

STATEMENT OF ENVIRONMENTAL EFFECTS

Construction of a New
Dwelling, Horse Arena,
Stables & Paddocks

113 Orchard Street,
Warriewood

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1 Introduction

This Statement of Environmental Effects (SEE) has been prepared in support of a review of determination application to address the reasons for refusal with regard to 113 Orchard Street, Warriewood.

The application has been revised to address the reasons for refusal with the amendments summarised as follows:

Revision #1: the proposed BAL40 compliant house is moved 9 metres East, remaining at the most northerly location possible to avoid an increase in its fire risk. Its re-location continues to enable the arena to be located on existing cleared land for the purpose of minimising and avoiding impact on the significant natural environment of the western escarpment. The proposed house replaces the existing house, which will be removed upon occupancy of the proposed house.

Revision #2: the shift of the arena north, lowers the maximum height of the arena retaining wall (2m -2.4m from the street frontage) to 60% of its original maximum (to 2.7 metres). This vastly reduced scale is complemented by extensive Lilly Pilly hedge screening that will minimise its visual impact when viewed from the public domain.¹ Overall, the 82m property frontage will present a mix of native trees and plantings, that is solid to screen the arena wall, and then allowing filtered viewing from the street of the western escarpment.

Revision #3: hayshed and manure bin are brought within the house excavation footprint. Their location is compliant with requirements.

Revision #4: additional parking is removed.

Revision #5: paddocks are totally located within the APZ.

Revision #6: stables precinct is reduced in size, environmental and visual impact (wash bay removed; reconfigured WC, feedroom and tackroom).

Revision #7: altered pathway stables precinct to paddocks reduces environmental impact.

Revision #8: Swimming pool fencing is included on site plan. A condition of consent can be included to ensure that compliance with the swimming pool safety standards are followed.

Revision #9: Landscaping is integrated with building design and screens the visual impact of the built form (stables, arena, house), and enhances streetscape.

Revision #10: Excavation of natural landform is reduced: shortened driveway, hayshed/manure bin relocation; removed parking; reduced stables precinct footprint, altered pathway stables to paddocks & (while not a natural landform) the excavation associated with the arena's construction is substantially reduced.

Review documents include a comprehensive, detailed Biodiversity Report and Biodiversity Management Plan, a revised and detailed Landscaping Concept Plan, a comprehensive and detailed Tree Removal Plan, an appropriate Geotechnical Hazards Report, and updated

reports as relevant to revisions (Stormwater, Waste Water, Arborist, Bushfire Risk). These reports support the development as amended.

The reasons for refusal have been addressed below:

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.

Response: The amendments and additional information provided with this review of determination will ensure that consistency with the aims of the LEP are achieved.

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.

Response: The additional parking has been removed and the sheds relocated to be within the footprint of the existing house. Lily Pilly screen hedging is provided in front of the retaining walls along the boundary associated with the horse arena to minimise its visual impact.

The land is zoned for the proposed use with regard to animal training and boarding. It is reasonable to anticipate such facilities on this site. The site is constrained with regards to bushfire and biodiversity mapping that makes strict compliance with a 20m front setback challenging. The location of the arena is the only suitable area due to it being already cleared and will have the least impact on the land.

The amendments have reduced the scale of the retaining wall which will vary in height due to the crossfall of the land. Sandstone cladding will be used on the façade of the retaining wall, and along with the proposed screen hedged and existing street trees it will ensure any perceived visual impact is minimised to those dwellings opposite the street. The amended retaining wall will have a maximum height of 2.7m.

The amount of excavation has been reduced with the proposed fill to reuse the excavated material. It is acknowledged that it would be ideal to comply with the 20m front setback control however given the constraints of the site such variations succeed pursuant to section

4.15(3A)(b) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

With regard to the desired future character and zone objectives, this application has always considered minimising impacts to the environmental significance of the property. The aim of the extensive revisions to the original proposal is to maximise conservation of the natural topography, fauna and flora by locating essential structures where they assist to minimise and avoid biodiversity impact and enhance the rural and bushland character of the property, while *minimising* conflict with low-density residential neighbouring properties. It cannot be said that the development does not integrate with the landform and landscape when the bulk of the almost hectare large site is not being impacted by the development. It is unreasonable to focus on retaining walls and cut/fill elements of the development, as it relates to the R2 zone, and claim that the entire site is not achieving consistency with the RU2 zone. It is not reasonable to have the site zoned for rural activities and not allow the reasonable facilitation of rural activities such as those proposed.

The proposal keeps the paddocks in the shaded bushland area and has revised the stables precinct so that, as much as possible, it utilises the existing footprint of the current house and its septic tank. The house is located, like the arena, to the north-easterly portion of the property as much as possible, while also ensuring stabling is separated from the residential area. Again, care has been taken to ensure adjoining R2 residential land is not impacted by the day to day care of the horses.

The arena will only be used for exercising and training the horses. It is integral for health of horses to have adequate space to exercise. The size of the proposed arena provides for all-purpose horse-riding use (other than eventing-style training). The proposed is smaller than the standard 20 m x 60 m arena size. Its 20 m x 50 m dimensions is a reasonable accommodation to the location and demonstrates a willingness to respect and integrate with the landscape and constraints of the site.

The frontage of the site is 82m with the horse arena being an open structure above the retaining wall. The visual impact of the retaining wall on the R2 zoned sites is being overstated. This is reflective in submissions that were received, none of which raised issues with the visual impact of the retaining wall with 2 supportive of the works and stated that they have been in regular consultation with the owners about the plans.

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.

Response: An updated geotechnical report has been provided addressing the above. White Geotechnical considers each of the matters prescribed by clause 7.7(3) of PLEP 2014, and

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*.

confirms that the development has been designed, sited and will be constructed to minimise risk, consistent with the provisions of clause 7.7(4) of PLEP 2014.

Response: We acknowledge that the biodiversity analysis of the site submitted with the original DA was inadequate. A new biodiversity consultant has been engaged whose report responds comprehensively to all the issues raised by council. With the revised DA the layout maintains a '*contiguous vegetation/habitat to the north, west and south*' (Ecologist, Skelton report). Skelton also notes that no areas of habitat are isolated or fragmented. Quoting further from Skelton, he notes the modest house footprint and the reduced sized arena (relative to usual domestic arenas) and states at 7.2.4 of his report:

- *APZ reduced by improving the building standard for fire resistance BAL*
- *Placement location – clustering and overlapping APZ and compatible structures*
- *Technology – Wastewater dewatering is above ground*
- *The proposal (Option 3a) retains the most native vegetation habitat out of the options considered.*
- *The proposal (Option 3a) retains and manages 0.4 ha in accordance with a Biodiversity Management Plan.*
- *The proposal (Option 3a) takes advantage of the existing clearing and is consequentially in the location that maintains the highest level of habitat connectivity of the options considered.*
- *The proposal will not fragment or isolate habitat*
- *The proposal utilises the APZ for paddocks and stables*

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.

Response: Pool fencing has been included into the design. Pool fencing would be a required to be in accordance with the swimming pool safety standards in any case. A condition of consent would be welcomed in that regard.

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

Response: The setback to the retaining wall from the front boundary is 2m which does not prohibit the ability to provide landscape screening treatment along the boundary. As mentioned, Lilly Pilly hedging is proposed in front of the retaining wall with sandstone cladding to be included to the façade of the wall.

We also note that clause D14.7 controls include the following which states that *Built structures, other than driveways, fences and retaining walls are not permitted within the front building setback*. The DCP reasonably anticipates retaining walls within the front setback and the amended scheme has sought to minimise its scale with substantial screen plantings to ensure its visual impact is minimised. Furthermore, variations are included into the clause D14.7 which states that provided that the development is consistent with the outcomes Council may accept a variation to the front building line in circumstances relating to:

- *considering established building lines;*
- *degree of cut and fill;*
- ***retention of trees and vegetation;***
- *where it is difficult to achieve acceptable levels for building;*
- *for narrow or irregular shaped blocks;*
- ***where the topographic features of the site need to be preserved;***

- *where the depth of a property is less than 20 metres.*

The variation to the front setback is directly related to retaining trees and vegetation to minimise impacts the biodiversity value of the site. The arena is located in an already cleared area. The topographical characteristics need to be preserved to achieve a suitable biodiversity outcome, also. Strict compliance with the 20m control would result in much greater intrusions with regard to trees and vegetation as well as greater cut and fill to create a level arena. The proposal is consistent with the outcomes of clause D14.7.

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.

Response: The additional parking has been removed which will increase soft landscaping across the site. Please refer to landscape plan. Given the scale of the site and the minimisation of impacts to existing trees and vegetation to satisfy a biodiversity outcome it is considered the proposal meets the outcomes of the landscape area control for non-urban areas. ‘

In addition to this SEE, the application is also accompanied by the following:

- Architectural Plans
- Survey
- Stormwater Management Plans
- Arboricultural Impact Assessment
- Flora and Fauna report
- Stormwater Management Plans
- BASIX Certificate
- Waste Management Plan

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act 1979 (**EP&A Act**),
- Environmental Planning and Assessment Regulation 2021,
- State Environmental Planning Policy (Resilience and Hazards) 2021,
- Pittwater Local Environmental Plan 2014 (**PLEP 2014**), and

- Pittwater 21 Development Control Plan 2012 (**P21 DCP**).

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the EP&A Act. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

2 Site Analysis

2.1 Site Description and location

2.1.1 The Site

The site has a legal description of Lot 6 in DP 749791 and is commonly referred to as 113 Orchard Street, Warriewood. The site area is measured at 9766m² with a width of 82.2m and approximate depth of 115m.

An aerial location photograph is at Figure 1 below.



Figure 1: Aerial photograph of the subject site

The site is currently accessed from a right of carriageway from Orchard Street. The site is characterised with a sloping topography that rises up from street level to the rear approximately 40, as depicted on the survey provided. Extensive tree coverage is present across the site. Development on site currently consists of a single storey weatherboard dwelling.

The physical and topographical characteristics of the site are depicted on the site survey, with the condition of the canopy trees and vegetation identified in the Arboricultural Impact Assessment Report by Jacksons Nature Works and the Flora and Fauna Assessment by GIS Environmental Consultants.

The rear of the site backs onto Heydon Reserve. Larger lot sites are located directly to the north and south with low density subdivisions located to the east.

2.1.2 The Locality

The site is zoned RU2 Rural Landscape under the provisions of PLEP 2014. Natural constraints and protections areas of the site are identified within the planning legislation are as follows:

- Geotechnical hazard
- Bushfire Prone Land
- Terrestrial Biodiversity area

3 Description of Proposed Development

3.1 Details of the proposed development

New Dwelling:

The proposed development seeks to demolish the existing dwelling and construct a new dwelling in a different location on site. Considering that the new dwelling will be relocated on site, it is requested that the demolition of the existing dwelling not be required until the construction of the new dwelling is complete to allow the owners to live in the existing house during construction. A condition of consent to demolish the existing house within a determined timeframe once an occupation certificate has been obtained for the new house is requested.

The new dwelling details are provided within the Tullipan Home architectural plans and specifically include:

- 4 bedrooms. Bed1 will include a WIR and ensuite
- Open plan kitchen/living/dining which opens out to a rear terrace and pool area as well as a front facing verandah.
- Laundry
- Bathroom
- Lower level garage
- Lower level leisure/multipurpose room

Horse Facilities:

The proposed horse facilities are details on the architectural plans prepared by Tony McClain Architect. Specifically, the works provide for:

- Horse area located adjacent to the street frontage measuring 20m x 50m and will be fenced. Screen hedge plantings are proposed between the front boundary and fence. This arena is to provide an area to train and ride the horses.
- Behind the horse area will be 4 stables with smaller fenced yards. Feed/tack rooms and a single nominated wash bay. A bathroom is also provided here for convenience rather than having to go back to the house.
- 4 Paddocks are located the rear of the site for the horses during the day.
- Connection from the horse arena to the stables and the paddocks will be via ramps and horse pathways
- Horse manure storage area has been relocated with the amended plans
- Additional hay storage area relocated with the amended plans.

The application is supported by a flora and fauna report and an arborist report. Extensive consultation with those experts have determined the location of the paddocks and structures on site to minimise the loss of trees and to ensure that high value trees are not removed.

A waste water plan has been prepared by Martens Consulting Engineers.

4 Statutory Planning Framework

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the EP&A Act, as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential adverse environmental impacts are discussed below.

4.1 Pittwater Local Environmental Plan 2014

An assessment of the relevant provisions of PLEP 2014 is undertaken, below.

4.1.1 Zoning

PLEP 2014 applies to the subject site and this development proposal. The subject site is located within the RU2 Rural Landscape zone with dwelling houses and animal boarding or training establishments permissible with consent.

The objectives of the zone are considered as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The proposal is reflective of the rural character landscape on this property in Warriewood, given its RU2 zoning and its capacity to maximise the use of the cleared eastern and western shaded woodland sections of the property while supporting the large animals typically found in rural areas. Horses and equestrian activities have been commonplace in this locality with the Northern Beaches area having one of the highest rates of horse ownership within the metropolitan area.

The preservation of the property's natural topography, fauna habitat and flora on the property is demonstrates a commitment to preserve the biodiversity value as well as balancing the need for bushfire protection measures.

The site adjoins R2 land and a concerted effort has been to ensure there is no conflict between the proposed land use and the amenity of the adjoining properties. As discussed previously, the location of the horse arena is the most suitable location with regard to protecting the biodiversity value due to the existing clearing of the land. The retaining walls to the arena has been reduced

in scale to minimise visual impact with extensive screen hedges proposed to further soften and screen the structure.

4.1.2 Height of Buildings

Pursuant to clause 4.3(2) and the Height of Buildings Map of PLEP 2014, the site has a maximum building height limit of 8.5m.

The proposed dwelling is consistent with the 8.5m height limit as depicted on the architectural plans provided by Tullipan homes.

4.1.3 Acid Sulfate Soils

The site is identified within Class 5 on the Acid Sulfate Soils Map of PLEP 2014. The proposed development does not involve works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

4.1.4 Earthworks

The consent authority can be satisfied that the excavation proposed to accommodate the new dwelling and horse facilities will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, consistent with the provisions of clause 7.2 of PLEP 2014. See further discussion with regard to clause 7.7 of PLEP 2014.

The proposed cut will be reused on site for fill.

4.1.5 Biodiversity

The site is identified as “Biodiversity” on the Biodiversity Map of PLEP 2014. The consent authority can be satisfied that the proposed development has been designed, sited and will be managed to avoid any significant adverse environmental impact, consistent with the provisions of clause 6.7 of PLEP 2014.

The design of the development has been with regard to the high value trees on site and minimising loss of canopy across the site. The ecology report has undertaken a study of flora and fauna on site and has provided recommendations for remediation works with regard to weeds as well preventive measures to ensure impacts to flora and fauna are minimised. A BDAR has also been undertaken.

4.1.6 Bushfire Prone Land

The site is identified as being bushfire prone land and, as such, a bushfire risk assessment has been prepared and accompanies this application. The Bushfire report provides recommendations for the development to meet requirements under the *Planning for Bushfire Protection 2019*.

4.1.7 Geotechnical Hazards

The site is identified as being within Geotechnical Hazard H1 on the Geotechnical Hazard Map of PLEP 2014. The application is supported by a Geotechnical Risk Management Report by White Geotechnical Consultants that considers each of the matters prescribed by clause 7.7(3) of PLEP 2014, and confirms that the development has been design, sited and will be constructed to minimise risk, consistent with the provisions of clause 7.7(4) of PLEP 2014.

4.1.8 Essential Services

Pursuant to clause 7.10 of PLEP 2014, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

As mentioned, the previous applications raised concerns with the suitability of the onsite waste water management. An updated waste water plan has been prepared by Martens Consulting Engineers which provides recommendations of appropriate effluent management. The onsite waste water management system is detailed within the Martens report.

4.2 Pittwater 21 Development Control Plan

4.2.1 Warriewood Valley Locality

The site is located within the Warriewood Valley Locality, which is described as follows:

The extension of the tram to Narrabeen in 1913 established land north of Narrabeen Lagoon as a popular area for holidays and camping. From the 1950s, residential development intensified in this area, and along the slopes to the north, south and east of the locality.

From the 1920s, the Warriewood locality area expanded as a farming district as new settlers, including many from former Yugoslavia, moved into the area. Market gardening, primarily in the cultivation of tomatoes, reached its peak in 1947 and 1954, before declining in the 1960s. The rural character of the valley remained until the 1980s, when land was subdivided for industrial/commercial and townhouse development in the vicinity of Macpherson Street, Ponderosa Parade and Vuko Place.

The locality has developed with a mix of residential, retail/commercial, industrial, recreational, and educational land uses.

Low-density residential development is built along the slopes to the north and east of the locality, and within the lowland areas adjoining Pittwater Road. These areas are characterised by one and two-storey dwelling houses on 550-750 square metre allotments, generally increasing to 950 square metres on steeper slopes and the headland. The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes.

The locality is serviced by a Warriewood Square, a major retail centre, and neighbourhood retail centres at Narrabeen Park Parade and the intersection of Garden Street and Powderworks Road. The locality also contains the Narrabeen Sports High School, Narrabeen North Primary School, Mater Maria Catholic School, two youth/community centres, the Coastal Environment Centre, Warriewood Sewage Treatment Plant, Pittwater RSL Club, and recreational facilities including the Lakeside Caravan Park, several reserves, beaches and rockbaths. The locality also enjoys many significant natural environmental features, including the Warriewood Escarpment, Warriewood Wetlands, Narrabeen Lagoon, and Katandra Bushland Sanctuary.

Cottages and vegetation on Macpherson Street, indicative of the early farming history of the valley, have been identified as heritage items.

The locality is characterised by a valley surrounded by the escarpment to the west, headland to the east, slopes to the north and Narrabeen Lagoon and Mullet Creek to the south. Due to the topography, significant views can be obtained through all points of the compass. Conversely, the slopes and ridge tops of the locality are visually prominent.

Much of the natural vegetation in the valley has been removed and replaced with non-indigenous species. Much of the tree canopy around the escarpment, which is protected as an

area of environmental significance, has been retained.

The natural features of the locality result in a high risk of bushfire, landslip, flood, and coastline (beach) hazards.

Two major roads pass through the locality being Pittwater Road and Mona Vale Road, these are major links with other Sydney suburbs to the west and south.

The major roads within the locality are Pittwater Road, Mona Vale Road, Garden Street, Jacksons Road, Macpherson Street, Narrabeen Park Parade, and Sydney Road. Several pedestrian links and pathways/cycleways exist within the locality, including on the headland, within the Warriewood Wetlands, and adjacent to Narrabeen Lagoon.

4.2.2 DCP Compliance Table

A table demonstrating compliance with the relevant provisions of the P21 DCP is detailed as follows:

Control	Requirement	Proposed	Compliance
Part B General Controls			
B3.1 Landslip Hazard	All development on land to which this control applies must comply with the requirements of the Geotechnical Risk Management Policy for Pittwater.	The application is supported by a Geotechnical Risk Management Report by Davies Geotechnical Consultants, consistent with Council's Geotechnical Risk Management Policy for Pittwater.	Yes
B3.2 Bushfire Hazard	Development land to which this control applies must comply with the requirements of: Planning for Bushfire Protection (2006) Australian Standard AS 3959:2009 - Construction of a building in a bushfire-prone area	A bushfire risk assessment has been prepared and accompanies this application.	Yes

Control	Requirement	Proposed	Compliance
B4.2 Flora and Fauna Conservations Category 1 and Wildlife Corridor	Development shall result in no significant onsite loss of canopy cover and no net loss in native canopy trees	<p>The application is supported by a Flora and Fauna Report which confirms that proposed development does not result in any impacts upon existing significant vegetation. Remediation recommendations are proposed with regard to weed removals</p> <p>Tree removal has been detailed within the arborist report with recommendations proposed to protect within proximity to the development areas. Impacts to the tree canopy have been minimised as much as possible to facilitate the development.</p>	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Development shall not negatively impact on threatened species, endangered populations or endangered ecological communities.	As per above.	Yes
B4.18 Heathland/Woodland Vegetation	<p>Development shall retain and enhance habitat and wildlife corridors for threatened species, endangered populations, endangered ecological communities and other locally native species.</p> <p>Development shall not reduce or degrade habitat for locally native species, threatened species, endangered populations or</p>	A revised biodiversity report is provided with this application. With the amendments to the site configurations it will maintain a ' <i>contiguous vegetation/habitat to the north, west and south</i> '. The biodiversity report also notes that no areas of habitat are isolated or fragmented. The modest house footprint and the reduced sized arena (relative to usual domestic arenas) and states at 7.2.4 of his report:	Yes

Control	Requirement	Proposed	Compliance
	endangered ecological communities.	<ul style="list-style-type: none"> • <i>APZ reduced by improving the building standard for fire resistance BAL</i> • <i>Placement location – clustering and overlapping APZ and compatible structures</i> • <i>Technology – Wastewater dewatering is above ground</i> • <i>The proposal (Option 3a) retains the most native vegetation habitat out of the options considered.</i> • <i>The proposal (Option 3a) retains and manages 0.4 ha in accordance with a Biodiversity Management Plan.</i> • <i>The proposal (Option 3a) takes advantage of the existing clearing and is consequentially in the location that maintains the highest level of habitat connectivity of the options considered.</i> • <i>The proposal will not fragment or isolate habitat</i> • <i>The proposal utilises the APZ for paddocks and stables</i> 	
B4.22 Preservation of Trees and Bushland Vegetation	<p>To protect and enhance the urban forest of the Northern Beaches.</p> <p>To effectively manage the risks that come with an established urban forest through</p>	<p>A detailed arborist report has been prepared and accompanies this application.</p> <p>The site is currently under developed and characterised with dense tree coverage. The design has been developed in</p>	Yes

Control	Requirement	Proposed	Compliance
	<p>professional management of trees.</p> <p>To protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.</p>	<p>close consultation with the project arborist to minimise the removal of trees and retain the high value trees on site.</p> <p>The project has endeavoured to strike a balance between the orderly and economic use of the site which permits animal boarding and training facilities with consent and the loss of trees.</p>	
B5.15 Water Management	The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.	The application is accompanied by Stormwater Management Plans which demonstrate consistency with Council's Water Management for Development Policy.	Yes
B6.1 Access Driveways and Works on the Public Road Reserve	Access Driveways include the driveway pavements, gutter crossings, supporting retaining walls, suspended slabs and related structures located on the public road reserve between the road edge and property boundary as illustrated in Appendix 10 -Driveway Profiles.	The existing vehicle crossover and driveway access will be retained.	Yes
B6.2 Internal Driveways	The design of all internal driveways and ramps shall be in accordance with the current edition of the following Australian	The proposed driveway has been designed in accordance with the relevant provisions of AS2890.1.	Yes

Control	Requirement	Proposed	Compliance
	Standard AS/NZS 2890.1-2004: Parking Facilities - Off-Street Car Parking.		
B6.3 Off-Street Vehicle and Parking Requirements	2 spaces (minimum)	<p>Horse float/trailer parking is retained for the applicants' horse float, plus an additional space for a trailer to assist with moving hay, manure and other horse-associated items. This trailer parking space will be utilized for visitor horse float parking to maximise safety for members of the public, horse riders and horses during the loading and unloading of horses.</p> <p>The additional car parking has been deleted.</p>	Yes
B8.1 Construction and Demolition - Excavation	All development on land to which this control applies must comply with the requirements of the Geotechnical Risk Management Policy for Pittwater.	<p>The proposed excavation has been assessed with the geotechnical reports and does not raise any unreasonable risk provided the recommendations are adhered to.</p> <p>The proposed excavation is located on the portion of land already disturbed via land clearing. Further, total fill for the arena and for the stables precinct is reduced to 1170m.³ Additionally, further site disturbance minimisation measures have been incorporated into this revised proposal. These include</p>	Yes

Control	Requirement	Proposed	Compliance
		<ul style="list-style-type: none"> - moving the house 9 metres to reduce driveway length, - the house and paddocks are stepped down as required by A4.14. - bringing the hay shed and manure bin within the house reduces the excavation footprint. - the stables precinct/ reversing the north/south layout are substantially included into the APZ. Its size is reduced by removing the wash bay, and reconfiguring and reducing the WC, feedroom and tackroom. These revisions reduce the excavation footprint and also the topographic impact of pathways from stables to paddocks. - There is no cutting or filling to level land for paddocks. The natural topography is retained. 	
B8.3 Construction and Demolition – Waste Minimisation	Waste materials generated through demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or	The application is supported by a Construction and Demolition Waste Management Plan.	Yes

Control	Requirement	Proposed	Compliance
	disposal at an appropriate waste facility.		
C1 Design Criteria for Residential Development			
C1.1 Landscaping	<p>A built form softened and complemented by landscaping.</p> <p>Landscaping that reflects the scale and form of development.</p>	<p>The landscaping proposed on site has been significantly enhanced from the refused scheme. Please refer to the landscape plan for details.</p> <p>Particular detail has been provided to the frontage to provide softening and screening of the arena while enhancing native species on the site. The removal of trees has been limited as much as possible and is detailed in the arborist report provided. Tree protection measures have been incorporated in the arborist report.</p> <p>Natural rock outcrops have been retained and preserved.</p>	Yes
C1.2 Safety and Security	The development is to be designed in accordance with the four CPTED principles.	The dwelling house provides appropriate casual surveillance of the street.	Yes
C1.3 Views	All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.	No views will be impacted.	Yes

Control	Requirement	Proposed	Compliance
C1.4 Solar Access	<p>The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.</p> <p>Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).</p>	<p>The larger lot context and the location of the new dwelling will not result in any overshadowing impacts.</p> <p>The new dwelling will receive ample solar access.</p>	Yes
C1.5 Visual Privacy	<p>Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation (measured from a height of 1.7 metres above floor level).</p>	<p>No visual impacts will be associated with the development given the large lot nature of the site and its spatial separation from dwellings in the immediate area.</p>	Yes
C1.6 Acoustic Privacy	<p>Noise-sensitive rooms, such as bedrooms, should be located away from noise sources, including main roads,</p>	<p>The dwelling and horse facilities do not give rise to</p>	Yes

Control	Requirement	Proposed	Compliance
	parking areas, living areas and communal and private open space areas and the like.	any unreasonable acoustic impacts.	
C1.7 Private Open Space	Minimum 80m ² of private open space per dwelling at ground level, with no dimension less than 3 metres.	More than 80m ² of private open space is provided across the site.	Yes
C1.17 Swimming Pool Safety	Swimming pool fencing and warning notices (resuscitation chart) shall be manufactured, designed, constructed, located and maintained in accordance with the Swimming Pools Act 1992 and regulations.	The proposed swimming pool has been designed and will be constructed in accordance with the relevant provisions of Swimming Pools Act 1992 and regulations.	Yes
Part D1 Warriewood Locality			
D14.1 Character as viewed from a public place	Buildings which front the street or creekline corridors must have a street presence and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality. Blank street frontage facades without windows shall not be permitted	<p>The reason for refusal focused on the visual impact of the arena retaining wall when viewed from the street. As mentioned, the scale of the retaining wall has been reduced with additional screen planting provided to soften the presentation of the wall when viewed from the street.</p> <p>The development balances the several constraints and existing characteristics of the site to achieve a reasonable development outcome that is anticipated by the zoning and</p>	Yes

Control	Requirement	Proposed	Compliance
	The bulk and scale of buildings must be minimised.	<p>minimises impacts to the sensitivities of the site and surrounding development. The works will protect and preserve the vast majority of the site and maintains the rural and bushland character. In this regard, the preservation of the majority of site as bushland contributes positively to the local area and will continue to provide habitat for local fauna. This is detailed within the biodiversity report.</p> <p>The setback of the arena retaining wall is between 2m and 2.4 m. Its revised maximum height is 2.7 metres height scale. Overall, including in relation to the arena, the revised proposal incorporates new native vegetation that is integrated with the development to reduce the impact of buildings' bulk and scale on a property. The retaining wall will not run the length of the 82m frontage resulting in a significant amount of the front setback open and landscaped. The arena itself will be an open structure.</p> <p>Consistent with its RU2 zoning and the desired future character, the proposal sensitively maintains the rural landscape character of the land while going to significant lengths to protect the environmental significance of the land. The house and stables incorporate shade</p>	

Control	Requirement	Proposed	Compliance
		elements, use colours and materials that harmonise with the natural environment and, with the paddocks, step the development on the natural sloping topography to minimise site disturbance.	
D14.7 Front Building Line	<p>20m</p> <p>Built structures, other than driveways, fences and retaining walls are not permitted within the front building setback.</p> <p>Where the outcomes of this control are achieved, Council may accept variation to these building lines in the following circumstances:</p> <ul style="list-style-type: none"> • considering established building lines; • degree of cut and fill; • retention of trees and vegetation; • where it is difficult to achieve acceptable levels for building; • for narrow or irregular shaped blocks; • where the topographic features of the 	<p>As detailed previously, the development will comply with the 20m front setback with the exception of the retaining walls to the arena.</p> <p>The scale of the retaining walls have been reduced. The wall will vary in height due to the slope of the land with a maximum height of 2.7m. The setback to the wall also varies between 2m-2.4m. Landscaping treatments have been enhanced to provide screening of the retaining wall, as mentioned.</p> <p>We note that retaining walls are permitted within the front setback.</p> <p>To achieve strict compliance with the 20m it would result in significant intrusions into the bushland and greater disturbance of land. Land that has not been disturbed previously. The location of the arena preserves trees and vegetation due to it being located on already cleared land. Topographical features are retained also with the variation to the front setback control.</p>	Yes

Control	Requirement	Proposed	Compliance
	<p>site need to be preserved;</p> <ul style="list-style-type: none"> where the depth of a property is less than 20 metres. 		
D14.8 Side and Rear Building Lines	7.5m	Complies	Yes
D14.11 Building envelope	To achieve the desired future character of the Locality.	Complies	Yes
D14.14 Landscaped Area - Non Urban	96% of the site area minus 400 square metres	<p>The site will continue to be largely soft landscaping with the paddocks and yards to be permeable areas and grassland. The site will continue to be a rural landscape setting.</p> <p>Increased native species have be included, in particular in front of the arena retaining walls.</p>	Yes
D14.17 Construction, Retaining walls, terracing and undercroft areas	Where retaining walls and terracing are visible from a public place, preference is given to the use of sandstone or sandstone like materials.	The arena retaining wall is reduced to a height of 2.7 metres. The retaining walls supporting the day yards, and above the stables are set back over 20 metres from the street frontage. They are integrated by landscaping. Sand stone treatments to the façade will be incorporated to the wall.	Yes

Control	Requirement	Proposed	Compliance
		<p>The reason for refusal purport that the design does not sensitively respond to the natural environment which is not accurate. The arena is located within an area of land that has been previously disturbed and cleared. Extensive efforts have been made to preserve the biodiversity value of the site and protect trees and vegetation across the large site. The overall design of the proposed development is driven by a sensitive response to the unspoiled natural environment, in particular the retention of the natural features of the western escarpment, its topography and its significant environmental value.</p>	

4.3 State Environmental Planning Policy (Resilience and Hazards) 2021

4.3.1 Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The existing site has been used for residential purposes for an extended period of time with no prior known land uses. Council can be reasonably satisfied that there is no contamination risk, subject to the imposition of suitable conditions relating to demolition.

Overall, the proposed development is consistent with the relevant provisions of SEPP (Resilience and Hazards).

4.4 Matters for Consideration pursuant to section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15(1) of the EP&A Act (as amended):

(i) *any environmental planning instrument*

The proposed dwelling is permissible and consistent with the objectives of PLEP 2014 and P21 DCP as they are reasonably applied to the proposed works given the constraints imposed by the site's location, environmental and topographical characteristics.

(ii) *Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

There are no draft instruments that are applicable in relation to the proposed development.

(iii) *Any development control plan*

P21 DCP applies and the relevant provisions have been considered in this statement.

(iiia) *Any Planning Agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and*

N/A

(iv) *The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

N/A

- (v) *Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)*

N/A

- (b) *The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality,*

[The assessment considers the Guidelines (in italics) prepared by the Department of Planning and Environment in this regard].

Context and Setting

- i. *What is the relationship to the region and local context in terms of:*

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

These matters have been discussed in the body of this report.

- ii. *What are the potential impacts on adjacent properties in terms of:*

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*
- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

These matters have been discussed in detail earlier in this report.

Access, transport and traffic:

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- *Travel Demand*
- *dependency on motor vehicles*
- *traffic generation and the capacity of the local and arterial road network*

- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*
- *Vehicular parking spaces*

The development provides adequate carparking facilities in conformity with the objectives of P21 DCP.

Public Domain

The proposed development will have no adverse impact on the public domain.

Utilities

This matter has been discussed in detail in the body of this report.

Flora and Fauna

A flora and fauna and arborist report is provided.

Waste Collection

The proposed development provides appropriate onsite waste storage, with waste to be collected from the street weekly by Council's contractors.

Natural hazards

The application is supported by technical reports addressing the natural hazards that affect the site.

Economic Impact in the locality

The proposed development will generate temporary employment during construction, which is appropriate given the residential nature of the site.

Site Design and Internal Design

i) *Is the development design sensitive to environmental considerations and site attributes including:*

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*

- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the general principles, desired future character and built form controls.

ii) *How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

The proposed development will comply with the provisions of the Building Code of Australia. The proposal complies with the relevant standards pertaining to health and safety and will not have any detrimental effect on the occupants.

Construction

i) *What would be the impacts of construction activities in terms of:*

- *The environmental planning issues listed above*
- *Site safety*

Normal site safety measures and procedures will ensure that no safety or environmental impacts will arise during construction.

(c) *The suitability of the site for the development*

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

The adjacent development does not impose any unusual or impossible development constraints. The site is well located with regards to utility services. The development will not cause excessive or unmanageable levels of transport demand.

The development responds to the topography and constraints of the site, is of adequate area, and is a suitable design solution for the context of the site.

(d) Any submissions received in accordance with this act or regulations

It is envisaged that Council will appropriately consider any submissions received during the notification period.

(e) The public interest

The proposed works are permissible and consistent with the intent of the PLEP 2014 and P21 DCP standards and controls as they are reasonably applied to the proposed development. The development would not be contrary to the public interest.

5 Conclusion

The proposal is permissible and in conformity with the objectives of PLEP 2014 as they reasonably relate to this form of development on this particular site, and the guidelines contained within the P21 DCP.

The amendments provided with this review of determination application responds positively to the desired future character of the Warriewood Locality, the RU2 rural landscaping zoning as well as the environmental constraints of the site with regard to biodiversity, bushfire and trees. The works are permissible with consent and an animal boarding and training facility is reasonably anticipated on this site. Impacts to existing trees and the biodiversity value of the site has been considered and minimised to allow for a reasonable balance between development and environmental protection. The visual impacts of the retaining wall adjacent to the front boundary have been reduced via lowering the height of the wall and including more screen planting.

Having given due consideration to the matters pursuant to Section 4.15(1) of the EP&A Act as amended, it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance, and that the development is appropriate on merit and worthy of approval.

Boston Blyth Fleming Pty Limited

William Fleming

Director