

NOTICE OF DETERMINATION

Application Number: MOD2019/0325

APPLICATION DETAILS

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

Land to be developed (Address): Lot 811 DP 752038
No.76 Willandra Road NARRAWEENA

Proposed Development: Modification of Development Consent DA2014/1180,
granted for the Construction of a Boarding House

DETERMINATION – REFUSED

Made on (Date): 4 March 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 proposal exceeds the housing density controls. In particular
 - The B2 Oxford Falls Locality housing density controls are significantly exceeded.
 - The proposal increases the number of 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 granted for an increased variation to the housing density standard.

- The proposal fails to qualify for a variation to the housing density standard pursuant to the requirements of 'Clause 20' of the *Warringah Local Environmental Plan 2000*.
2. Pursuant to Section 4.15(1) (a) 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, Statement of the B2 Oxford Falls Valley Locality. In particular, the proposal does not satisfy Desired Future Character requirements for a "Category 2" development to conform to:
 - *Enhancing the natural landscape;*
 3. Pursuant to Section 4.15(1) (a) 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 57 Development on sloping land*
 - *Clause 70 Site facilities;*
 - *Clause 72 Traffic access and safety;*
 - *Clause 74 Provision of parking;*
 - *Schedule 17 – Carparking provision.*
 4. 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.
 5. Pursuant to Section 5 (a) (i) of the *Environmental Planning and Assessment Act 1979*, the proposal is inconsistent with *Clause 5 Objects*, for the provision of affordable housing in a manner that is consistent with the applicable local planning controls to promote a better environment.
 6. Pursuant to Section 4.15(1) (b) of the *Environmental Planning and Assessment Act 1979*, the proposed intensification of use of the site could give rise to increased impacts on threatened species in the area.

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

A handwritten signature in blue ink, appearing to read "Steve Findlay".

Name Steve Findlay
 Manager Development Assessments

Date: 19 March 2020