimum of 5 metres from existing and proposed built structures, and shall be planted at least 2 metres from the common side boundary. The landscape plan provided by ATC indicates that there is insufficient space on the site to adhere to these requirements under the Landscape Completion condition. As such, a condition of consent will be recommended to revise the Landscape Completion condition.
NECC (Bushland and Biodiversity)	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.
NECC (Coast and Catchments)	The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP. Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objectives, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>. State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development. The subject land has been included on the 'Coastal Wetlands & Proximity Area' but not on 'Coastal Environment Area', 'Coastal Use Area' and Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 11 and 15 of the CM SEPP apply for this DA. <u>Comment:</u> Requirements to Clause 11 are being assessed by another section of the Council. However, on internal assessment, the DA satisfies requirements under clause 15 of the CM SEPP.

Internal Referral Body	Comments
	As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018. Pittwater LEP 2014 and Pittwater 21 DCP No other coastal related issues identified. As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.
NECC (Development Engineering)	<u>Geotechnical Risk Management:</u> In accordance with Council's Geotechnical Risk Management Policy for Pittwater, the Applicant has to submit a geotechnical risk assessment report and relevant certified forms to Council as proposed excavation depth for swimming pool is greater than 1.5 m. No objections are raised to the proposed development, subject to conditions.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The prior subdivision application for the master lot demonstrated that the new subject allotment is not identified as flood prone by the Flood Planning Level extent. No flood related development controls applied.
NECC (Water Management)	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. Water management has largely been dealt with under the subdivision application. 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. Please note that due to the limit on impervious area, the proposed pool and any other paved areas must be limited to a maximum of 20sqm, as with this application the development will have 59% impervious area. This is a calculation for water management and is not related to landscaped area requirements.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been

External Referral Body	Comments
	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 and use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1043829S_02 on 25 September 2019).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	59

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:

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:

This Clause has been assessed against the subject site and proposed development. No issues were raised in relation to the proposed development and the land being within proximity to coastal wetlands. As such, Council is satisfied that the proposed development achieves compliance with the abovementioned requirements.

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:

Council's Coastal Environment Officer has reviewed this application in regards to this Clause and is satisfied the proposed development is unlikely to increase risk of coastal hazards.

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

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	6.9m	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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	1.5m Articulation Zone 4.0m Garage 3.0m Dwelling	5.7m Articulation Zone 8.3m Garage 6.6m Dwelling	N/A N/A N/A	Yes Yes Yes
Rear building line	4.0m Ground level 6.0 Upper level	Dwelling 7.6m - 8.9m Ground level 12.0m - 13.3m Upper Level Swimming Pool 1.9m - 0.9m	N/A N/A 52.5% - 77.5%	Yes Yes No
Side building line	Northern Boundary 0.9m Ground level 1.5m Upper level	Northern Boundary 0.9m Ground level 0.9m Upper level	N/A 40%	Yes No
	Southern Boundary 0.9m Ground level	Southern Boundary 0.2m - 1m Ground level	77.7%	No (& Yes)

	1.5m Upper level	1.3m Upper level	13.3%	No
Landscaped area	35% (116.1m ²)	22.3% (74.3m ²)	26.2%	No

***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 x 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
B3.2 Bushfire Hazard	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
B4.15 Saltmarsh Endangered Ecological Community	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
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
C1.17 Swimming Pool Safety	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	No	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
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D16.12 Fences	Yes	Yes
D16.13 Building colours and materials	Yes	Yes
D16.14 Pets and companion animals	Yes	Yes

Detailed Assessment

D16.5 Landscaped Area for Newly Created Individual Allotments

Required:

35% or 116.1m²

Proposed:

22.3% or 74.3m²

The proposed development will result in a minor non-compliance to this control, representing a variation of 36.2%. There are areas within the site that will facilitate the infiltration of stormwater runoff, however, due to the minimum dimensions of 4m, these areas are not seen to contribute towards the overall landscaped area on the site.

Under *Pittwater Local Environmental Plan (PLEP) 2014*, landscaped area is defined as a part of the site used for growing plants, grass and trees, but does not include any building, structure or hard paved area. When applying this definition to the calculation of landscaped area for the site, the total landscaped area is increased to 81m² (or 25%).

Additionally, to reduce the built form structures on the site, a mulched pathway (with an area of 31.1m²) is proposed between both the northern and southern side boundary lines and the dwelling to facilitate access to the rear of the site. This mulched pathway will further increase the landscaped area to 105.4m² (or 31.7%). The mulched pathway is considered to be a pervious surface which will facilitate the infiltration of stormwater runoff to the ground water table, thus satisfying one of the outcomes of this control.

The landscaped area will be enhanced by the planting of canopy trees of native species within the front and rear setbacks. The proposed planting will assist in integrating the newly built structure with the surrounding natural environment of Warriewood Valley and the anticipated streetscape of Bubalo Road.

While the proposal is numerically non-compliant with the minimum landscaped area requirements, it is appropriate and consistent with the outcomes of the control and is, therefore, supported on merit.

D16.7 Side and rear building lines

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

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

This clause additionally addresses the minimum rear setback requirements for a detached dwelling 9m

to 14m wide are as follows:

- 4m to the ground level, and
- 6m to the upper level.

The proposed dwelling achieves compliance with the rear setback minimum requirements. However, the proposed swimming pool will result in a numerically non-compliant rear setback, ranging between 0.9m - 1.9m. This represents a variation to the control of 77.5% and 52.5%.

Furthermore, the proposed development will result in numerically non-compliant side setbacks along the northern and southern boundaries, for both the ground and upper levels - representing variations to this control between 13.3% and 77.7%, respectively.

Merit Consideration

With regard to the above consideration for a variation, the development is considered against the underlying objectives of the control as follows:

To achieve the desired future character of the Locality.

Comment:

Under A4.16 Warriewood Valley Locality of P21 DCP, the proposed development is consistent with the objectives of the desired future character of Warriewood Valley. The proposal will include the provision of native planting, including 2 canopy trees - one within the rear yard and one within the front setback. Additionally, the bulk and scale of the proposed development will be minimised by landscaped treatments, which will contribute to the privacy of the subject site, and adjoining properties.

The area of site disturbance is minimised and soft surface is maximised.

Comment:

The majority of the proposed development does not require significant excavation. As such, the degree of site disturbance is minimised, with all efforts made to enhance soft surface areas within the site.

The bulk and scale of the built form is minimised and the impact of the proposed development on the adjoining properties is minimised.

Comment:

The proposed development is consistent in bulk and scale with other approved dwellings within the same subdivision. The provision of landscape treatments within the front setback will visually reduce the bulk of the dwelling when viewed from public places.

To create meaningful breaks between adjoining buildings and regular rhythm of built form, particularly with regard to the built forms presentation to public places.

Comment:

The proposed development will achieve adequate articulation and building breaks which will provide a regular rhythm of the built form, and achieving consistency with other dwellings within the subdivision.

To create usable curtilage areas around buildings for viable access, landscaping and open space.

Comment:

While the proposed development will result in a numerically non-compliant setback for a portion of the the south-western boundary, access from the front to the rear of the property can be done so along the north-eastern area of the site. Soft landscaping is provided within the front and rear of the property. The rear yard will have a swimming pool which will provide functional open space for the occupants of the subject site.

Equitable preservation of views and vistas to and/or from public/private places.

Comment:

The proposed development is unlikely to impact upon the views and visits to and/or from public and private places.

Vegetation and natural features of the site is retained and enhanced within the development site design to screen the visual impact of the built form.

Comment:

The subject site is currently a vacant block. No significant trees or vegetation are on the site. The proposed development includes landscape planting of various sizes - including canopy trees and hedging.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties.

Comment:

The proposed development will create a reasonable level of privacy, amenity and solar access for the occupants of the subject site, and those of adjoining properties (particularly the property to the south-west).

While the proposal is numerically non-compliant with the minimum side and rear setback requirements, it is consistent with the outcomes of the control and is, therefore, supported on merit.

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 DA2019/1150 for Construction of a dwelling house including a swimming pool on land at Lot 26 DP 271139, 12 Bubalo Street, 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. Geotechnical Risk Assessment Report

The Applicant will need to submit a Geotechnical Risk Management Report and relevant certified forms to Council to demonstrate compliance with Council's Pittwater Geotechnical Risk Management Policy relating to the potential impact of excavation on land stability.

Reason: To ensure geotechnical risk is mitigated appropriately.

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
01 Site Plan	4 September 2019	Wincrest Bespoke
02 Ground Floor Plan	4 September 2019	Wincrest Bespoke
03 First Floor Plan	4 September 2019	Wincrest Bespoke
04 Elevation A & Elevation B	4 September 2019	Wincrest Bespoke
05 Elevation C & Elevation D	4 September 2019	Wincrest Bespoke
06 Section A-A	4 September 2019	Wincrest Bespoke
06-2774-S029 Swimming Pool	April 2006	SGP Consulting Engineers Pty. Ltd.

Engineering Plans		
Drawing No.	Dated	Prepared By
12 Soil & Sediment Control Plan	4 September 2019	Wincrest Bespoke
D1 - Concept Stormwater Management Plan	30 September 2019	Eze Drainage Solutions

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate 1043829S_02	25 September 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 Landscape Plan	27 September 2019	A Total Concept

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	26 September 2019	Wincrest Bespoke

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. **Geotechnical Report Recommendations for Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. **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.

8. **Amendments to the approved plans**

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

- The proposed 1.2m high privacy screen fence located within the front setback along the northern portion of the site is to be removed from the plans prior to the issue of a Construction Certificate.

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.

9. **Boundary Identification Survey**

A Boundary Identification Survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the construction certificate are to accurately reflect the property boundaries as shown on the Boundary Identification Survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans, referenced in Condition 1 of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

10. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

11. **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.

12. **External Finishes to Roof**

The external finish to the 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

13. 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.

14. Installation and Maintenance of Sediment Control

Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until all development activities have been completed and the site fully stabilised.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

15. Protection of existing street trees

All existing street trees in the vicinity of the works shall be retained during all construction stages. Existing tree guards shall be maintained in place.

Should any street tree along the site frontage not contain a tree guard or the existing tree guard is damaged during works, tree protection fencing consisting of a four sided 1.8m high x 2.4m length standard wire mesh construction fence, in accordance with Australian Standard AS 4687-2007 - Temporary Fencing & Hoardings shall be installed around the tree for the duration of the works.

Any street tree damaged or removed shall be replaced at a container size of 200 litres, and in accordance with guidelines provided by Council.

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

16. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

17. 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**

18. Landscape completion

Landscaping is to be completed in accordance with the Landscape Plans numbered L/01, L/02, and L/03, as prepared by ATC - A Total Concept, inclusive of the following requirements:

- i) 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, and shall be planted at least 2 metres from the common side boundary,
- ii) all tree planting is to be a minimum container size of 75 litre,
- iii) tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views,
- iv) 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 soften the built form.

19. 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.

20. Revised Landscape Works

Landscaping will be completed in accordance with Landscape Plan L/01, L/02, L/03 (prepared by ATC), inclusive of the following requirements:

- o 1 canopy tree, as listed in the Warriewood Valley Landscape Masterplan Design Guidelines, shall be installed to the rear of the property as indicated on landscape plan L/01 prepared by ATC.

- 1 canopy tree, as listed in the Warriewood Valley Landscape Masterplan Design Guideliness, shall be installed at the front of the property as indicated on landscape plan L/01 prepared by ATC.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a suitably qualified landscape architect or landscape designer will be submitted to the Principal Certifying Authority to ensure the landscape works have been completed in accordance with the landscape plan provided and inclusive of the planting of the proposed canopy trees.

Reason: to maintain and enhance landscape amenity.

21. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

22. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

23. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence/documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled, reused and to limit landfill.

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

24. **Landscape maintenance**

Any existing landscaping required to be retained together with any additional landscaping required by this Consent is to be maintained for the life of the development.

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.

25. **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.

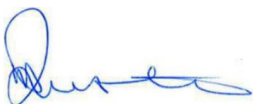
26. **Finished Works**

The proposed 1.8m high lapped and capped fence, all other built structures and associated landscaping are to be contained wholly within the property boundaries of Lot 26, 41 Warriewood Road, Warriewood.

Reason: To ensure there is no impact upon neighbouring properties.

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

Signed



Megan Surtees, Planner

The application is determined on 13/01/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments