

20 September 2024



Boston Blyth Fleming Pty Ltd
1 / 9 Narabang Way
BELROSE NSW 2085

Dear Sir/Madam

Application Number: DA2024/0262
Address: Lot 6 DP 749791 , 113 Orchard Street, WARRIEWOOD NSW 2102
Proposed Development: Demolition works and construction of a dwelling house, horse arena, stables and paddocks

Please find attached the Notice of Determination for the above mentioned Application.

You should thoroughly read the Notice of Determination and be aware of any conditions imposed that affect the development and guide the next steps in the process before you can commence works and/or the use.

A copy of the Assessment Report associated with this application is available to view in the Planning and Development > Application Search section of Council's website at www.northernbeaches.nsw.gov.au

If you have any questions regarding the decision or the conditions, please contact Council to speak to the assessment officer or the undersigned on 1300 434 434 or via email quoting the Application number, property address and the description of works to council@northernbeaches.nsw.gov.au

Regards,



Anne-Marie Young
Principal Planner

NOTICE OF DETERMINATION

Application Number:	DA2024/0262
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Boston Blyth Fleming Pty Ltd
Land to be developed (Address):	Lot 6 DP 749791 , 113 Orchard Street WARRIEWOOD NSW 2102
Proposed Development:	Demolition works and construction of a dwelling house, horse arena, stables and paddocks

DETERMINATION - REFUSED

Made on (Date)	20/09/2024
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Reasons for Refusal:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Zone RU2 Rural Landscape of the Pittwater Local Environmental Plan 2014 and the following Clauses contained in the Pittwater 21 Development Control Plans: Clause A4.14 Warriewood Locality, Clause C1.1 - Landscaping, Clause D14.1 Character as viewed from a public place, D14.2 Scenic Protection - General, Clause D14.7 Front building line and D14.8 Side and rear setbacks

Particulars:

The proposal includes significant landfill to the frontage of the site and the construction of extensive retaining walls associated with the horse arena. The proposal also includes a shed and car parking within the 20m front setback. Insufficient space is retained to the frontage to allow space for suitable landscaping to screen the development and reduce the visual impact of the built form. As such, the proposed development does not maintain the rural character of the land contrary to the RU2 Rural Landscape zone objectives. The proposal fails to integrate with the landform and landscape and is inconsistent with the desired future character of the Warriewood Locality and the scenic qualities of the area. The proposal will result in unreasonable visual impacts on the streetscape and the adjoining R2 Low Density Residential Zone.

3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.2 Earthworks and Clause 7.7 Geotechnical Hazards of the Pittwater Local Environmental Plan 2014 and Clause B3.1 Landslip Hazards and Clause B8.1 Construction and Demolition - Excavation and Landfill of the Pittwater 21 Development Control Plan.

Particulars:

The geotechnical report submitted with the application does not relate to the proposed development. As such, insufficient information has been submitted to demonstrate that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.6 Biodiversity protection of the Pittwater Local Environmental Plan 2014 and Clause B4.18 Heathland / Woodland Vegetation of the Pittwater 21 Development Control Plan.

Particulars:

(i) Insufficient information has been submitted to demonstrate that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Insufficient information has been submitted to demonstrate that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land. Insufficient information has been submitted to satisfy Council that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

(ii) The proposed development has not been accompanied by a completed BDAR as required by the *Biodiversity Conservation Act 2016*.

5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.17 Swimming Pool Safety of the Pittwater 21 Development Control Plan.

Particulars

No details of the swimming pool fence have been submitted, as such, due to insufficient information, the proposal has failed to demonstrate compliance with the requirements and outcomes of Clause C1.17 Swimming Pool Safety.

6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D14.17 Construction, Retaining walls and undercroft area of the Pittwater 21 Development Control Plan.

Particulars:

Due to the scale of the retaining walls within the front setback and insufficient space for landscape screening the proposal will not enhance the existing streetscape contrary the

outcomes of the control.

7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D14.14 Landscaped Area - Non Urban of the Pittwater 21 Development Control Plan.

Particulars

Due to insufficient information it has not been possible to confirm that the proposal retains a sufficient amount of landscape open space to comply with the requirements and outcomes of Clause D14.14 Landscaped Area - Non Urban.

Request a review of the determination

If you are dissatisfied with this determination, you may request a review of the determination:

- You do not have the right to request a review of the determination under section 8.3 of the EP&A Act if you are excluded from those developments listed under Section 8.2(2) of the EP&A Act.
- You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

Objector's right of appeal against the determination

An objector who is dissatisfied with the consent authority's determination to grant consent, in relation to Designated Development only has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Signed On behalf of the Consent Authority



Name Anne-Marie Young, Principal Planner

Date 20/09/2024