

NOTICE OF DETERMINATION

Application Number: DA2018/1692

APPLICATION DETAILS

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

Land to be developed (Address): Lot 810 DP 752038
No.74 Willandra Road NARRAWEENA

Proposed Development: Construction of a Boarding House

DETERMINATION – REFUSED

Made on (Date): 4 December 2019

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 proposal exceeds the housing density controls. In particular
 - The B2 Oxford Falls Locality housing density controls are significantly exceeded.
 - The proposal includes multiple domiciles (dwellings) as established under *SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66*
 - Concurrence of the *NSW Director of Planning* is required and has not been made for a variation to the housing density of more than 10%.

- The proposal fails to qualify for a variation to the housing density and building height 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 to:
- *Low intensity and low impact uses;*
 - *Satisfying the housing density standards;*
 - *Detached style appearance for housing types;*
 - *Enhancing the natural landscape;*
 - *Minimising disturbance of vegetation;*
 - *Ensuring buildings blend with the natural landscape; and*
 - *Ensuring ecological values of natural watercourses.*
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:
- *Clause 44 Pollutants*
 - *Clause 58 Protection of existing flora;*
 - *Clause 60 Watercourses and aquatic habitat;*
 - *Clause 63 Landscaped open space;*
 - *Clause 64 Private open space;*
 - *Clause 66 Building bulk;*
 - *Clause 70 Site facilities;*
 - *Clause 73 On-site loading and unloading;*
 - *Clause 74 Provision of carparking;*
 - *Clause 78 Erosion and sedimentation;*
 - *Schedule 5 – Bushland in urban areas;*
 - *Schedule 8 – Site analysis; and*
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 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 the provision of affordable housing in a manner that is consistent with the applicable local planning controls to promote a better environment.

Review of Determination

You may request Council review the determination of the application under Section 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 Section 8.7 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.

Seeding.

Signed On behalf of the consent authority

Name Steve Findlay
Manager Development Assessments