

DRAFT DETERMINATION

REFUSAL ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED) NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

Applicant's Name and Address:

ABAX Contracting Pty Ltd
PO Box 215
Toongabbie NSW 2146

Being the applicant in respect of Development Application **N0150/15**

Pursuant to section 80(1) of the Act, notice is hereby given of the determination of Development Application **N0150/15** for:

The construction of a 33 unit residential flat building, 22 attached dwellings and 6 semi-detached dwellings, and associated civil works and landscaping. The development will comprise 29 Community Title allotments, with the residential flat building to be Strata subdivided by means of a separate application

At: 2 Orchard Street and 204 Garden Street, Warriewood (Future Lot 99 resulting from the re-subdivision of Lot B DP 37884 and Lot A DP 959150)

Decision:

The Development Application has been refused for the following reasons:

1. The proposed development exceeds the pro-rata dwelling allocation identified for the site in the *Warriewood Valley Strategic Review Addendum Report*, attributing to inconsistency with the objectives of clause 6.1 (Warriewood Valley Release Area) of PLEP 2014. The objectives of clause 6.1 of PLEP 2014 are also compromised by the incorporation of fill and the presence of large retaining walls within the outer creekline corridor, and inadequate stormwater management facilities across the site.
2. The height, scale, form and landscaped treatment of the residential flat building are inconsistent with the relevant standards, controls and guidelines of PLEP 2014, P21 DCP, and the RFDC, resulting in an overly large development, unable to be screened by landscaping, inconsistent with the desired future character of the locality. The amenity of the units within the residential flat building is inexcusably poor, with non-compliance with the relevant provisions of P21 DCP and the RFDC with regard to solar access, natural ventilation, energy efficiency, ceiling heights, acoustic privacy, water management, adaptability, accessibility, and the provision of communal and private open space. Overall, the design of the residential flat building is seen to fail in accordance with the design principles of SEPP 65.
3. The design of the proposed attached and semi-detached dwellings responds poorly to the orientation of the site, such that adequate levels of solar access are not achieved, resulting in inconsistency with the provisions of P21 DCP. The amenity of the attached dwellings on the western side of the site is further compromised by the extent of earthworks proposed, which also attributes to unreasonable visual impacts from the public domain, and unacceptable impacts upon the amenity of adjoining properties to the south. The application fails with regard to the provisions of clause 7.2 (Earthworks) of PLEP

2014, and is inconsistent with the desired future character of the Warriewood Valley Land Release Locality.

NOTES:

1. This determination was taken under delegated authority on behalf of the elected Council pursuant to Section 377 of the Local Government Act 1993.
2. Section 97 of the Act confers on the applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land & Environment Court exercisable within 6 months after receipt of this notice.
3. Any person who contravenes this notice of determination of the abovementioned development application shall be guilty of a breach of the Environmental Planning & Assessment Act, 1979, and shall be liable to a monetary penalty and for a restraining order which may be imposed by the Land and Environment Court.

Mark Ferguson
GENERAL MANAGER

Per:

Date: **TBA**

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