

**3.2**

**58 Cooyong Road, Terrey Hills – Construction of Stables and Horse Arena and Use of Site for animal Boarding and Training Establishment**

**DEVELOPMENT ASSESSMENT REPORT**

**Assessment Officer:** Michael Edwards  
**Address / Property Description:** Lot 103 in DP 752017  
58 Cooyong Road TERREY HILLS NSW 2084  
Construction of stables & horse arena & use of site for animal boarding & training establishment

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**Development Application No:** DA2009/0197  
**Application Lodged:** 23/02/2009  
**Plans Reference:** 09/211 – 213, 215-217, 211, 212, 225, 227, 231, 232, 235, 240, 241, 251, 260  
**Amended Plans:** YES  
**Applicant:** J S Ball, E J Ball  
**Owner:** J S Ball, E J Ball

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**Locality:** A2 Booralie Road  
**Category:** 2 (animal boarding or training establishment)  
**Variations to Controls (Cl.20/Cl.18(3)):** Building Height (Ceiling Height), Front Setback  
**Referred to ADP:** NO  
**Referred to WDAP:** NO  
**Land and Environment Court Action:** NO

**SUMMARY**

**Submissions:** Two (2) submissions  
**Submission Issues:** Lighting, Scale of development and setbacks, Overdevelopment of the site  
**Assessment Issues:** Consistency with DFC, Compliance with Built Form Controls (Building Height (Ceiling Height)) and Front Setback  
**Recommendation:** Refusal  
**Attachments:** Site and Elevation Plans

## LOCALITY PLAN (not to scale)



**Subject Site:** Lot 103 in DP 752017  
58 Cooyong Road TERREY HILLS NSW 2084

**Public Exhibition:** The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan (adopted 13 December 2005). As a result, the application was notified to 11 adjoining land owners and occupiers (notice was sent to last known address) for a period of 14 calendar days commencing on 25/02/2009 and being finalised on 12/03/2009.

### SITE DESCRIPTION

**Description:** The subject site is described as Lot 103 in DP 752017, commonly known as No.58 Cooyong Road, Terrey Hills, located on the north-eastern corner of the Kallaroo Road and Cooyong Road intersection. The site in total comprises an area of 19820.0sqm (1.9Ha), is regular in shape and has a north-south orientation. The site has a Cooyong Road street-front boundary measuring 130.78m, a Kallaroo Road street-front boundary measuring 151.52m, a northern side boundary measuring 130.76m and an eastern side boundary measuring 151.58m.

**Topography:** The site is considered flat with gentle undulations with a minimal cross fall from the Kallaroo Road frontage towards the north-eastern corner of the site. The site is considered predominantly level at the location of the proposed building works.

**Existing Works:** Currently, the subject site contains a single storey detached residential dwelling, with a number of outbuildings associated with the operation of the land as a horse training arena. (See photographs below)

**Site Burdens / Constraints:** Council records do not reveal any site burdens or constraints over the subject site.



**Photograph 1:** The subject site as viewed from the Kallaroo Road street front, facing north.

## RELEVANT BACKGROUND

- 23/02/2009** Council received Development Application 2009/0197.
- 25/02/2009** **CLOCK STOPPED.** Council requested the submission of amended plans showing compliance or justification for variation to the Front Setback Control for the locality, together with the provision of parking on the site.
- 10/03/2009** Council received additional information, with the submission of amended plans demonstrating the provision of carparking on the site.
- 31/03/2009** Council requested additional information with the submission of amended plans demonstrating compliance with the Front Setback control of 20.0m, and demonstrating the provision of landscape plantings to contribute to the landscaped front setting. Further, written justification for variation to the front setback control for the provision of carparking was requested and clarification of the scale used on the plans.
- 06/04/2009** Council received additional information, with the submission of amended plans demonstrating a consistent scale.



## PROPOSED DEVELOPMENT

The Applicant seeks Council's approval for the construction of stables & horse arena & use of site for animal boarding & training establishment. In more detail, the proposal involves the following:

- Construction of a two storey indoor arena, comprising accommodation for 16 horses, office, viewing gallery and ancillary store and cleaning rooms;
- Construction of a gazebo serving the existing arena located at the centre of the site;
- Installation of 4 new 8m high light poles with 500W luminaires;
- Installation of 2 underground water tanks;
- Construction of a compost facility; and
- Upgrade of existing driveway to provide formal carparking for 13 vehicles.

## AMENDMENTS TO THE SUBJECT APPLICATION

The following list identifies the amendments made to the plans:

**10/03/2009** Provision of formal carparking;

**06/04/2009** Clarification of the scale used on 09/212 and 09/213.

## STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979;
- b) Environmental Planning and Assessment Regulations 2000;
- c) State Environmental Planning Policy – Infrastructure;
- d) SEPP No. 55 – Remediation of Land;
- e) Warringah Local Environment Plan 2000;
- f) Warringah Development Control Plan;
- g) Section 94A Developer Contributions Plan (Effective 01 July 2008); and
- h) Draft Environmental Planning Instruments

## PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan (adopted 13 December 2005). As a result, the application was notified to 11 adjoining land owners and occupiers (notice was sent to last known address) for a period of 14 calendar days commencing on 25/02/2009 and being finalised on 12/03/2009.

As a result of the public exhibition process submissions have been received from:

<b>Submission Received:</b>	<b>Address:</b>
Mosman Church of England Preparatory School	Lot 139 Tooronga Road, Terrey Hills
Pinnell, W	16 Nalya Road, Terrey Hills

The matters raised within the submissions are addressed hereunder:

### i) Lighting

- The additional lighting poles will result in excessive light overspill towards No.16 Nalya Road and suggest more than a low intensity, low impact business use.

No details have been provided demonstrating the impact that the 8m high light poles will create. It is also considered that these additional light poles will result in an unreasonable

impact to the amenity of the area given the intensity of the lighting proposed and the openness of the site. Further assessment is provided under Section 79(C) of this report.

**ii) Scale of development and setbacks**

- The bulk and scale of the development does not seem in keeping with the desired future character of the area as described in the B2 locality statement. In particular, the bulk and scale results in an imposing structure viewed from Lot 139 Tooronga Road;
- The setback to the Kallaroo Road frontage does not comply with the numerical standard.

The compliance with the development standards is demonstrated under the Built Form Controls table of this report. The assessment under Clause 66 Building Bulk of the General Principles of Development Control demonstrates that the proposed building bulk is unsatisfactory.

**iii) Overdevelopment of the site**

- The proposed works are an overdevelopment of the site, resulting in a loss of the quiet amenity due to the intended nature of the use of the site with increased traffic and light overspill.

The assessment against the Desired Future Character Statement demonstrates that the proposed works are not consistent with the predominant scale of development and the low intensity, low impact use, to the detriment of the local amenity.

**MEDIATION**

Has mediation been requested by the objectors? No

**REFERRALS**

A summary of the relevant comments is provided as follows:

**a) Landscape Assessment**

No objection was raised in relation to the proposed removal of trees and proposed landscaping works, subject to conditions of consent which will be imposed in the Notice of Determination, should this application be recommended for approval.

**b) Development Engineers**

No objection was raised in relation to the proposed works; subject to conditions of consent which will be imposed should this application be recommended for approval.

**c) Environmental Health and Protection**

No objection was raised in relation to the proposed works; subject to conditions of consent which will be imposed should this application be recommended for approval.

**d) Aboriginal Heritage Office**

No objection was raised in relation to the proposed works, subject to the requirement that should any Aboriginal sites be uncovered, works should cease and notification be given to Council. As such, a condition of consent would be imposed in this regard, in the Notice of Determination, should the application be recommended for approval.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79(C) of the Environmental Planning and Assessment Act, 1979, are:

<b>Section 79C 'Matters for Consideration'</b>	<b>Comments</b>
<b>Section 79C (1) (a)(i) – Provisions of any environmental planning instrument</b>	Refer to discussions on Environmental Planning Instruments as contained in this report.
<b>Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument</b>	Refer to discussions on Draft Environmental Planning Instruments as contained in this report.
<b>Section 79C (1) (a)(iii) – Provisions of any development control plan</b>	Warringah Development Control Plan is applicable to this application and the relevant provisions are considered in this report.
<b>Section 79C (1) (a)(iia) – Provisions of any planning agreement</b>	None applicable.
<b>Section 79C (1) (a)(iv) – Provisions of the regulations</b>	Pursuant to Clause 54 and 109 of the EPA Regulations 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations.  Clause 98 of the EPA Regulations 2000 requires the consent authority to impose a condition requiring compliance with the Building Code of Australia. Accordingly, appropriate conditions of consent are recommended for imposition should this application be recommended for approval.
<b>Section 79C (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</b>	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.  (ii) The social impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.  (iii) The economic impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in the report.
<b>Section 79C (1) (c) – the suitability of the site for the development</b>	The inconsistency with the General Principles of the WLEP 2000 demonstrates the unsuitability of the proposed development for the subject site.
<b>Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</b>	In regards to public submissions refer to the discussion on "Notification & Submissions" as contained within this report.
<b>Section 79C (1) (e) – the public interest</b>	It is considered that the public interest is not served in this instance with the proposal providing an inappropriate development within this locality resulting in an unreasonable impact to the amenity of neighbouring properties.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

### State Environmental Planning Policies (SEPPs)

#### State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)

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 consistently used for residential purposes for a significant period of time. There is no evidence to indicate that the land is contaminated and as such, no further consideration under Clause 7(1)(b) and (c) of SEPP 55 is required. Therefore the land is suitable for the continued residential use.

#### State Environmental Planning Policy – Infrastructure (SEPP Infrastructure)

Clause 45 of SEPP Infrastructure 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 5m 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 5m of an overhead electricity power line

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool; as such the development application is not required to be referred to the electricity supply authority. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

#### Regional Environment Plans (REPs)

There are no Regional Environmental Planning Policies applicable to this application.

#### Warringah Local Environmental Plan 2000

##### Desired Future Character

**The subject site is located in the A2 Booralie Road Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:**

*‘The Booralie Road locality will remain a non-urban area consisting of detached style housing in distinctly non-urban settings and occasionally low intensity, low impact business or community uses that are compatible with the non-urban nature of the locality and predominant scale of existing development.*

*The impact of new development on views from the adjacent National Park will be minimised by the use of articulated building forms, generous landscaped spaces around buildings and building materials that blend in with the colours and textures of the natural landscape.*

*Emphasis will be given to protecting and where possible enhancing the natural landscape, including landforms and vegetation. The increased planting of indigenous canopy trees will be strongly encouraged.’*

The proposed development is defined as “animal boarding or training establishments” under the WLEP 2000 dictionary. “Animal boarding or training establishments” are identified as Category 2 development in this locality.

Clause 12(3)(b) states that before granting consent for development classified as Category Two (2), the Consent Authority must be satisfied that the development is consistent with the Desired Future Character described in the relevant Locality Statement.

As the proposed works involve variations to Built Form Controls, Clause 20 requires a higher consistency test of the development against the Desired Future Character Statement.

Accordingly, an analysis of the various relevant components of the Desired Future Character of the A2 Booralie Road Locality is as follows:

- The Desired Future Character seeks to retain the non-urban setting of the locality by restricting future development to that presenting as low intensity and low impact. The locality statement is quite specific in that future development will be limited to the predominant scale of existing development.

The WLEP 2000 is silent on interpretation of what a 'low intensity, low impact use' is, however the Macquarie Dictionary best defines (in context) the wording as follows:

Low: 15. small in amount, degree, force, etc: a low number.

Intensity: 1. the quality or condition or being intense.

Intense: 1. existing or occurring in a high or extreme degree.

Impact: 9. impact on, to have an effect on: this law impacts on all of us.

Based on the above, 'low intensity, low impact uses' should best be regarded as providing minimal variation to the existing built form, being similar to the predominant scale of existing development and the non-urban nature of the locality.

The existing character of the A2 Booralie Road Locality is dominated by low scale uses, with the majority of allotments being undeveloped bushland, single detached dwellings on large parcels of land and cleared paddocks.

The proposed indoor arena and associated stables will significantly increase the cumulative building footprint of the site and the level of activity, both in usage and traffic generation associated with the use of the site as animal boarding and a training establishment. Further, it is anticipated that the site will enable a higher intensity of use that goes beyond the scope of the use the subject of this application.

Accordingly, the proposed development does not constitute a 'low impact, low intensity use'.

- The Locality Statement is quite specific in requiring an articulated built form with generous landscaped spaces around buildings.

The proposed horse stables and indoor arena are significant in size. Although numerically complying with the Building Height built form control, the imposing overall building bulk and scale does not favourably fit in with the established pattern, scale and landscaped character of the locality. This is further exacerbated by the large surface area of the roof form, together with non-articulated side elevations.

The WLEP 2000 is silent on the interpretation of 'generous'. The Macquarie Dictionary best defines the wording as follows:

Generous: 3. furnished liberally; abundant: a generous portion.

Abundant: 1. present in great quantity; fully sufficient: an abundant supply.

Based on the above, 'generous' landscaping is best defined as an area that can accommodate a variety of numerous landscape plantings, commensurate with the building bulk, height and scale and has a depth, width and length appropriately proportionate of the proposed building structure, contributing to a quality landscaped setting.

The non-complying front setback of 10.0m to the Kallaroo Road street frontage fails to provide a sufficient landscaped space around the building. The 10.0m setback comprises a 5.0m landscaped strip with the remainder being a designated truck parking area and is not



considered to be appropriately proportionate to the length of the proposed building (equating to 9% of the length of the building, or 11.1m of building for every 1m of landscaping.).

Further, the landscaped strip as proposed does not allow for an abundance of landscape plantings, commensurate with the building height, bulk and scale that will provide sufficient depth to screen the structure when viewed from the streetscape.

- The horse stables and indoor arena is located over an existing sand arena and the structure itself will have no direct impact on the natural landscape and will not substantially alter the existing landform. However, the associated parking area and driveway with a vehicle crossing through the existing landscaped front area will necessitate removal of existing vegetation and alteration to the landform. In this regard, the removal of vegetation, in effect, severing the landscaped front area does not enhance the natural landscape.

Accordingly, the test above demonstrates that the proposed works do not satisfy the Desired Future Character statement.

### Built Form Controls (Development Standards)

The following table outlines compliance with the Built form Control of the above locality statement:

<b>Built Form Standard</b>	<b>Required</b>	<b>Proposed</b>	<b>Compliance Comment</b>	<b>Compliance</b>
<b>Building Height Metres</b>	8.5m	8.5m to horse stables.  5.4m to gazebo.	Comply.	YES
<b>Building Height: Natural ground to upper ceiling (metres)</b>	7.2m	5.7m to ancillary rooms to indoor arena.  8.2m to main indoor arena.  3.2m to gazebo.	See comments under Clause 20 of WLEP 2000.	<b>NO</b>
<b>Front Setback</b>	20.0m	10.0m to Kallaroo Road	See comments under Clause 20 of WLEP 2000.	<b>NO</b>
<b>Housing Density</b>	1 dwelling per 2ha	No alteration to existing.	Comply.	YES
<b>Landscaped Open Space</b>	30% of site	78.7%, 15.607sqm.	Comply.	YES
<b>Side Setbacks</b>	Min 10.0m	Northern – 10.0m Eastern – No alteration to existing.	Comply.	YES

### Clause 20 – Variation to Built Form Controls

Pursuant to Clause 20 of WLEP 2000, consent may be granted to proposed development notwithstanding that the development does not comply with one or more of the abovementioned development standards, providing the resulting development is consistent with the General Principles of Development Control, the Desired Future Character of the locality and any relevant State Environmental Planning Policies.



## Does the Proposal Qualify for a Clause 20 Variation?

In determining whether the proposal qualifies for a Clause 20 variation under WLEP 2000, consideration must be given to the following:

### (i) General Principles of Development Control

The proposal results in inconsistencies with a number of the General Principles of Development Control including Clause 38 Glare and Reflections; Clause 63 Landscaped Open Space; Clause 66 Bulk; Clause 67 Roofs; Clause 69 Accessibility – Public and Semi Public Buildings; Clause 71 Parking Facilities (Visual Impact); Clause 72 Traffic Access and Safety; Clause 75 Design of Carparking Areas.

Therefore, the proposal in its current form does not satisfactorily qualify for consideration to vary these development standards (Refer to table below for a detailed assessment of compliance with the General Principles).

### (ii) Desired Future Character of the Locality

The subject site is located within the A2 Booralie Road Locality, which is characterised by residential uses. The proposal is not considered to be consistent with the Desired Future Character of this precinct due to its failure to provide a development of a 'low impact, low intensity use', the inability to provide a built form that fits in with the existing established pattern of development in the locality, the inability to provide an appropriate landscaped strip around the building, and failing to enhance the natural landscape. As such, the proposal is not considered to satisfy this component of Clause 20. (Refer to previous discussion on consistency with DFC).

### (iii) Relevant State Environmental Planning Policies

The provisions of the relevant State Environmental Planning Policies have been considered in the assessment of the application and considered satisfactory. Accordingly, the proposal satisfies this criterion of Clause 20.

## Clause 20 Variation – Does Not Qualify for Consideration

A variation to the applicable development standards may only be considered pursuant to Clause 20 of WLEP 2000 where the resulting development is consistent with the General Principles of Development Control, the Desired Future Character of the locality and any relevant State Environmental Planning Policies.

The subject proposal is not considered to be consistent with either the General Principles of Development Control or the Desired Future Character of the Locality. Accordingly, the variations sought do not qualify for consideration pursuant to the provisions of Clause 20 of Warringah Local Environmental Plan 2000.

## GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	YES	<ul style="list-style-type: none"><li>The large, un-articulated surface area of the roof to the horse stables and indoor arena is considered excessive in its size and will result in unreasonable glare and solar reflections.</li></ul>	NO

General Principles	Applies	Comments	Complies
		Accordingly, the proposal fails to satisfactorily address this General Principle.	
<b>CL39 Local retail centres</b>	NO	No Comment	Not applicable
<b>CL41 Brothels</b>	NO	No Comment	Not applicable
<b>CL42 Construction Sites</b>	YES	<ul style="list-style-type: none"> <li>The site provides adequate area for the handling and storage of building materials, and will not unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment.</li> <li>Conditions of consent would adequately address the construction requirements associated with the building works proposed on the site.</li> </ul> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES, subject to conditions.
<b>CL43 Noise</b>	YES	<ul style="list-style-type: none"> <li>The proposed works are ancillary to the existing use of the site and will not result in any unreasonable intensification of noise levels emanating from the site.</li> <li>Should the application be considered worthy of approval, the imposition of conditions of consent would require all noise emissions to be carried out in accordance with Environment Protection Authority guidelines for noise emissions from demolition and construction works and that these works must also comply with the provisions of the Protection of the Environment Operations Act 1997.</li> </ul> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
<b>CL44 Pollutants</b>	YES	<ul style="list-style-type: none"> <li>The subject site has only previously been used for residential purposes and as such is unlikely to contain any pollutants.</li> </ul> <p>Accordingly, no further consideration of the merit of the proposal is required.</p>	YES
<b>CL45 Hazardous Uses</b>	NO	No Comment	Not applicable
<b>CL46 Radiation Emission Levels</b>	NO	No Comment	Not applicable
<b>CL47 Flood Affected Land</b>	NO	No Comment	Not applicable
<b>CL48 Potentially Contaminated Land</b>	YES	<ul style="list-style-type: none"> <li>The site has historically been used for residential and equestrian purposes. Based on both a site inspection and desktop investigation into the site's land use history, upon the basis of information available to Council at the time of assessment, there is no evidence to suggest that the site is contaminated.</li> <li>No further consideration is required pursuant to the provisions of clause 48 of Warringah LEP 2000 or 'SEPP 55 - Remediation of Land' with regard to land contamination.</li> </ul> <p>Accordingly, no further consideration of the merit of the proposal is required.</p>	YES

General Principles	Applies	Comments	Complies
<b>CL49 Remediation of Contaminated Land</b>	NO	No Comment	Not applicable
<b>CL49a Acid Sulfate Soils</b>	NO	No Comment	Not applicable
<b>CL50 Safety &amp; Security</b>	YES	<ul style="list-style-type: none"> <li>The horse stables and indoor arena orientate the main entry towards the Kallaroo Road street-front.</li> <li>It is considered that the development will result in an increase in the use of the premises, which will result in higher pedestrian movements on the site, providing greater casual surveillance to the subject site and immediate vicinity.</li> </ul> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
<b>CL51 Front Fences and Walls</b>	NO	No Comment	Not applicable
<b>CL52 Development Near Parks, Bushland Reserves &amp; other public Open Spaces</b>	NO	No Comment	Not applicable
<b>CL53 Signs</b>	NO	No Comment	Not applicable
<b>CL54 Provision and Location of Utility Services</b>	YES	<ul style="list-style-type: none"> <li>The site contains an existing detached residential dwelling and ancillary structures with utilities currently servicing the site.</li> <li>There is no need for further installation of utility services, as the new works will join these existing services infrastructure.</li> </ul> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
<b>CL55 Site Consolidation in 'Medium Density Areas'</b>	NO	No Comment	Not applicable
<b>CL56 Retaining Unique Environmental Features on Site</b>	NO	No Comment	Not applicable
<b>CL57 Development on Sloping Land</b>	NO	No Comment	Not applicable
<b>CL58 Protection of Existing Flora</b>	YES	<ul style="list-style-type: none"> <li>The subject site is considered predominantly cleared paddocks, however contains landscape plantings along the Kallaroo Road street frontage and surrounding the existing dwelling.</li> </ul> <p>The provision of a vehicle crossing through the existing landscaped front strip severs this area and results in the removal of native landscape vegetation. Council's Landscape Officer raised no objection to the removal of the trees and shrubs, subject to the planting of replacement trees.</p> <ul style="list-style-type: none"> <li>The removal of existing flora will still maintain an overall landscaped setting on the site. (See further comments under Clause 63 Landscaped Open Space)</li> </ul> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
<b>CL59 Koala Habitat Protection</b>	NO	No Comment	Not applicable



General Principles	Applies	Comments	Complies
<b>CL60 Watercourses &amp; Aquatic Habitats</b>	NO	No Comment	Not applicable
<b>CL61 Views</b>	YES	<ul style="list-style-type: none"> <li>A visual inspection of the subject site did not reveal any significant view corridors obtained from, or across the subject site.</li> </ul> <p>Accordingly, no further consideration of the merit of the proposal is required.</p>	YES
<b>CL62 Access to sunlight</b>	YES	<ul style="list-style-type: none"> <li>The introduction of new overshadowing to the adjoining properties retains a reasonable and equitable level of sunlight to both the subject site and the adjoining properties with no less than 2 hours of sunlight between 9am and 3pm on 21st June.</li> </ul> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
<b>CL63 Landscaped Open Space</b>	YES	<ul style="list-style-type: none"> <li>While the provision of landscaped open space is numerically complying with the development standard, the Desired Future Character statement specifically requires the provision of a landscaped strip around buildings.</li> <li>It is considered that the landscaped strip between the Kallaroo Road boundary and the proposed horse stables and indoor arena, is not adequate in dimension for the further establishment of landscape plantings that are of a scale and density commensurate with the building height, bulk and scale. In this regard, the landscaping strip does not achieve a suitable level of screening or contribute to softening the external appearance of the building.</li> </ul> <p>Accordingly, the proposal fails to satisfy this General Principle.</p>	<b>NO</b>
<b>CL63A Rear Building Setback</b>	NO	No Comment	Not applicable
<b>CL64 Private open space</b>	YES	<ul style="list-style-type: none"> <li>The proposed works, being approximately 83.0m from the existing dwelling, do not detract from the numerical provision or impact on the physical quality of the existing private open space associated with the existing dwelling.</li> </ul> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
<b>CL65 Privacy</b>	YES	<ul style="list-style-type: none"> <li>It is considered that there are no unreasonable opportunities for overlooking to the principle private open spaces and habitable portions of the adjoining properties on the side elevations.</li> </ul> <p>Accordingly, the proposal satisfies this General Principle.</p>	YES
<b>CL66 Building bulk</b>	YES	<ul style="list-style-type: none"> <li>The horse stables and indoor arena are considered to have an unacceptable building bulk.</li> <li>The absence of an articulated built form results in excessive building mass, with a building height and length that has an imposing presence on the site, dominating the streetscape.</li> <li>In this regard, the building fails to fit in favourably with the surrounding pattern of development and will set an undesirable precedent within the locality.</li> </ul>	<b>NO</b>

General Principles	Applies	Comments	Complies
		Accordingly, the proposal fails to satisfy this General Principle.	
<b>CL67 Roofs</b>	YES	<ul style="list-style-type: none"> <li>The roof form is considered excessive in size and does not complement the local skyline.</li> <li>Comprising of a single hipped roof, the roof form does not provide for any articulation to break up its mass, contributing significantly to the overall excessive building bulk and scale.</li> <li>The excessive surface area of the roof will result in unreasonable glare and solar reflections.</li> </ul> <p>Accordingly, the proposal fails to satisfy this General Principle.</p>	<b>NO</b>
<b>CL68 Conservation of Energy and Water</b>	NO	No Comment	Not applicable
<b>CL69 Accessibility – Public and Semi-Public Buildings</b>	YES	<ul style="list-style-type: none"> <li>The proposal, in effect being for animal boarding and a training establishment, is considered to constitute a semi-public building, attracting the business and use of the general community.</li> <li>The plans submitted with the application do not identify the provision of building elements required under the Disability Discrimination Act 1992 and Australian Standard AS 1428.2 – 1992.</li> </ul> <p>Accordingly, the insufficient information prevents Council from undertaking an appropriate and informed assessment. In this regard, the proposal is considered unsatisfactory in addressing this General Principle.</p>	<b>NO</b>
<b>CL70 Site facilities</b>	YES	<ul style="list-style-type: none"> <li>The site contains adequate space for general waste and recycling storage, suitably screened from the street and is therefore considered acceptable in this regard.</li> </ul> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
<b>CL71 Parking facilities (visual impact)</b>	YES	<ul style="list-style-type: none"> <li>The proposal provides for carparking within the Kallaroo Road front setback area. This provision for carparking, together with the increased driveway width and vehicle crossing and truck unloading area, are considered to dominate the street frontage, detracting from the landscaped setting.</li> <li>Specifically, the truck unloading area is considered to dominate the front setback area and prevents the ability to provide a generous landscaped strip surrounding the building.</li> </ul> <p>Accordingly, the proposal fails to satisfy this General Principle.</p>	<b>NO</b>
<b>CL72 Traffic access &amp; safety</b>	YES	<ul style="list-style-type: none"> <li>The proposed development addresses traffic access by providing an additional vehicle crossing from Kallaroo Road.</li> <li>Notwithstanding, the proposed development is considered to generate an increase in traffic volume. A Traffic Management Study has not been submitted as part of this application. In this regard, Council cannot make an appropriate or informed assessment.</li> </ul>	<b>NO</b>

General Principles	Applies	Comments	Complies
		Accordingly, the proposal fails to satisfy this General Principle.	
<b>CL73 On-site Loading and Unloading</b>	YES	<ul style="list-style-type: none"> <li>Provision is made for a truck unloading area on the western elevation of the horse stables and indoor arena, having an orientation facing the street-front.</li> <li>The front setback control requires a setback of 20.0m to the building. As the truck loading area is located within the 10.0m front setback, the provision of a 5.0m wide landscaped strip does not provide sufficient screening and it is considered that the truck loading area will result in a visual dominance on the streetscape.</li> <li>In addition, the location of the truck unloading area fails to provide sufficient area to accommodate long-rigid and articulated vehicle manoeuvrability.</li> </ul> <p>Accordingly, the proposal fails to satisfy this General Principle.</p>	<b>NO</b>
<b>CL74 Provision of Carparking</b>	YES	<ul style="list-style-type: none"> <li>Under Schedule 17 of WLEP 2000, for development identified as 'animal boarding or training establishments', adequate parking provision is to be made for staff and customers and for the parking and turning of vehicles with trailers.</li> <li>The proposed development provides formalised parking with provision of 3 spaces for vehicles with trailers, 10 spaces for vehicles and a truck unloading area.</li> <li>It is considered that the provision of carparking is adequate in serving the proposed development and there is sufficient opportunity for accommodation of additional vehicles in informal parking spaces.</li> </ul> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
<b>CL75 Design of Carparking Areas</b>	YES	<ul style="list-style-type: none"> <li>The carparking areas do not allow for satisfactory vehicle manoeuvring and convenient access to individual spaces.</li> <li>The truck unloading area does not provide opportunity for long rigid or articulated vehicles to exit the site in a forward direction.</li> <li>No provision is made for parking for people with a disability.</li> </ul> <p>Accordingly, the proposal fails to satisfy this General Principle.</p>	<b>NO</b>
<b>CL76 Management of Stormwater</b>	YES	<ul style="list-style-type: none"> <li>The application has been assessed by Council's Development Engineers and their recommendations incorporated in the consent conditions. (See further discussion under Referrals in this report.)</li> </ul> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES, subject to conditions.
<b>CL77 Landfill</b>	NO	No Comment	Not applicable
<b>CL78 Erosion &amp; Sedimentation</b>	YES	<ul style="list-style-type: none"> <li>Appropriate conditions associated with management of erosion and sedimentation for the duration of works on the site will be imposed should this application be recommended for approval.</li> </ul>	YES, subject to conditions.

General Principles	Applies	Comments	Complies
		Accordingly, the proposal is considered to satisfy this General Principle.	
CL79 Heritage Control	NO	No Comment	Not applicable
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No Comment	Not applicable
CL81 Notice to Heritage Council	NO	No Comment	Not applicable
CL82 Development in the Vicinity of Heritage Items	NO	No Comment	Not applicable
CL83 Development of Known or Potential Archaeological Sites	NO	No Comment	Not applicable

## SCHEDULES

A detailed assessment with regard to the provisions of the relevant Schedules of Warringah Local Environmental Plan 2000 is as follows:

### Schedule 8 – Site Analysis

Site Analysis detail was submitted as part of this application and is considered satisfactory in addressing the requirements of this Schedule.

### Schedule 17 - Carparking Provision

See assessment under Clause 74 of the General Principles of this report which demonstrates the proposal's ability to satisfy the requirements of this Schedule.

## POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan (Effective 1 July 2008)

Section 94A Contributions are applicable to this development as the application was lodged on the 23/02/2009 and the estimated cost of works is \$511,000, which is above the minimum threshold.

The following table identifies the monetary contributions applicable and a condition of consent imposed accordingly in the Notice of Determination should this application be recommended for approval:

<b>Warringah Section 94A Development Contributions Plan</b>			
Contribution based on total development cost of		<b>\$ 511,000.00</b>	
<b>Contribution - all parts Warringah</b>	<b>Levy Rate</b>	<b>Contribution Payable</b>	<b>Council Code</b>
S94A Levy	0.95%	\$4,885.00	6923
S94A Planning and Administration	0.05%	\$256.00	6924
<b>Total</b>	<b>1.0%</b>	<b>\$5,110.00</b>	



## **OTHER MATTERS FOR CONSIDERATION**

There are no other matters for consideration that are relevant in the assessment of this application.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to the provisions of Section 79(C) of the Environmental Planning and Assessment Act, 1979, Warringah Local Environmental Plan 2000 and the relevant codes and policies of Council.

The proposed development results in non-compliances with the Building Height (Ceiling Height) and Front Setback development standards. In accordance with Clause 20(1) of Warringah Local Environmental Plan 2000, the application does not qualify for consideration of the variations to the development standards.

The proposed development is considered inconsistent with the Desired Future Character statement for the A2 Booralie Road Locality, due to its failure to provide a development of a 'low impact, low intensity use', the inability to provide a built form that fits in with the existing established pattern of development in the locality, the inability to provide an appropriate landscaped strip around the building, and failing to enhance the natural landscape..

Pursuant to Section 79(C)(1)(c), the numerous inconsistencies with the General Principles of Development Control, specifically Clause 38 Glare and Reflections; Clause 63 Landscaped Open Space; Clause 66 Bulk; Clause 67 Roofs; Clause 69 Accessibility – Public and Semi Public Buildings; Clause 71 Parking Facilities (Visual Impact); Clause 72 Traffic Access and Safety; and Clause 75 Design of Carparking Areas, demonstrate that the proposed development in its current form, is not suitable for the subject site and is therefore not considered to be in the public interest.

The issues raised in the submissions received have been considered in the assessment of the application and are considered to bear determining weight.

Accordingly, the proposal is recommended for refusal.

## **RECOMMENDATION**

That the Development Application No: DA2009/0197 for animal boarding and training establishment, at Lot 103, in DP 752017, 58 Cooyong Road, Terrey Hills, be Refused for the following reasons:

1. Pursuant to Section 79(C)(1)(a)(i) of the Environmental Planning and Assessment Act 1979 (as amended), the proposal does not satisfy the Desired Future Character Statement as contained within the A2 Booralie Road Locality statement within Warringah Local Environmental Plan 2000, due to its failure to provide a development of a 'low impact, low intensity use', the inability to provide a built form that fits in with the existing established pattern of development in the locality, the inability to provide an appropriate landscaped strip around the building, and failing to enhance the natural landscape.
2. Pursuant to Section 79C(1)(a) and (b), of the Environmental Planning and Assessment Act 1979 (as amended) and Clause 12 (2)(b) of Warringah Local Environmental Plan 2000, the proposed development fails to satisfy the following Built Form Controls for the A2 Booralie Road Locality:



- a.) The Building Height (Ceiling Height) of 7.2m as 8.2m is proposed to the arena;
  - b.) The Front Building Setback of 20.0m as only 10.0m is proposed to Kallaroo Road;
3. Pursuant to Section 79(C)(1)(a) of the Environmental Planning and Assessment Act 1979 and Clause 12(1)(a) of Warringah Local Environmental Plan 2000, the proposed development is inconsistent with the following General Principles of Development Control:
- a.) Clause 38 – *Glare and Reflections*. The excessive surface area of the roof to the horse stables and indoor arena will result in unreasonable glare and solar reflections.
  - b.) Clause 63 – *Landscaped Open Space*. The landscaped strip between the Kallaroo Road boundary and the proposed horse stables and indoor arena, is not adequate in dimension for the further establishment of landscape plantings that are of a scale and density commensurate with the building height, bulk and scale.
  - c.) Clause 66 – *Building Bulk*. The horse stables and indoor arena results in excessive building mass, with a building height and length that has an imposing presence on the site, dominating the streetscape and fails to fit in favourably with the surrounding pattern of development.
  - d.) Clause 67 – *Roofs*. The roof form does not provide for any articulation to break up its mass, contributing significantly to the overall excessive building bulk and scale.
  - e.) Clause 69 – *Accessibility – Public and Semi Public Buildings*. The plans submitted with the application do not identify the provision of building elements required in order to satisfy the Disability Discrimination Act 1992 and Australian Standard AS 1428.2 – 1992.
  - f.) Clause 71 – *Parking Facilities (Visual Impact)*. The provision for carparking, together with the increased driveway width and vehicle crossing and truck unloading area, are considered to dominate the street frontage.
  - g.) Clause 72 – *Traffic Access and Safety*. The proposed development is considered to generate an increase in traffic volume. No Traffic Management Study has been submitted to consider the suitability of the proposal.
  - h.) Clause 73 – *On-site Loading and Unloading*. The truck loading area within the front setback will result in visual dominance on the streetscape and fails to provide sufficient area to accommodate long-rigid and articulated vehicle maneuverability.
  - i.) Clause 75 – *Design of Carparking Areas*. The carparking areas do not allow for satisfactory vehicle manoeuvring and convenient access to individual spaces and no provision is made for parking for people with a disability.
4. Insufficient information has been submitted in relation to accessibility and traffic access and management to properly consider the development application against the provisions of Section 79(C) of the Environmental Planning and Assessment Act, 1979 and Clause 54 of the Environmental Planning and Assessment Regulation 2000 and Clauses 69 and 72 of Warringah Local Environmental Plan 2000.



**Parish of Broken Bay  
County of Cumberland  
Warringah LGA**

**LEGEND**

- Existing building
- Existing bio-retention basin
- Existing contour
- Existing driveway
- Existing fence
- Existing tree

**LEGEND - PROPOSED WORKS**

- Building
- Gravel pavement
- Water tank
- Lighting columns
- Sediment fence
- Grassed swale

**LOT 103 DP 752017**  
**Total Area = 19820m<sup>2</sup>**  
**Total impervious area:**  
**Pre-development = 600m<sup>2</sup>**  
**Post-development = 2300m<sup>2</sup>**

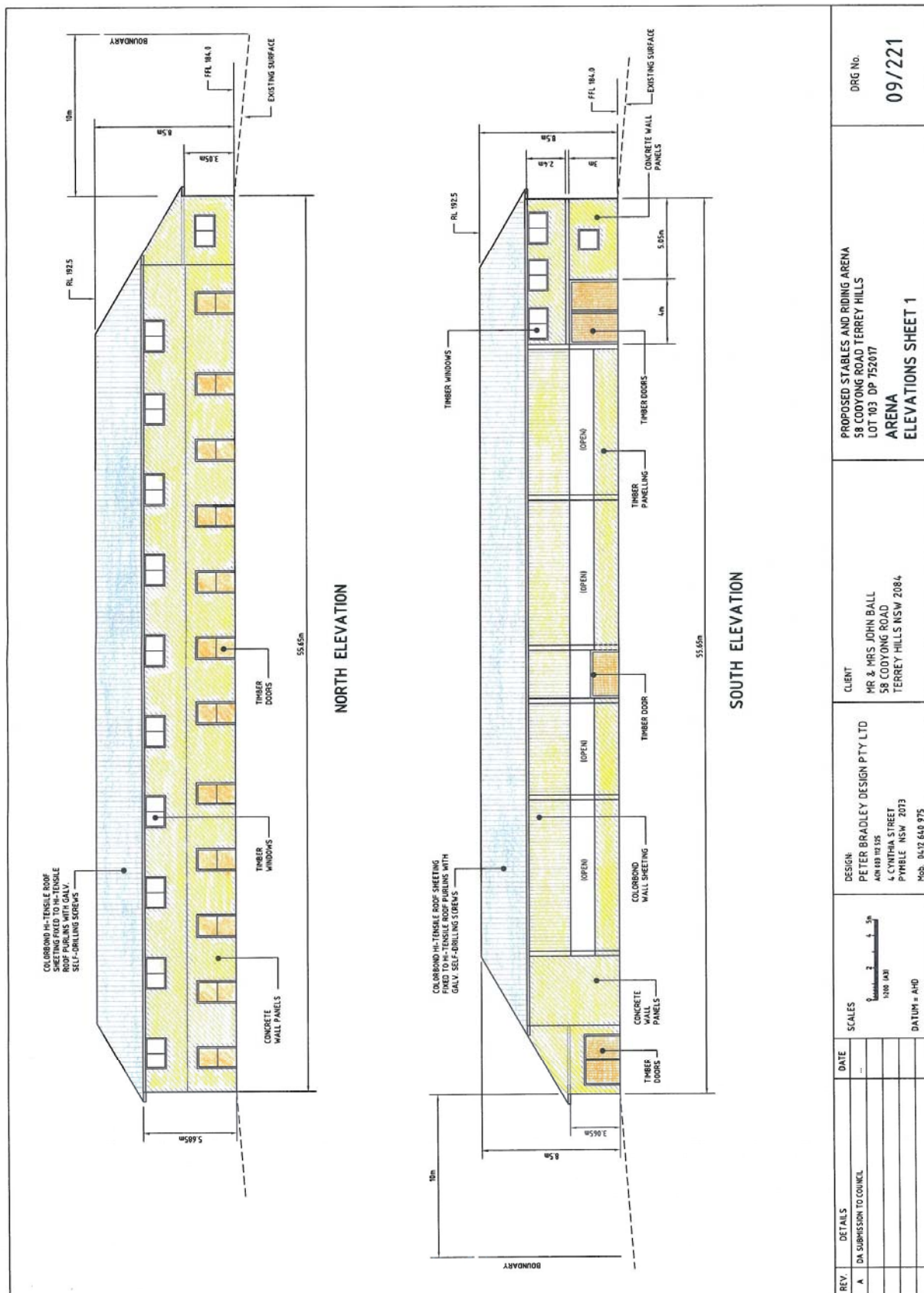
**PROPOSED STABLES AND RIDING ARENA**  
**58 COOYONG ROAD TERREY HILLS**  
**LOT 103 DP 752017**  
**SITE PLAN**

**CLIENT**  
**MR & MRS JOHN BALL**  
**58 COOYONG ROAD**  
**TERREY HILLS NSW 2084**

**DESIGN**  
**PETER BRADLEY DESIGN PTY LTD**  
**404/831 1st STS**  
**4 CYNTHIA STREET**  
**PLYMOUTH NSW 2073**  
**Mob. 0412 648 975**

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Site and Elevation Plans





Site and Elevation Plans

