



Pre-lodgement Meeting Notes

Application No:	PLM2021/0368
Meeting Date:	1 March 2022
Property Address:	113 Orchard Street WARRIEWOOD
Proposal:	Demolition of existing dwelling and construction of a new dwelling. Provision of four (4) ancillary stables and associated facilities.
Attendees for Council:	<ul style="list-style-type: none">• Penny Wood – Planner• Miller French-Lightfoot – Planner• Kristie King - Biodiversity Officer• Timothy O'Keefe - Environmental Health Officer <p>Additional Council comments provided by:</p> <ul style="list-style-type: none">• Uma Shanmugalingam – Development Engineer• Torin Calf - Landscape Assessment & Design Officer

General Comments/Limitations of these Notes

These notes have been prepared by Council's Development Advisory Services Team on the basis of information provided by the applicant and a consultation meeting with Council staff. Council provides this service for guidance purposes only.

These notes are an account of the advice on the specific issues nominated by the Applicant and the discussions and conclusions reached at the meeting.

These notes are not a complete set of planning and related comments for the proposed development. Matters discussed and comments offered by Council will in no way fetter Council's discretion as the Consent Authority.

A determination can only be made following the lodgement and full assessment of the application.

In addition to the comments made within these Notes, it is a requirement of the applicant to address the relevant areas of legislation, including (but not limited to) any State Environmental Planning Policy (SEPP) and any applicable sections of the Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan, within the supporting documentation including a Statement of Environmental Effects, Modification Report or Review of Determination Report.

You are advised to carefully review these notes and if specific concern have been raised or non-compliances that cannot be supported, you are strongly advised to review your proposal and consider amendments to the design of your development prior to the lodgement of any development application.

SPECIFIC ISSUES RAISED BY APPLICANT FOR DISCUSSION



Response to Matters Raised by the Applicant

Replace existing house, provision of 4 stables and related facilities, waste water, keep existing house to live in while new dwelling built, trees, biodiversity – 2 x previous DAs were withdrawn

PITTWATER LOCAL ENVIRONMENTAL PLAN 2014 (PLEP 2014)

PLEP 2014 can be viewed at:

<https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2014-0320>

Part 2 - Zoning and Permissibility

Definition of proposed development: (ref. PLEP 2014 Dictionary)	Dwelling house means a building containing only one dwelling.
Zone:	RU2 Rural Landscape
Permitted with Consent or Prohibited:	Permitted with Consent

Note: It was confirmed by the applicant at the meeting that the stables and arena will not be used for commercial purposes and will only be used by the property owner for ancillary domestic use.

Part 4 - Principal Development Standards

Standard	Permitted	Proposed	Compliance
4.3 Height of buildings	8.5m	8.2m	Yes

PITTWATER 21 DEVELOPMENT CONTROL PLAN (P21DCP)

P21DCP can be viewed at:

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Pages/Plan/Book.aspx?exhibit=P21DCP>

The following notes the identified non-compliant areas of the proposal only.

Section B General Controls

B6 Access and Parking

Two (2) parking spaces are provided within the double garage for the proposed dwelling which is compliant with the parking rates for a dwelling. The plans also propose four (4) hard stand parking space along the northern boundary approximately 12m from the front (eastern boundary). Limited information has been provided regarding the parking arrangement for the site in regard to how these parking spaces will be utilised. As discussed in the meeting, the horse arena is not proposed to be used commercially. The use of the horse arena and stables would be defined as ancillary to the residential nature of the site. However if the development proposes a commercial use of the site, any development application for the proposed works would be defined as follows:

Animal Boarding or Training Establishments means a means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital

The use of the proposed arena will dictate the number of parking spaces required and may require the need for a Traffic Report to be submitted with any development application. Parking



Section B General Controls		
B6 Access and Parking		
rates for the proposed use of a horse arena is not defined within the Pittwater Development Control Plan		
Section C Development Type Controls		
C1 Design Criteria for Residential Development		
Control	Permitted	Proposed
C1.6 Acoustic Privacy		
An acoustic report is required to be submitted with any development application. This is especially important in the instance the arena is used for commercial purposes which will possibly intensify the use and increase the level of noise generated from the site.		
Section D Locality Specific Development Controls		
D14 Warriewood Locality		
Control	Permitted	Proposed
D14.1 Character as viewed from a public place		
<p>The proposed dwelling is unlikely to be overly visible from the street given the 28m setback to the front boundary. It is noted that the dwelling is located 7.0m to the northern side boundary and whilst the proposed dwelling provides a 500mm shortfall to the 7.5m setback control, this could be supported given the generous front setback proposed.</p> <p>Given the environmental constraints on the site, the development is to be of a high quality which is designed to address the natural context of the area and any natural hazards.</p>		
D14.2 Scenic protection - General		
The development will be visible from a public space given the proposed setback to the front boundary. The arena will be predominantly open, however given no elevations/sections were submitted with the application, the extent of the visual impact when viewed from the adjacent road to the east cannot be fully assessed. Any works along the eastern boundary of the site are to ensure the arena does not create any visual impact towards the road and adjoining residential properties to the east.		
D14.7 Front building line	20m	Dwelling - 28m Horse Arena -approximately 1.8 – 2.4m
<p>The proposed dwelling complies with the 20m front setback prescribed for the site demonstrating a 28m setback to the front boundary.</p> <p>The horse arena is located within the front setback of the site and would be located. Plans were submitted before the meeting indicating the arena to be located 1.8m – 2.4m from the front boundary. These plans are conceptual and didn't provide elevations or sections of the proposed arena.</p> <p>Concern is raised regarding the location of the horse arena within the front setback. The subject site is zone RU2 Rural Landscape and permits a horse arena which is defined as 'Animal boarding or training establishment' under the Pittwater Local Environmental Plan (PLEP) 2014. However directly east of the subject site are residential dwellings located in a R3 Medium Density Zone. To ensure any potential land use conflict between the two zones is managed an Operational Management Plan is required to be submitted with any development application.</p>		



Section B General Controls

B6 Access and Parking

This should include the following:

- Hours of operation
- Use of the arena (ie lessons, training etc)
- Illumination / Lighting of the arena and stable/yard area. A LUX Diagram is required to be submitted with any development application to indicate any light spillage as a result of the development.
- Dust mitigation measures
- Odour suppression measures.
- Traffic and parking movements associated with the site.

D14.8 Side and rear building line (Land zoned RU2 Rural Landscape adjoining land other than a road or a reserve)	7.5m to side and rear	Side (North): 7m – 7.5m Side (South): Approximately 60m Rear (West): Approximately 70m
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The development proposes a two (2) storey dwelling 7.0m to 7.5m from the northern boundary. Given the width of the site, the proposed dwelling must comply with the minimum setback prescribed for the site. It is noted that the development proposes to demolish the existing dwelling which is centrally located within the site and to utilise this cleared area for four (4) stables and yards. The stables are compliant with the side and rear setback control.

D14.11 Building Envelope	4.2m height / 45 degrees	Complies
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The development proposes a compliant building envelope along to both the northern and southern elevations.

D14.14 Landscaped Area - Non Urban	96% of the site area minus 400 square metres	Site Area = 9766m ² Required Landscaped Area = 8,975.36m ² Proposed GFA of new dwelling is = 242m ²
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The proposed landscaped area appears compliant, however inadequate plans were submitted with the proposal to undertake an accurate assessment. Given the size of the site, compliance should be achieved.

Specialist Advice

Development Engineering

These comments are only preliminary in nature and a detailed assessment can only be provided upon lodgement:

- The method of stormwater disposal is to be in accordance with Council's Water Management for Development Policy. The policy is available in Council's web page. <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/policies->



Specialist Advice

[register/water-management/water-management-development-policy/water-management-development-policy-aug2020.pdf](#)

- The site is located within the H1 hazard area, a geotechnical engineers report is required to be submitted in accordance with Geotechnical Risk Management Policy for Pittwater – 2009 with the DA.
- The driveway crossing and internal driveway are to be in accordance with AS2890.1 & Clause B6.2 of Pittwater 21 DCP 2004.

Landscape

The proposal for the construction of a new dwelling-house impacts upon existing trees. Approximately 24 trees are identified to be removed on the architectural drawings however, there is no arboricultural information with the pre lodgement documents identifying the species or significance of these trees. It is noted that the retaining walls to the west of the dwelling may also impact the tree protection zone or structural root zones of the trees to be retained in this area. It is also noted that the Biodiversity Development Assessment Report (October 2020) supports a previous application and does not show the impact for this proposal.

The Statement of Environmental Effects shall include commentary of relevant landscape clauses of the DCP, and in this instance the following:

- B4.11 Land Adjoining Bushland
- B4.22 Preservation of Trees and Bushland Vegetation
- C1.1 Landscaping
- D14 Warriewood Locality, with reference to relevant controls

The land is zoned RU2 Rural Landscape and as such the objectives of the zone shall be satisfied.

A **Landscape Plan** is required to demonstrate that the proposed development satisfies the DCP clauses, including:

C1.1 Landscaping

- a range of shrubs and canopy trees shall be retained or proposed to soften the built form
- canopy tree planting shall be locally native species
- development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and retention of natural features such as rock outcrops
- design consideration should be given in tree planting locations to minimise loss of sunlight, privacy, views, and noise for neighbouring properties

Any on slab planter or roof gardens shall comply with the following soil depth guidelines:

- 300mm for lawn and groundcovers
- 600mm for shrubs and accents
- 1m for small trees



Specialist Advice

B4.11 Land Adjoining Bushland

- Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per Northern Beaches Council's Native Plants Species List – Pittwater Ward)
- Development shall not result in a significant loss to canopy cover or a net loss in native canopy trees.

B4.22 Preservation of Trees and Bushland Vegetation

The SoEE shall include discussion on the trees and vegetation within the site and within adjoining properties. Should all trees and vegetation be 5 metres or less in height ie. Exempt Species, no Arboricultural Impact Assessment is required, and this is to be reported in the SoEE.

For prescribed (protected) trees under the DCP, ie. 5 metres and over, excluding Exempt Species, An **Arboricultural Impact Assessment** is required to provide clarification on which trees are to be retained, including tree protection measures, and which trees are to be removed.

The Arboricultural Impact Assessment report shall indicate the impact of development upon the existing trees within the site, and for any existing tree on adjoining properties located 5 metres from the site (building and associated excavation or fill zones).

The report shall be prepared by a qualified Arborist AQF Level 5 and shall cover assessment of excavation and construction impacts upon the SRZ and TPZ, tree protection requirements, and recommendations. Recommendations shall include the setback distance from each tree where no construction impact is to occur to ensure the long-term retention of the tree.

Any development impact shall be outside of the structural root zone, and impact to the tree protection zone, for trees retained, shall be limited to satisfy AS4970-2009.

Existing trees and vegetation within adjoining property and within the road verge is not permitted to be impacted upon. Council does not support the removal of street trees unless the street tree is proven to present an arboricultural risk.

No impact to existing trees and vegetation within adjoining properties is acceptable, regardless of species type.

As a general principle, the site planning layout shall be determined following arboricultural investigations and recommendations. Any proposal to remove existing trees of moderate to high retention value will not be supported by Council if an alternative design arrangement is available, as assessed by Council.

Environmental Health

1) Matters to investigate before proceeding further:

- Ask Sydney water if horse effluent can be directly deposited into sewer. If yes, void everything below and provide their recommendations / comments; If no, then:
- Consider the merits of a separate section 68 Local Government Act 1993 "Approval to Install" prior to submitting a DA. Note: based on the DRAFT document (analysed below),



Specialist Advice

I imagine this would be an unnecessary cost increase (fee of install approval) because the proposed wastewater system would likely be approved via the DA.

2) Review of info:

- Dimensions to boundaries have been provided and are adequate.
- Dwelling and horse stables mentioned to be separate wastewater systems. Please detail:
 - the fact that the new house will be connected to Sydney water sewer – provide approval / recommendations in writing; and
 - the existing system will need to be decommissioned for new stable to be constructed.
- We agree with the statement that overall DLR is reduced by 50% because stables will be covered with 'Pine bedding' which absorbs a lot of effluent. This means that only the wash bay will be regularly hosed-down into the septic system.
- Septic tank:
 - The capacity of the septic tank is adequate to cope with daily load rate (DLR).
 - It's unlikely that the peak flow will overwhelm the low flow system to the trench. DLR vs effluent application rate / (DIR) because of the adequate capacity and installation of a flow balance tank.
 - A flow balance tank has been recommended for overflow – Council would require this to be installed.
- A filter will be used to prevent coarse materials entering the septic tank – required.

3) Questions / info to provide:

- What brand and model of the 3kL septic tank will be installed?
- How often does pine bedding need to be replaced?
- Provide info (perhaps a photograph) of the proposed disposal area to demonstrate that adequate sunlight is available for effective evapotranspiration.
- The trench area is on a steep slope (~20% grade), how will:
 - the trench area be protected from overland flow above?
 - the trench be constructed as level / horizontal – retaining wall on the lower side with imported fill, or cut into the slope?

4) Overall, the application would likely be approved by Council as there seems to be sufficient treatment and disposal capacity. There are only those few points to clarify, mentioned above, for this application to be successful.

Biodiversity

Relevant Provisions

The following biodiversity-related provisions apply to the subject site:

- NSW *Biodiversity Conservation Act 2016*
- Pittwater LEP Clause 7.6 – Biodiversity Protection
- Pittwater DCP Clause B4.11 – Land Adjoining Bushland
- Pittwater DCP Clause B4.18 – Heathland/Woodland Vegetation



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- Northern Beaches Bush Fire Prone Land Map

Biodiversity Values

Previous site survey and mapping prepared by the NSW Department of Planning & Environment identify vegetation on the site to predominantly comprise Coastal Enriched Sandstone Moist Forest, with smaller areas of Coastal Sandstone Gully Forest and cleared/developed land.

The subject site may also provide habitat for threatened species, as the directly adjoining bushland reserve has records of the following species:

- Eastern Pygmy Possum
- Threatened microbats
- Powerful Owl – known nest nearby
- Superb Fruit-dove
- Giant Burrowing Frog
- Red-crowned Toadlet
- Grey-headed Flying-fox

Impact Assessment

Preliminary assessment indicates that a substantial number of native trees will require removal in order to facilitate the development, although this has not been quantified. Additional vegetation removal is also likely to be required to establish any bush fire Asset Protection Zone (APZ).

As advised in the Biodiversity Development Assessment Report prepared for the previous DA2020/0707, the minimum lot size for the property is 1 hectare and as such, clearing of native vegetation above the area threshold of 0.5 hectare will trigger entry into the NSW Biodiversity Offsets Scheme (BOS). Entry into the BOS will require preparation of a new Biodiversity Development Assessment Report (BDAR), and is likely to result in a biodiversity offset credit obligation – for example, the BDAR for DA2020/0707 calculated an offset obligation of \$62,487 (GST inc). Further information on entry thresholds for the BOS can be found [here](#).

The previous BDAR, and preliminary assessment of the pre-lodgement plans, indicate that the proposed development will impact upon more than 0.5 hectares of native vegetation (note: this figure assumes the same APZ location and boundaries as proposed in DA2020/0707), which would trigger entry into the BOS and a likely biodiversity offset obligation.

In accordance with the NSW *Biodiversity Conservation Act* and local LEP/DCP planning controls, developments must be designed and sited to first avoid and then minimise impacts (with offsetting of impacts considered as a final option). In particular, Pittwater DCP Clause B4.18 requires that development does not “reduce or degrade habitat for locally native species, threatened species, endangered populations or endangered ecological communities”.

The applicant is therefore encouraged to consider alternative design options will be reduce impacts to native vegetation to the greatest extent possible. This will both improve compliance



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with local planning controls and potentially avoid exceeding the threshold for entry into the Biodiversity Offsets Scheme.

Required Information

The applicant must engage an ecologist who is an Accredited Assessor under the Biodiversity Assessment Method (BAM) to advise on potential options for further avoiding and minimising impacts to biodiversity, and how to achieve consistency with applicable LEP/DCP controls.

The Accredited Assessor must also determine whether the proposal triggers entry into the BOS, including quantification of impacts to native vegetation to facilitate the development (including any required APZs). If the proposal does trigger entry into the BOS, the Accredited Assessor must prepare a **Biodiversity Development Assessment Report (BDAR)**.

If the Accredited Assessor determines that the proposal does not trigger entry into the BOS, they must prepare a **Flora and Fauna Report** assessing potential impacts of the proposal, which includes 'Tests of Significance' for relevant threatened species. The Flora and Fauna Report must also assess compliance against the objectives of applicable LEP and DCP controls.

Documentation to accompany the Development Application

- Lodge Application via NSW Planning Portal
- Statement of Environmental Effects
- Scaled and dimensioned plans:
 - Site Plan;
 - Floor Plans;
 - Elevations; and
 - Sections.
- Certified Shadow Diagrams (depicting shadows cast at 9am, Noon and 3pm on 21 June).
- Cost of works estimate/ Quote
- Survey Plan (Boundary Identification Survey)
- Site Analysis Plan
- Demolition Plan
- Excavation and fill Plan
- Waste Management Plan (Construction & Demolition)
- Driveway Design Plan (if any change is proposed to the driveway)
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- Wastewater Report
- BASIX Certificate
- Arborist Impact Assessment
- Bushfire Report
- Geotechnical Hazard Map (W Hazard H1) – Geotechnical Engineers Report
- Operational Management Plan.
- LUX Diagram
- Traffic Report (commercial use)
- Flora and Fauna Report
- Biodiversity Development Assessment Report (BDAR),



IMPORTANT NOTE FOR DA LODGEMENT

Please refer to the Development Application Lodgement Requirements on Council's website (link details below) for further detail on the above list of plans, reports, survey and certificates.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/development-application-da-modification-or-review-determination/2060-da-modification-lodgement-requirements-mar21.pdf>

The lodgement requirements will be used by Council in the review of the application after it is lodged through the NSW Planning Portal to verify that all requirements have been met for the type of application/development.

Concluding Comments

These notes are in response to a pre-lodgement meeting held on 1 March 2022 to discuss the demolition of an existing dwelling and construction of a new dwelling, provision of four (4) stables and associated facilities at 113 Orchard Street, Warriewood. The notes reference the plans prepared by Tullipan Homes Pty Ltd dated 29 September 2021 and the plans prepared by Tony McLain (Architect) dated September 2021.

Concern is raised with the use of the horse arena in regard to its location along the front boundary and proximity to the R3 Medium Density Residential zone to the east. An Operational Plan of Management is to be submitted with any development application to ensure any land use conflict is managed appropriately.

The applicant is also encouraged to consider alternative design options to reduce impacts to native vegetation to the greatest extent possible. This will both improve compliance with local planning controls and potentially avoid exceeding the threshold for entry into the Biodiversity Offsets Scheme.

Question on these Notes?

Should you have any questions or wish to seek clarification of any matters raised in these Notes, please contact the member of the Development Advisory Services Team at Council referred to on the front page of these Notes.