

## NOTICE OF DETERMINATION

**Application Number:** DA2019/0447

### APPLICATION DETAILS

**Applicant Name and Address:** Vigor Master Pty Ltd  
Suite 201A  
24 Thomas Street  
CHATSWOOD NSW 2067

**Land to be developed (Address):** Lot 806 DP 752038  
No.8 Lady Penrhyn Drive, BEACON HILL

**Proposed Development:** Construction of housing for older people or people with disabilities comprising 14 Units

### DETERMINATION – REFUSED

**Made on (Date):** 10 June 2020

### Reasons for Refusal:

1. Pursuant to Section 4.15 (1) (a) (i) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the
  - i. The proposal fails to qualify for a variation to the front building setback controls pursuant to the requirements of 'Clause 20' of the *Warringah Local Environmental Plan 2000*.
2. Pursuant to Section 4.15(1) (a) (i) and (b) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the proposal is inconsistent with the Desired Future Character (DFC) Statement of the B2 Oxford Falls Valley Locality. In particular, the proposal does not satisfy DFC requirements for a "Category 2" development to conform with:
  - i. *Low intensity and low impact characteristics;*
  - ii. *Detached style appearance for housing; and*
  - iii. *Enhancing the natural landscape;*

3. Pursuant to Section 4.15(1) (a) (i) and (b) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the proposal is inconsistent with the 'General Principles of Development Control'. In particular the proposal does not satisfy the requirements of:
  - i. *Clause 42 Construction Sites;*
  - ii. *Clause 63 Landscaped open space;*
  - iii. *Clause 64 Private open space;*
  - iv. *Clause 66 Building bulk;*
  - v. *Clause 67 Roofs;*
  - vi. *Clause 69 Accessibility;*
  - vii. *Clause 72 Traffic access and safety;*
  - viii. *Clause 78 Erosion and sedimentation;*
  - ix. *Schedule 16 – Principles and standards for housing for older people or people with disabilities: Parts (a), (c), (d), (e) and (g) for Neighbourhood amenity and streetscape*
4. Pursuant to Section 4.15 (1) (b) and (c) of the *Environmental Planning and Assessment Act 1979* the proposed development is unsuitable for the site. In particular the proposal exceeds the threshold considerations for 'low intensity low impact' development as established within *Vigour Master Pty v Warringah Shire Council [2003] NSWLEC 1128*.
5. Pursuant to Section 4.15 (1) (e) of the *Environmental Planning and Assessment Act 1979* the proposed development is not in the public interest. In particular, the proposal does not meet the provisions of the relevant local environmental planning instrument for the creation of a better environment and maintaining the Desired Future Character of the rural locality.
6. Pursuant to the *Environmental Planning and Assessment Act 1979* the proposal is inconsistent with *Clause 1.3 Objects*, for development that is consistent with the applicable development controls to promote a better environment. In particular, the proposal does not demonstrate appropriate access to public transport to meet access current requirements of Australian Standard 1428 and the *Disability Discrimination Act 1992*.
7. 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 the *Warringah Local Environmental Plan 2000* in that:
  - i. The proposal appears to take the form of a 'Residential Apartment Development' which is inconsistent with the Desired Future Character; and
  - ii. Insufficient information has been provided, where applicable, to address any relevant requirements of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.

### Review of Determination

You may request Council review the determination of the application under Division 8.2 of the *Environmental Planning & Assessment Act 1979* unless the development is Designated Development. Any request to review the application must be made and determined within 6 months from the date of determination.

*NOTE: A fee will apply for any request to review the determination.*

### Right of Appeal

If you are dissatisfied with this decision Division 8.3 of the *Environmental Planning & Assessment Act 1979* may give you the right to appeal to the *Land and Environment Court* within 6 months after the date on which you receive this notice.

**Signed**                      On behalf of the consent authority



Name            Alex Keller  
Principal Planner

Date:            10 June 2020