



NOTICE OF DETERMINATION

Application Number:	DA2008/1356
----------------------------	-------------

APPLICATION DETAILS

Applicant Name and Address:	Tomasy Pty Ltd 1/41 Darley Street MONA VALE NSW 2103
------------------------------------	--

Land to be developed (Address):	Part Lot 128 DP 752017 48 Myoora Road TERREY HILLS NSW 2084
--	---

Proposed Development:	Construction of a motel
------------------------------	-------------------------

APPLICATION REFUSED

Made on (Date):	18 December 2008
------------------------	------------------

Reasons for Refusal:

- A. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the development is inconsistent with the Desired Future Character of the A4 Myoora Road Locality. In this regard, the development will not be a low intensity business, community or leisure use and the development does not provide an articulated building form surrounded by a generous landscaped space.
- B. Pursuant to Section 79C(1)(a) Environmental Planning and Assessment Act 1979, the proposed development does not comply with the building height, front building setback, side building setback, building site coverage and landscaped open space built form controls for the A4 Myoora Road Locality in Warringah Local Environmental Plan 2000.
- C. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of Warringah Local Environmental Plan 2000;
- Clause 63 - Landscaped open space
 - Clause 66 - Building bulk
 - Clause 73 - On-site loading and unloading
 - Clause 74 - Provision of car parking
 - Clause 76 - Management of stormwater
 - Schedule 17 - Carparking Provision



- D. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest.
- E. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to demonstrate that the land will be suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out as required by State Environmental Planning Policy No.55 – Remediation of Land and Clauses 48 and 49 of Warringah Local Environmental Plan 2000.
- F. Pursuant to Section 91A(4) of the Environmental Planning and Assessment Act 1979, a Bushfire Safety Authority required under Section 100B of the Rural Fires Act 1997 has not been granted as the Rural Fire Service does not support the vegetation assessment as outlined in the report by Fire Base Consulting dated 17 May 2008. The Service has assessed the vegetation to the North West as forest vegetation. As such, the asset protection zone requirements of Planning for Bushfire Protection 2006 are 60 metres and the bush fire report and plans should reflect this.

Review of Determination

You may request Council review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979. The review must be determined within 12 months.

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

If you are dissatisfied with this decision Section 97 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Signed _____ on behalf of the consent authority

Signature _____
Name Steve Findlay

Date 23 December 2008