

## RECORD OF DEFERRAL

### HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DEFERRAL	Wednesday, 15 May 2019
PANEL MEMBERS	Jason Perica (Chair), Michael Leavey, Julie Savet Ward and Cr. Peter Epov
APOLOGIES	Kara Krason, David Keegan and Jan McWilliams
DECLARATIONS OF INTEREST	None

Public meeting held at Mid-Coast Council – Taree Office – 2 Pulteney Street, Taree on 15 May 2019, opened at 2:00pm and closed at 4.45pm.

#### MATTER DETERMINED

2018HCC036 – Mid-Coast Council – 152/2019/DA at 26-56 Manor Road, Harrington (as described in Schedule 1)

#### REASONS FOR DEFERRAL

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel resolved to defer determination of the development application, pending further information, assessment and review, as outlined below.

The decision was unanimous.

The Panel was conceptually supportive of a Seniors Housing (“Serviced Self Care Housing”) development of the site. While the Panel generally agreed with the assessment of issues outlined in the Council staff report, the Panel was not in a position to determine the development, as a number of important issues required clarification (including confirmation that the Panel is able to approve the development given specific terms and requirements in associated legislative Plans), while other aspects of the development warranted further review having regard to environmental impacts and considerations. These matters (outlined below) were considered resolvable in a reasonably timely way, such that deferral of the decision was appropriate. The terms of deferral and review were such that reasonable certainty existed and issues were able to be resolved, without fundamentally changing the nature of the proposal, nor adding any significant additional or altered impacts to the neighbours or the surrounds.

#### TERMS OF DEFERRAL

Determination of the development application is deferred, and the Council staff shall confer with the applicant as appropriate to address the matters and issues below:

1. Confirmation that all required owner’s consent for lodgement of the Development Application have been obtained (including land upon which there may be a Right of Way or easement benefitting the property upon which works are proposed, noting the decision in the Court of Appeal in *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) NSWCA 245);
2. A Schedule of Commitments and details of the availability of services for residents at Stage 1 and all stages of the development, consistent with the requirements for Serviced Self Care Housing under the terms of SEPP (Housing for Seniors and People with a Disability) 2004 (“Seniors SEPP”), including the provision of a bus, its capacity, service times though the day and week and destination(s).

3. Confirmation that the development complies with Clause 7.1 of Greater Taree Local Environmental Plan 2010 (GTLEP 2010), noting if works involve excavation more than 1m below existing ground level, an Acid Sulphate Soils Management Plan is needed prior to determination. If there is refinement of the proposed detention basins, this shall ensure the technical drainage requirements are met regarding quantity and quality of stormwater disposal;
4. Confirmation of the terms of the application made for the Site Compatibility Certificate (SCC), including whether temporary accommodation was proposed, and confirmation the proposal meets the requirements of Clause 24(3) of the Seniors SEPP, including that the development cannot be larger than that proposed with the SCC;
5. Confirmation that no works, including ancillary works to support the development, are located in the Environmental Conservation E2 zone, and that the bushfire affectation to the site does not preclude application of the Seniors Housing SEPP;
6. Confirmation that the requirements of SEPP (Building Sustainability Index: BASIX) 2004 are met;
7. Review of the proposal in relation to works to Manor Road, to retain as many trees as possible, while still allowing an upgrade of the road, appropriate and commensurate with the traffic associated with the density and use proposed. This may require review of works and development within the site adjoining the northern boundary;
8. Details of how services will be provided, with appropriate access and legal Rights of Way, both for services within the site requiring public access and services to adjoining land which have the benefit of existing easements or rights of access. This needs to include details for each stage of how access is to be maintained to adjoining land to the south;
9. Consideration of providing public access to the River from the site in the south-eastern corner, if possible, including any required consultation with Council regarding the impact and works on adjoining Council land;
10. Details, including potential revision of the Landscape Plan, to ensure at least 4 times the koala feeding trees (relative to koala feeding trees being removed) are provided on site, including in a position that may best suit their use by koalas, after consultation with an ecologist;
11. Details of roof colours (to avoid unnecessary heat gain or a heat island effect), and the methodology for future owners choosing dwelling types;
12. Details and quantification of the fill to the site, including associated truck movements and likely traffic and amenity impacts (including any amelioration measures); and
13. Advice regarding the proposal having regard to SEPP 55 (Remediation of Land) requirements, the draft amendment to that SEPP and the draft Environment SEPP, as relevant to the proposal.

Information from the applicant shall be provided to the Council as soon as practicable and the Council staff shall consider the information provided, the terms above and shall report the matter back to the Regional Panel for determination, which may be by electronic means (using the same members of the Panel, if possible). If the required information has not been received within 3 months, the matter shall be reported to the Panel based on the information provided.

### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. Key issues raised related to the perceived unsuitability of the use for the site, bushfire impacts, amenity impacts to neighbours and impacts on services to 3 adjoining lots to the south. The Panel was of the view the use was conceptually suitable for the site, bushfire impacts had been considered and deemed acceptable (subject to conditions) by RFS, amenity impacts on neighbours were not such to warrant refusal and services and access were able to be provided to neighbouring properties (although noting those properties are able to exercise their civil and property rights in relation to legal rights of access and provision of services prior to, during and after development of the site). Other issues were outlined in the assessment report and the Panel generally agreed with the response and position taken by Council staff in relation to those matters. Despite this, as noted above, a number of issues warranted further advice and review.

**PANEL MEMBERS**



Jason Perica (Chair)



Michael Leavey



Julie Savet Ward



Cr. Peter Epov

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018HCC036 – Mid-Coast Council – 152/2019/DA
2	PROPOSED DEVELOPMENT	Staged Retirement Village (293 dwellings), associated facilities and Community Title Subdivision
3	STREET ADDRESS	26-56 Manor Road, Harrington
4	APPLICANT/OWNER	Applicant: Bayline Investments (NSW) Pty Ltd Owner: Riverside Manors (Harrington) Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>Environmental Planning and Assessment Act</li> <li>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</li> <li>State Environmental Planning Policy No. 44 – Koala Habitat Protection</li> <li>State Environmental Planning Policy No. 55 – Remediation of Land;</li> <li>State Environmental Planning Policy (Coastal Management) 2018;</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Coastal Management) 2018</li> <li>Great Taree Local Environmental Plan 2010;</li> <li>Greater Taree Development Contributions Plan 2016</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Great Taree Development Control Plan 2010;</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 29 April 2019 and further advice prior the meeting from Council staff</li> <li>Written submissions during public exhibition: 24</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In objection – John McDonald, Terry Clifton, Ken Billings, Trevor Payne and Helen Anderson</li> <li>Council assessment officer – Bruce Moore and Petula Bowden</li> <li>On behalf of the applicant – Danny Bailey, Gavin Smith-Mabrey and John Streeter</li> </ul> </li> </ul>

<b>8</b>	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Site inspection and briefing: Wednesday, 15 May 2019</li> <li>• Final briefing to discuss council's recommendation, Wednesday, 15 May 2019, 1.00pm. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Jason Perica (Chair), Michael Leavey, Julie Savet Ward and Cr. Peter Epov</li> <li>○ <u>Council assessment staff</u>: Petula Bowden and Bruce Moore</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report