

DETERMINATION OF THE NORTHERN BEACHES LOCAL PLANNING PANEL – 3 SEPTEMBER 2019 – SCHEDULE 2, ITEM 26 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (NSW)

Panel constituted by: Paul Vergotis (Chair), Steven Kennedy (Expert), Marcus Sainsbury (Expert) & Lloyd Graham (Community Representative).

Development application no. 1667/2018.

Proposed development: Partial demolition works and erection of buildings for the purpose of a seniors housing development.

Premises: Lot 2615, DP 725038 (No. 181) Allambie Road, Allambie Heights

Determination: Pursuant to s 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* (NSW) refusing of consent to the development application.

Voting: Unanimous.

Statement of Reasons: This development application was initially considered by the Panel at its meeting of 12 June 2019 where the application was deferred. The reasons for the deferral are set out in the formal minutes of the meeting and which have been repeated in the Supplementary Report.

One of the main reasons why the development application was deferred related to the delayed response by the Rural Fire Service (**RFS**) to provide its comments to the integrated development application which required, amongst other things, general terms of approval (i.e. **GTA's**).

On or about 31 July 2019, GTA's were provided by the RFS. Based on the nature of the GTA's and what they require, it was subsequently reported that the development would need to be substantially altered to cater for the bushfire radiation setbacks needed in the form of Asset Protection Zones (**APZ's**). The Supplementary Report indicates that in order to meet the RFS's requirements, there needs to be a 85 metre setback to the development which, as a consequence, means the removal of bushland vegetation from adjoining lands which is partly under the control and management by Northern Beaches Council (**NBC**).

From a biodiversity standpoint, the removal of high quality bushland in order to accommodate the RFS's APZ requirements would produce an unacceptable outcome. Essentially the development would have to be amended to the extent of deleting the pool building which of itself would render the development a different type of proposal. As such the development application in its current configuration cannot be supported by the Panel.

Because the proposal warrants a complete redesign the development application must be refused as it is incapable of being approved with conditions to overcome both the RFS's requirements and NBC's biodiversity concerns.

Accordingly, the Panel **refuses** the development application as follows:

The Northern Beaches Local Planning Panel, as the relevant consent authority pursuant to Section 4.16 (1) (a) of the *Environmental Planning and Assessment Act 1979* (NSW) the granting of consent is **refused** to Development Application No. DA2018/1667 for partial demolition works and construction of a seniors housing development at Lot 2615, DP 752038 (No. 181) Allambie Road, Allambie Heights for the following reasons:

1. The proposed development is unsatisfactory in respect to the *Environmental Planning and Assessment Regulation 2000*, particularly in relation Schedule 1, as the NSW Rural Fire Service (**RFS**) General Terms of Approval requires the proposed pool building to be removed or repositioned on the site, which will result in a substantially different proposal to that which was assessed and publicly notified;

2. The proposed development is unsatisfactory in respect to Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (NSW) as the application is found to be inconsistent with the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* having regard to:

- a) The proposed development is inconsistent with the requirements of Clause 29 in relation to its impact on the natural environment as stipulated in Clause 25 (5) (b) (ii);

3. Pursuant to Section 4.15 (1)(a) of the *Environmental Planning and Assessment Act 1979* (NSW) the proposed development is inconsistent with the aims and objectives of the *Warringah Local Environmental Plan 2011*, in that insufficient information is provided with the application to fully and properly assess the environmental impacts on the site and adjoining lands as a result of the Asset Protection zones required by the RFS's General Terms of Approval;

4. Pursuant to Section 4.15 (1)(a) of the *Environmental Planning and Assessment Act 1979* (NSW) and Clause 12(1)(a) of the *Warringah Development Control Plan 2011*, the development is inconsistent with the following Clauses:

- Clause E2 Prescribed Vegetation;
- Clause E5 Native Vegetation;
- Clause E6 Retaining unique environmental features; and
- Clause E7 Development on land adjoining public open space.