

Ordinary Meeting of Council

Tuesday, 24 September 2013

THE HILLS SHIRE COUNCIL

ITEM-2	PLANNING PROPOSAL, PART OF NO. 15 OLD GLENHAVEN ROAD, GLENHAVEN (2/2014/PLP)
THEME:	Balanced Urban Growth
OUTCOME:	BUG2 Lifestyle options that reflect our natural beauty
STRATEGY:	BUG2.1 Facilitate the provision of diverse, connected and sustainable housing options through integrated land use planning.
GROUP:	STRATEGIC PLANNING
AUTHOR:	COORDINATOR FORWARD PLANNING KATE CLINTON
RESPONSIBLE OFFICER:	MANAGER FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that a planning proposal be forwarded to the Department of Planning and Infrastructure for a Gateway determination, to enable the provision of a residential care facility on a reduced minimum lot size of 6000m² under The Hills Local Environmental Plan 2012 by way of a proposed local clause.

The planning proposal is to facilitate the development of a residential care facility adjoining an existing senior's housing development, and eventually subdivide the facility from the remainder of the site to allow for separate ownership and operation of the residential care facility, which is the primary objective of the planning proposal.

Rather than amending to Minimum Lot Size Map in LEP 2012, as sought by the applicant, a local clause is proposed as an alternative method to ensure that it would only apply to a particular development type, being a residential care facility. A reduction in minimum lot size in this instance will not result in any adverse impacts upon the surrounding area and will not provide a precedent since it would apply specifically to a use that has been permitted under a State Environmental Planning Policy, and is complimentary in nature to the adjoining seniors housing.

While the applicant has requested dispensing with the consultation part of the plan making process it is considered appropriate that the proposal be exhibited and the Minister for Planning and Infrastructure be requested to specify a period of 14 days for community consultation, and consultation with the NSW Rural Fire Service only.

APPLICANT

Cardno Pty Ltd

OWNERS

CCR Interiors Pty Ltd

THE HILLS LOCAL ENVIRONMENTAL PLAN 2012

Zone:	RU6 Transition
Minimum Lot Size:	Two hectares

POLITICAL DONATIONS

Nil disclosures

HISTORY**11/03/2003**

Development consent granted by Council for a SEPP 5 (Housing for Seniors People with a Disability) development including 100 self-contained dwellings on land formerly known as 11-15 Old Glenhaven Road, Glenhaven (960/2002/HC).

Stage 1 of the Glenhaven Retirement Village.

09/12/2003

Development consent granted by Council for a SEPP 5 (Housing for Seniors People with a Disability) development comprising 94 dwellings on land formerly known as, 15 & 17-19 Old Glenhaven Road and 3 Holland Road, Glenhaven (421/2004/HC).

Stage 2 of the Glenhaven Retirement Village.

20/08/2010

Development Application lodged for a SEPP - Seniors' Living (115 self-care units) development and 111 bed residential care facility on 1 Holland Road and newly consolidated 15 Old Glenhaven Road, Glenhaven (280/2010/JP).

The development superseded the previous Stage 2 approval.

28/08/2010

Development Application 280/2010/JP was notified for 14 days.

23/09/2013

Application approved in an amended form including the deletion of 18 self-care units and the residential care facility.

A number of other applications for minor amendments to the existing retirement village have been made since this time.

26/07/2013

The subject Planning Proposal 2/2014/PLP was lodged.

BACKGROUND

Construction of the Glenhaven Retirement Village has been occurring in stages since the first approval in 2003, with more than 160 dwellings and associated facilities completed to date. Stage 2 of the retirement village is nearing completion, and further applications are expected to be lodged with Council in the near future for the final stages of the development including some additional villas (Stage 2A) and a residential care facility (Stage 3) in the south western portion of the site.

A residential care facility has been planned for the site since it was first included in the Development Application 280/2010/HA for stage two of the development, although it was subsequently deleted from the application prior to approval. It is now intended that this facility be developed as an entirely separate entity to the remainder of the

retirement village so that it may be independently owned and managed. In order to do so it must be located on a separate lot of a size that is appropriate to accommodate this use only. This requires a reduction in the minimum lot size that applies to part of the site.

REPORT

The purpose of this report is to consider a Planning Proposal to amend the Minimum Lot Size Map of LEP 2012 to permit the subdivision of land below the existing 2ha minimum lot size for the purpose of establishing a residential care facility.

A residential care facility is residential accommodation for seniors or people with a disability that includes:

- a) meals and cleaning services, and
- b) personal care or nursing care, or both, and
- c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.

The report also considers a request for expediting the amendment process by removing the need for community consultation.

1. THE SITE

The subject site is 15 Old Glenhaven Road, Glenhaven (Lot 301 DP 1160437), bound by Old Glenhaven Road and Glenhaven Road to the south, Holland Road to the west and large lot 'rural lifestyle' land to the east. The site is currently zoned RU6 Transition and is subject to a minimum lot size of 2ha under LEP 2012. Land on the opposite side of Old Glenhaven Road and Glenhaven Road is zoned R2 Low Density Residential and is occupied by low density residential development on lots subject to a 700m² minimum.(see figure 1)

The site has a total area of 13.29 hectares and is occupied by Stages 1 and 2 of a Seniors' Housing Development known as the Glenhaven Retirement Village. The current proposal involves a 100 bed residential care facility which would be located in the south western portion of the site, the part of the site that is subject to this planning proposal.

2. PLANNING PROPOSAL

The planning proposal as submitted by the applicant seeks to amend the minimum lot size applicable to part of Lot 301 DP 1160437, being an area of 8449m² at the corner of Glenhaven Road and Holland Road, from two hectares to 6000m². A smaller lot size is proposed since the existing two hectare minimum exceeds the area that is required to develop the residential care facility. No development application has been lodged for this facility to date. However, concept plans have been submitted with the planning proposal. It is envisaged that following a reduction in lot size, the land would be subdivided and sold for the purposes of establishing a residential care facility, thereby allowing for separate ownership of the existing seniors housing and the future residential care facility.

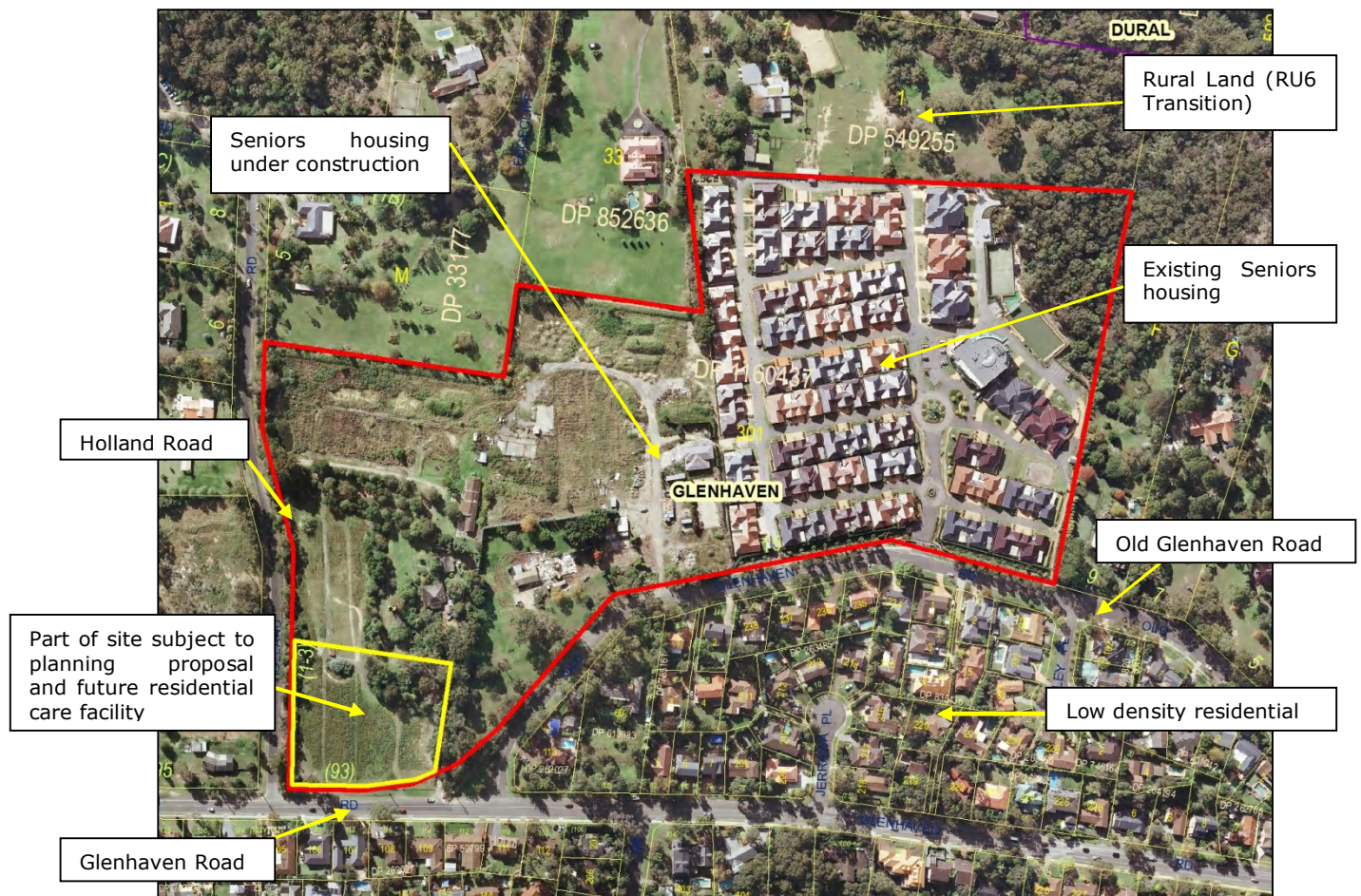


Figure 1
Site and Surrounds



Figure 2
Concept image of the Residential Care Facility

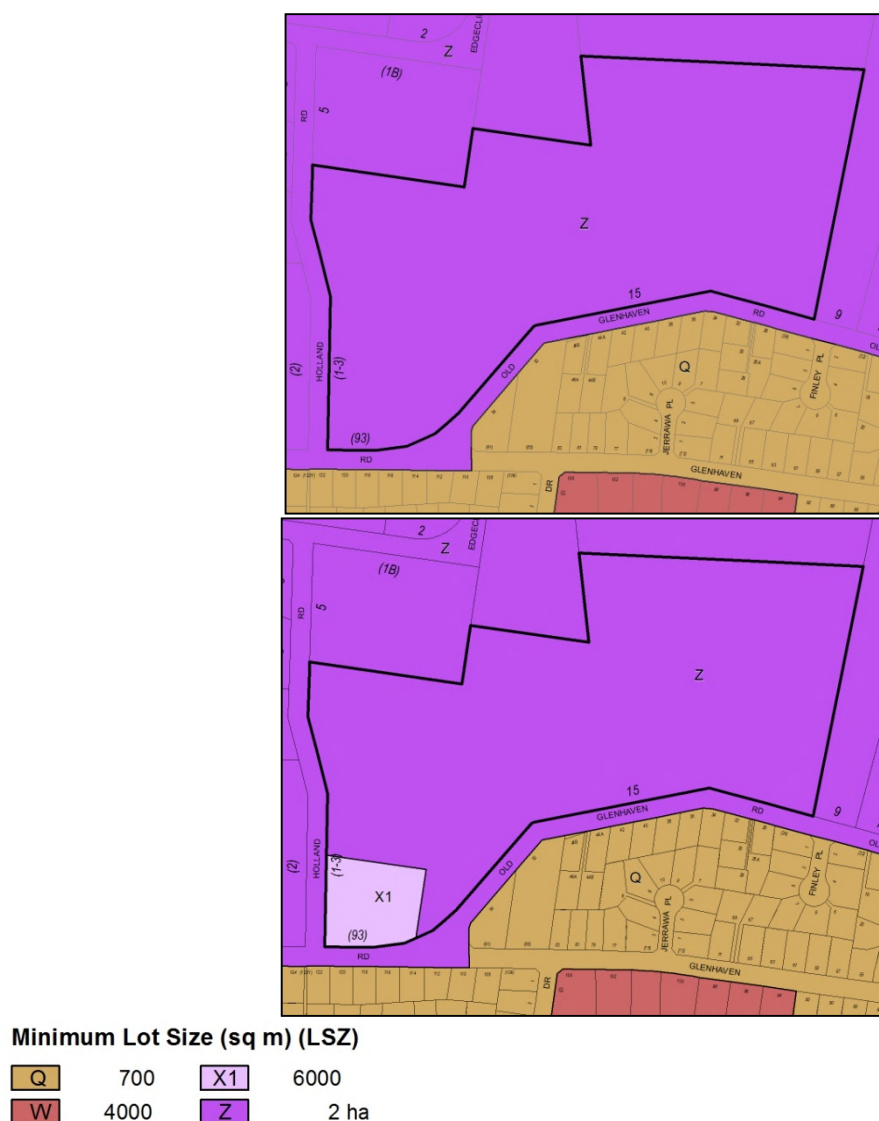


Figure 3
Minimum Lot Size Map (existing and as proposed by applicant)

A residential care facility is already permissible within the RU6 Transition zone pursuant to SEPP (Seniors Living) since it adjoins residential zoned land, therefore the planning proposal does not seek to amend the zoning of the site. The proposal is primarily an administrative amendment to achieve a practical solution with regard to the provision and operation of both the self care units and residential care facility.

The applicant is also seeking to expedite the proposed amendment by dispensing with the community and public authority consultation component of the plan-making process pursuant to Section 73A(1) of the Environmental Planning and Assessment Act.

3. STRATEGIC CONTEXT

(a) Metropolitan Plan for Sydney 2036

The Metropolitan Plan for Sydney was released in December 2010 by the NSW Government and forms the scheduled five yearly review of the Metropolitan Strategy City of Cities: A Plan for Sydney's Future. The Plan establishes the planning framework

for the Sydney Region to 2036 and takes into account population forecasts, housing and employment needs, sustainability, affordability, liveability and equity.

The Plan has identified that Sydney's growing population will require the generation of an additional 760,000 jobs by 2036 with 145,000 additional jobs to be located within the North West Subregion.

The planning proposal is generally consistent with the Metropolitan Plan since it will contribute to local employment opportunities and provide a transitional residential care facility in a key location next to an existing retirement village.

(b) Draft Metropolitan Strategy for Sydney 2031

The Draft Metropolitan Strategy for Sydney was released in March 2013 for public comment. Once finalised, the draft Strategy will replace the Metropolitan Plan for Sydney 2036. The draft Strategy establishes a vision with key objectives, policies and actions to guide the growth of Sydney to 2031 and is underpinned by the following key outcomes:

- Balanced growth;
- A liveable city;
- Productivity and prosperity;
- Healthy and resilient environment; and
- Accessibility and connectivity.

The Strategy categorises the land within the Sydney Region into Metropolitan Urban Area and Metropolitan Rural Area within which the subject site is located. The Metropolitan Rural Area will be managed to provide for local growth and to maximise the productivity of the Area's businesses, enterprises and resources that benefit the longer-term future of the city. The Strategy also states that population growth is to be provided for within the Metropolitan Rural Area so that Sydney can continue to enjoy the full range of lifestyle choices on offer.

The provision of a residential care facility as a result of the planning proposal is considered to be consistent with the Strategy since it will provide residents of the existing retirement village and the wider area with a high-care residential opportunity in a convenient location.

(c) Draft North West Subregional Strategy

The Draft North West Subregional Strategy was prepared in December 2007 by the NSW Government and outlines how the key actions contained within the Metropolitan Strategy 2005 were to be implemented at the subregional level. The Subregional Strategy set a target for The Hills Shire to provide an additional 36,000 dwellings by 2031 and 47,000 additional jobs. A key direction of the draft Strategy is also to protect rural and resource lands.

The land in this locality is currently used for rural lifestyle housing opportunities and does not contribute to the Shires agricultural production.

The planning proposal is generally consistent with the draft Strategy since it will assist in the development of a residential care facility that is consistent with existing seniors housing development located on the site, and will contribute to employment in the area.

(d) The Hills Shire Local Strategy

The Residential Direction and the Rural Lands Strategy are the relevant components of Council's Local Strategy to be considered in assessing this proposal.

Residential Direction

The Residential Direction provides a clear strategy for the future planning and management of residential development and growth in The Hills Shire to 2031. A key objective of the direction is to provide for a diversity of housing choice that is appropriate to residents' needs. A challenge identified in the direction is that of accommodating an ageing population in well located areas, supported by services and facilities on the urban fringe.

The planning proposal is generally consistent with this direction since it will contribute to a range of housing opportunities through the provision of a residential care facility which caters for residents who are no longer independent, and in a well serviced location.

Rural Lands Strategy

The Rural Lands Strategy provides the strategic framework for the Shire's rural lands to, amongst other objectives:

- protect and enhance the existing and future rural economy – including employment and future investment opportunities;
- avoid and manage land use conflict; and
- respond to social needs and preserve social values of the rural community.

The existing development on the subject site is considered to be generally inconsistent with the rural character of the RU6 Transition zone, however it has been allowed to take place pursuant to the SEPP (Housing for Seniors or People with a Disability) 2004. Although the intense nature of a residential care facility development is atypical of rural development, in this particular location adjacent to seniors housing it is considered to be an appropriate solution. It will minimise potential land use conflict, provide employment opportunities and respond to the needs of elderly and disabled persons in the community.

(e) Section 117 Ministerial Directions

Section 117(2) of the Environmental Planning and Assessment Act 1979 enables the Minister for Planning and Infrastructure to issue directions which planning authorities must address when preparing Local Environmental Plans and planning proposals. The following Section 117 Directions are relevant to this planning proposal:

- Direction 1.2 Rural Zones;
- Direction 1.5 Rural Lands;
- Direction 3.1 Residential Zones;
- Direction 4.4 Planning for Bushfire Protection;
- Direction 6.1 Approval and Referral Requirements; and
- Direction 7.1 Implementation of the Metropolitan Strategy.

The planning proposal is consistent with all of these Directions.

4. MATTERS FOR CONSIDERATION

In assessing the merits of the proposal consideration is required of the following key matters.

- a) Reduced minimum lot size in a rural area;
 - b) Assurance of intended outcome;
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- c) Bushfire affectation;
- d) Traffic; and
- e) Request to dispense with consultation requirements.

(a) Reduced minimum lot size in a rural area

The subject site is located within the RU6 Transition zone on the southern periphery of the Shire's rural area in Glenhaven, where it adjoins residential development zoned R2 Low Density Residential. Land within the RU6 Transition zone is typically subject to a minimum lot size of two hectares, reflecting its rural status and role in providing a transition to other land uses such as urban development or environmentally sensitive areas. Land within the R2 Low Density Residential zone is subject to a minimum lot size of 700m² in this locality.

A reduction in minimum lot size from two hectares to 6000m² would not alter the intended development outcome for the site which is to provide a residential care facility in this location. Regardless of lot size, a residential care facility is a permissible development and could be approved under the current planning circumstances pursuant to SEPP (Seniors Living). However the applicant seeks a smaller lot size in order to permit subdivision of the area of land that is required for a residential care facility from the remainder of the retirement village. The current minimum of two hectares is well in excess of the land required.

The primary objective is to achieve complete separation of ownership, operation and maintenance costs between the existing retirement village and residential care facility. It is considered that this would provide the most efficient arrangement for current residents in the village due to the notable difference in nature and the provider of the residential care facility. An alternative solution would involve changing the lease agreements of existing residents of the village. This option is not considered to be in the best interest of residents since their current agreements do not accommodate the costs and upkeep involved in the operation and of a residential care facility, and to change them would require detailed amendments and extended periods of time and consultation.

Whilst not typical within the rural area, a reduced lot size would not be out of character in this particular circumstance, nor is there concern that the proposal sets precedence for reduced lot sizes elsewhere in the Shire. The area of the site subject to the proposal is located within a context of intensive seniors housing eventually to be completed on two sides, and low density residential development across the road. It is also physically separated from the nearest typical rural-residential land by Holland Road. The objectives of the RU6 Transition zone and the rural character intended for the land have been entirely overridden as a result of a State Policy (SEPP – Seniors Living) which has permitted the current form of development. The site is therefore unique in its location; the nature of its intended future use is complimentary to current development, and in the policy circumstances under which the existing and intended form of development is permitted. It is considered that no other use or circumstance could justify a similar reduction in lot size in the rural area.

Furthermore, the provision of a residential care facility would fulfil a particular need in the community for high care facilities in the locality.

Assurance of intended outcome

Whilst a reduced lot size to facilitate a residential care facility is supported in principle, Council must have assurance that this facility will be provided after the amendment is made. If the planning proposal were to proceed in a form that simply reduces the

minimum lot size on part of the site, there is no guarantee that a residential care facility would be developed by a future purchaser following the subdivision of the land. The site could be developed for any number of other permissible uses within the RU6 Transition zone.

The primary issue is that a proposed amendment to lot size on this site for any other purpose than a residential care facility could not be justified by the same unique circumstances. To justify a reduced lot size, a residential care facility must be provided.

It is therefore recommended that the planning proposal be forwarded to the Department in an amended form, proposing a local clause as an addendum to clause 4.1 Minimum subdivision lot size in which a reduced lot size of 6000m² is permitted on the site only in conjunction with the approval of a development application for a residential care facility. It would also be necessary to specify that a subdivision certificate would be issued only upon the production of a duly issued occupation certificate for the residential care facility. These intentions are reflected in the draft clause provided in Attachment 1 which would be subject to refinement by Parliamentary Counsel should the proposal proceed.

The lot size map would require amendment to identify the subject site in relation to the clause whilst maintaining the overall two hectare minimum as illustrated below.

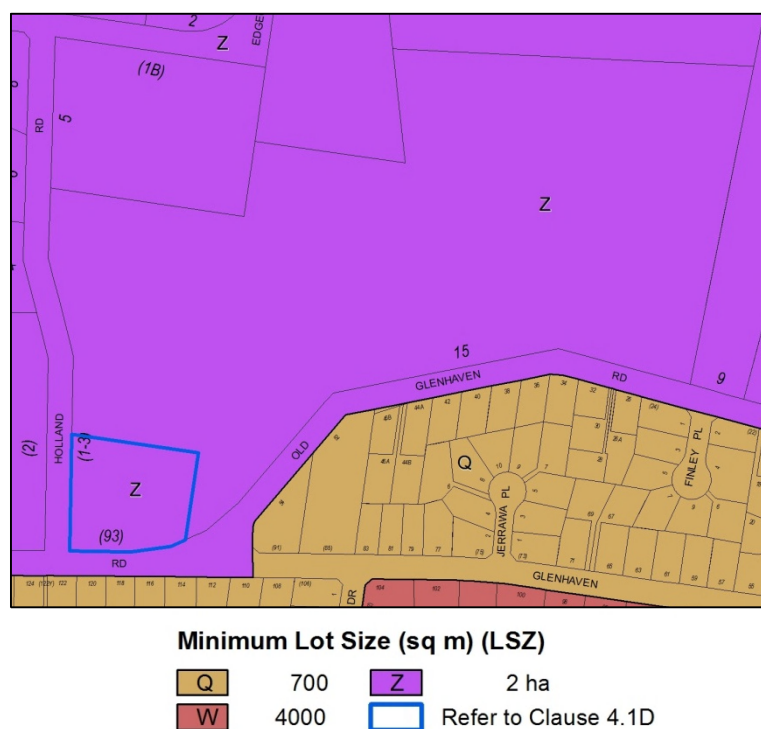


Figure 4
Revised proposed amendment to lot size map

Whilst this alternative proposal would have logistical and possibly financial implications for the owner of the site, it is considered to be the only reasonable way in which a reduction in minimum lot size can be directly tied to the desired future outcome for the site.

c) Bushfire Affection

The subject portion of the site is located within the 110m bushfire buffer area on Council's Bushfire Map. Any development proposal must comply with the provisions of "Planning for Bushfire Protection" and take into consideration entry and exit from the area, construction methods and other matters relating to fire impact. It was this affection that resulted in the deletion of the residential care facility from the stage two development application in 2010. The NSW Rural Fire Service was not satisfied with the proposal since it relied on the provision of Asset Protection Zones within the adjoining land.

The applicant has submitted a Bushfire Report with the planning proposal. The report states that vegetation in the vicinity of the south western corner of the site consists of some vegetation and trees but is primarily managed grasslands. Some minor vegetation clearance within the site and in the vicinity of Holland Road would be required and appropriate setbacks construction standards would be implemented. It is possible to achieve appropriate development within a buffer area as is evident in the construction of villas within the buffer located on the north eastern corner of the site.

A residential care facility is a permissible development in the zone regardless of the minimum lot size. Should the planning proposal proceed the implications for the future development of a residential care facility in relation to bushfire affection will be further addressed as part of the post Gateway Determination through referral to the NSW Rural Fire Service.

- (b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature; or
- (c) deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.

The applicant requests Council seek the approval of the Minister for Planning and Infrastructure to expedite the proposal by dispensing with the usual public authority and community consultation required under sections 56 and 57 of the EP&A Act 1979 respectively. The request is based on the minor nature of the proposal and previous consultation undertaken for Development Application 280/2010/HA for stage two of the retirement village for which only two submissions were received. The development application proposed a residential care facility on that part of the site that is subject to this planning proposal. It is considered that a smaller lot size would not result in any additional impacts since the intended form of development remains the same as that which was originally notified.

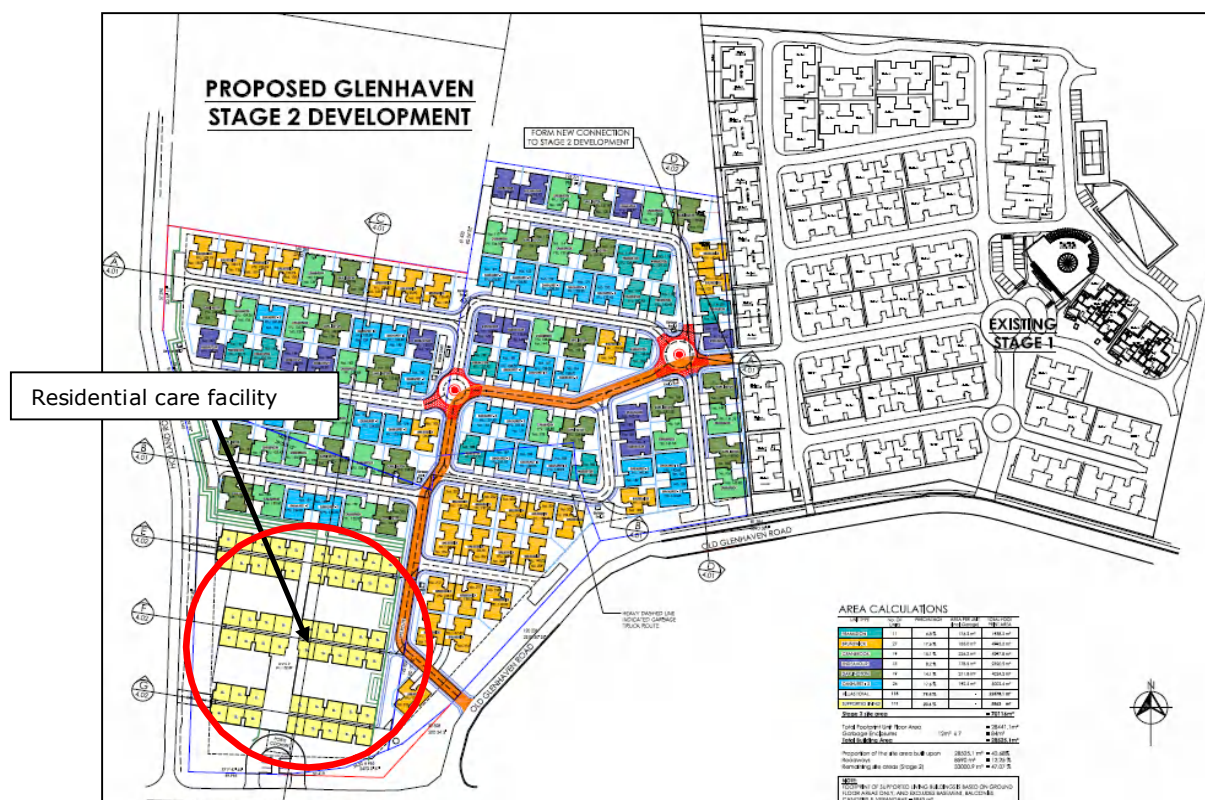


Figure 4
Stage two development application

Generally, the proposal is considered to satisfactorily address the requirements under Section 73A (1)(b) and (c) of the EP&A Act. It is recommended that Council request the Minister dispense with the requirement for consultation with State and Commonwealth public authorities (under Section 56 of the EP&A Act), with the exception of the NSW Rural Fire Service due to previous issues with a proposal for a residential care facility in this location.

Whilst it is not anticipated that the planning proposal would generate significant interest within the community, it is not recommended that community consultation be entirely dispensed with in this case due to the unique nature of the proposal and in the interests

of maintaining transparency in the proposed application of a minimum lot size that is not typical of a rural area. It is recommended however, that exhibition be undertaken for a shorter timeframe of 14 days.

CONCLUSION

The Glenhaven Retirement Village provides self-care accommodation for independent, elderly residents in the community. The addition of a residential care facility adjacent to the village would further enhance the transitional accommodation opportunities for these residents or others in need of assisted care.

The operation of and maintenance associated with a 100 bed residential care facility is intensive and differs to that of a retirement village comprising individual villas occupied by residents with low level needs. It is therefore appropriate that it be located on a separate lot which will enable separate ownership of the facility and avoid the need for residents of the village to be burdened with changes to lease agreements.

The existing two hectare minimum lot size is much larger than the land area required for the facility which may only require an area of approximately 6000m². A reduced lot size is considered reasonable due to the unique circumstances of the particular site and form of development which is already permitted by a SEPP, and since there will be no additional adverse impacts on the adjoining area. However, to ensure that a reduced lot size applies only in relation to the provision of a residential care facility, it is recommended that a specific local clause be drafted instead of a general reduction in lot size.

The applicant's request for expedition of the amendment by dispensing with consultation is considered reasonable in part as the community has been previously made aware of the intention to develop a facility of this type on the site. However, it is still considered appropriate that the proposal be exhibited, albeit for a shorter timeframe, and that the NSW Rural Fire Service be given the opportunity to comment.

IMPACTS

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

The Hills Future - Community Strategic Plan

The planning proposal will assist in the realisation of Hills 2026 outcomes of balanced urban growth through the provision of residential accommodation that will serve the ageing population with the community.

RECOMMENDATION

1. A planning proposal be forwarded to the Department of Planning and Infrastructure for a Gateway Determination for part of 15 Old Glenhaven Road, Glenhaven (part of Lot 301 DP 1160437), proposing an amendment to the Lot Size Map and an addendum to clause 4.1 minimum subdivision lot size as outlined in Attachment 1.
 2. Council request the Minister for Planning and Infrastructure specify a period of 14 days for community consultation, and consultation with the NSW Rural Fire Service only.
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ATTACHMENTS

1. Proposed draft clause 4.1(D) Exceptions to minimum lot size for residential care facility and associated map.

ATTACHMENT 1

4.1D Exceptions to minimum lot size for a residential care facility

(1) *The objectives of this clause are as follows:*

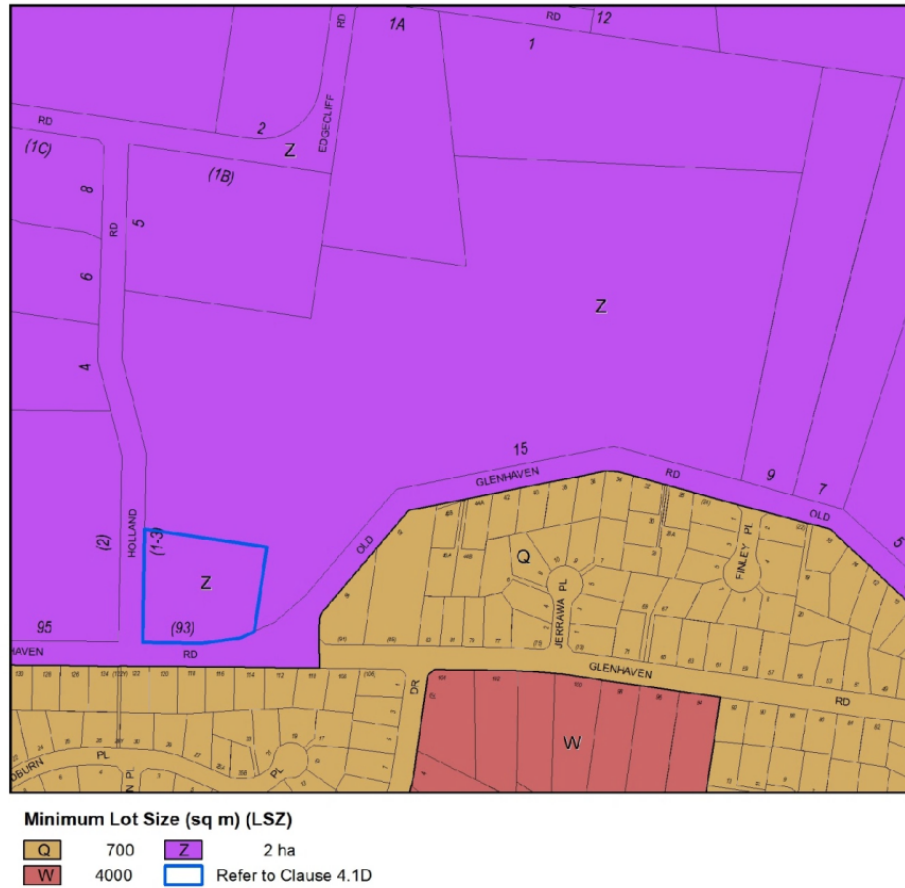
- (a) *To permit a reduced minimum lot size on land to which this clause applies for the sole purpose of facilitating the development of a residential care facility on a separate parcel of land.*
- (b) *To provide for a facility that will cater for the ongoing care of the elderly and the disabled on land that is adjacent to a seniors housing development.*
- (c) *To maintain the two hectare minimum lot size on the land to which this clause applies except where a residential care facility is proposed.*

(2) *This clause applies to part of Lot 301 DP 1160437, No 15 Old Glenhaven Road, Glenhaven, as shown edged blue on the Lot Size Map.*

(3) *Pursuant to this clause a minimum lot size of 6000m² applies to this land.*

(4) *A Subdivision Certificate for this land shall only be issued upon production of a duly issued Occupation Certificate for an approved residential care facility.*

ATTACHMENT 1



ITEM

**ITEM 2 MEETING 24 SEPTEMBER 2013 AND
RESOLUTION 2/2014/PLP**

A MOTION WAS MOVED BY COUNCILLOR JEFFERIES AND SECONDED BY COUNCILLOR DR LOWE THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

RESOLUTION

1. A planning proposal be forwarded to the Department of Planning and Infrastructure for a Gateway Determination for part of 15 Old Glenhaven Road, Glenhaven (part of Lot 301 DP 1160437), proposing an amendment to the Lot Size Map and an addendum to clause 4.1 minimum subdivision lot size as outlined in Attachment 1.
2. Council request the Minister for Planning and Infrastructure specify a period of 14 days for community consultation, and consultation with the NSW Rural Fire Service only.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Councillors Dr M.R. Byrne, R.K. Harty OAM, A.J. Hay, R. Tracey, M.G. Thomas, Dr J. Lowe, Y. Keane, P. Gangemi, A.C. Jefferies

VOTING AGAINST THE MOTION

None
