

12 September 2023



Australian United Investment Pty Ltd
29 Henson Street
MERRYLANDS NSW 2160

Dear Sir/Madam

Application Number: DA2023/0172
Address: Lot 16 DP 25713 , 7 Gladys Avenue, FRENCHS FOREST NSW 2086
Lot 171 DP 849591 , 5 Gladys Avenue, FRENCHS FOREST NSW 2086
Lot 172 DP 849591 , 5 A Gladys Avenue, FRENCHS FOREST NSW 2086
Lot 19 DP 25713 , 1 Gladys Avenue, FRENCHS FOREST NSW 2086
Proposed Development: Demolition works and construction of a multi-dwelling housing development comprising of 30 townhouses and basement car parking

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

Please be advised that a copy of the Assessment Report associated with the application is available on Council's website at www.northernbeaches.nsw.gov.au

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on 1300 434 434 or via email quoting the application number, address and description of works to council@northernbeaches.nsw.gov.au

Regards,



Steven Findlay
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2023/0172
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Australian United Investment Pty Ltd
Land to be developed (Address):	Lot 16 DP 25713 , 7 Gladys Avenue FRENCHS FOREST NSW 2086 Lot 171 DP 849591 , 5 Gladys Avenue FRENCHS FOREST NSW 2086 Lot 172 DP 849591 , 5 A Gladys Avenue FRENCHS FOREST NSW 2086 Lot 19 DP 25713 , 1 Gladys Avenue FRENCHS FOREST NSW 2086
Proposed Development:	Demolition works and construction of a multi-dwelling housing development comprising of 30 townhouses and basement car parking

DETERMINATION - REFUSED

Made on (Date)	06/09/2023
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Reasons for Refusal:

1. Impacts upon canopy trees

The proposed development results in unacceptable impacts upon existing canopy trees and is inconsistent with the requirements and objectives of clause E1 and subclause 5.2.8.2 of clause G9 of *Warringah Development Control Plan 2011 (WDCP 2011)* which seek to retain existing canopy trees. Further, the proposed landscaping is inadequate to compensate for the loss of canopy proposed, attributing to non-compliance with the requirements and objectives of subclause 5.2.8.2 of clause G9 and inconsistency with the desired future character of the locality.

2. Setbacks

The proposal is inconsistent with the minimum side and rear setbacks prescribed by subclause 5.2.3.3 of clause G9 (Frenchs Forest Town Centre) of WDCP 2011 along every applicable boundary. The footprint of the proposed development is excessive, and the non-compliant setbacks directly attribute to excessive tree removal, adverse impacts upon amenity and inconsistency with the desired future character of the locality.

3. Visual Privacy

The proposal will result in unreasonable overlooking of adjoining properties, with substandard levels of privacy afforded to future residents of the development, inconsistent with the requirements and objectives of clause D8 (Privacy) of WDCP 2011.

4. Solar Access

The proposed development does not provide adequate access to sunlight for future residents of the development and is non-compliant with the minimum requirements and objectives prescribed by

clauses D2 (Private Open Space) and D6 (Access to Sunlight) of WDCP 2011. Further, the application has not any consideration of potential impacts upon solar access to existing adjoining dwellings, and compliance with the requirements and objectives of these controls in relation to neighbouring properties cannot be confirmed.

5. Adaptable Housing

The proposed development does not provide suitable adaptable housing, inconsistent with the requirements and objectives of clause D18 (Accessibility and Adaptability) of WDCP 2011. Further, the application has not satisfactorily demonstrated suitable access arrangements through the site, in order to ensure compliance with the BCA/NCC.

6. Stormwater Management

The development application is not supported by sufficient information to ensure that the proposed stormwater management solution complies with Council's Water Management Policy, such that compliance with the requirements and objectives of clause C4 (Stormwater) and subclause 9 of clause G9 (Frenchs Forest Town Centre) of WDCP 2011 cannot be confirmed.

7. Consolidation

The development application has not satisfactorily demonstrated that the size and shape of the consolidated site is suitable for the development proposed, or that the site can be developed without adversely impacting upon the development potential of the adjoining site at 3 Gladys Avenue, resulting in non-compliance with the requirements and objectives of subclause 5.2.6 of clause G9 (Frenchs Forest Town Centre) of WDCP 2011.

8. Off-Street Parking

The proposed development is unresolved in relation to parking arrangements on the site, with no visitor or service/delivery parking and the obstruction of access to car share spaces attributing to noncompliance with the requirements and objectives of clauses C3 (Parking Facilities) and subclause 6 of Clause G9 (Frenchs Forest Town Centre) of WDCP 2011.

9. Owner's Consent

The development application proposes the removal of trees from the adjacent site at 3 Gladys Road and is reliant upon the removal of these trees to facilitate works within the subject site. In accordance with the provisions of clause 23(1) of the *Environmental Planning and Assessment Regulation 2021*, the development application cannot be approved, as the written consent of the relevant landowner/s has not been provided.

10. Affordable Housing

In accordance with clause 6.11 (Affordable housing) of *Warringah Local Environmental Plan 2011 (WLEP 2011)*, development consent cannot be granted to the proposed development, as the proposal does not provide any floor area to be used for affordable housing and as Council does not agree to the imposition of a condition requiring payment of an equivalent monetary contribution.

11. Design Excellence

In accordance with clause 8.5 (Design Excellence – Sites F, G and I) of WLEP 2011, development consent cannot be granted to the proposed development, as the proposal does not exhibit design excellence.

12. Public Interest

The proposed development is not in the public interest.

Request a review of the determination

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

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

Rights to appeal

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

Objector's right of appeal against the determination

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

Dictionary

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

Signed On behalf of the Consent Authority



Name Steven Findlay, Manager Development Assessments

Date 06/09/2023