

Report to the Sydney Central City Planning Panel on an application for a site compatibility certificate under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

SITE: 146 Glenhaven Road, Glenhaven (Lot 102 DP 1205322).

A site visit was undertaken by Sydney Region West staff on 7 February 2019.

APPLICANT: Glendenning Minto and Associates P/L on behalf of Christian Brethren Community Services.

PROPOSAL: The application report (**Attachment D2**) proposes the expansion of an existing aged care facility involving the construction of 12 single storey villas. The SCC application was lodged on 5 November 2018 (**Attachment D1**). A previous SCC was issued 9 April 2016, for the same development, which lapsed on 9 April 2018. A development application (DA64/2018/HC) was lodged with The Hills Shire Council on 14 July 2018, which was refused by The Hills Shire Council on 18 September 2018. Reasons for refusal are contained at **Attachment – H** and include not having a valid SCC in place.



Figure 1: 146 Glenhaven Road, Glenhaven (Source: Sixmaps)

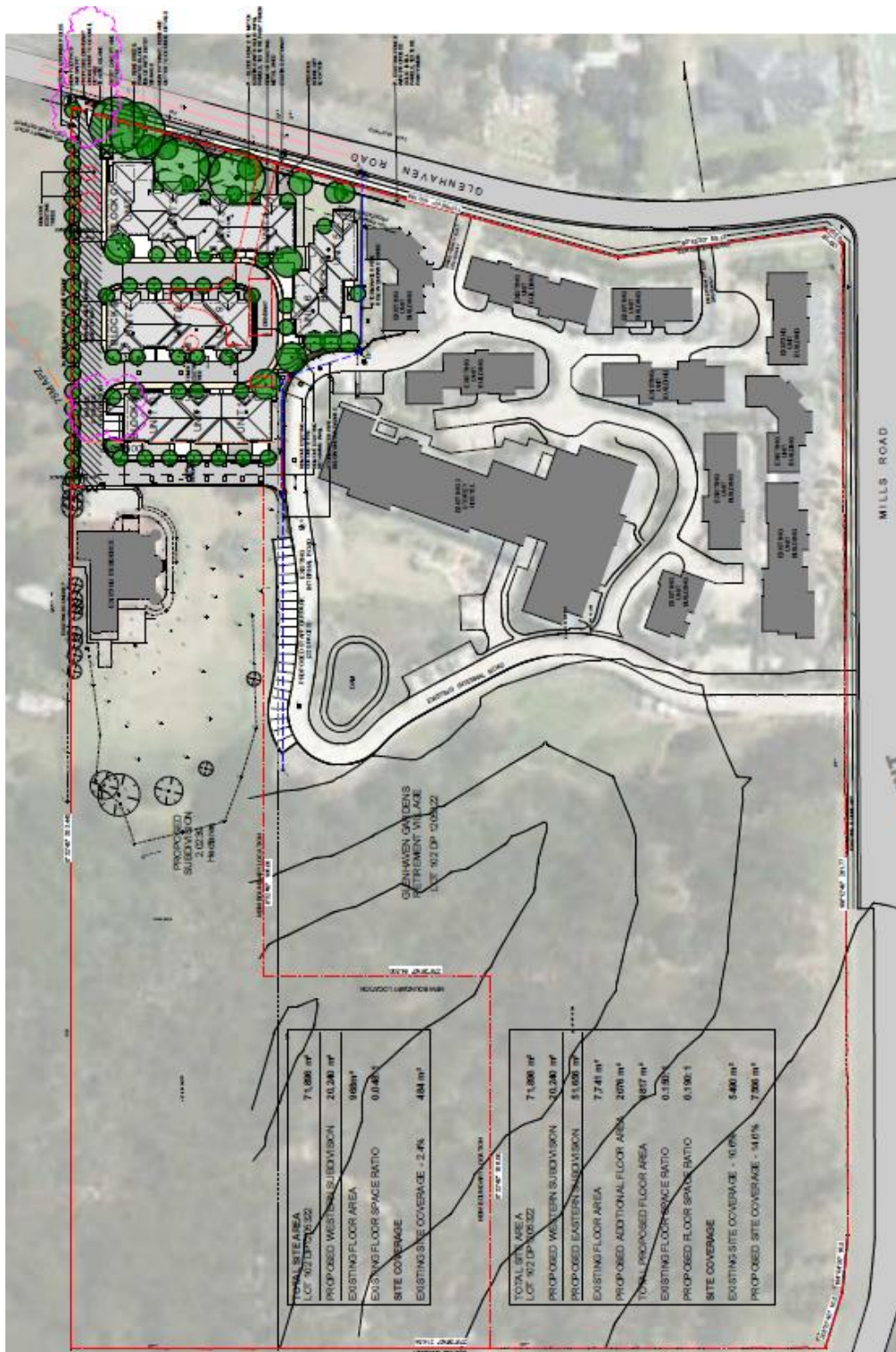


Figure 2: Site Concept Plan as part of a development application submitted to The Hills Shire Council

The following additional supporting documentation was provided with the application:

-Ecological Report **(Attachment D3)**
-Bushfire Report.....**(Attachment D4)**

-Access Report (Attachment D5)
-Architectural Plans (Attachment D6-D8)

LGA: The Hills Shire

BACKGROUND

The site has previously been issued a site compatibility certificate in June 2016. That SCC proposed 12 x 3 bedroom independent living dwellings. This SCC request is for the exact same land and proposes the same number of dwellings (12) with the same lot layout.

A development application (DA64/2018/HC) was refused by The Hills Shire Council 20 September 2018. The DA proposed 12 x 3 bedroom Serviced Self-Care single storey villas, a two lot Torrens title subdivision to separate the existing residential dwelling from the Glenhaven Gardens Retirement Village. It is the same development that was issued an SCC, and the same development as has been requested as part of this SCC.

The reasons for refusal are found at **Attachment H**, and can be summarised as:

- The site does not have an active SCC;
- The proposal does not have adequate regard to the design principles contained within the Seniors SEPP, and is considered to be incompatible with the surrounding rural character in terms of bulk, scale and built form;
- The proposed development is inconsistent with the Central City District Plan, specifically Planning Priority C18 - which limits urban development in the Metropolitan Rural Area;
- The built form is inconsistent with the environment of the surrounding rural area; and
- The proposed modification is not in the public interest as a result of its departure from the requirements under the Seniors SEPP, inconsistency with the Central City District Plan and the submissions received.

PERMISSIBILITY STATEMENT

The site is zoned RU6 Transition under The Hills Local Environmental Plan 2012 (LEP). The proposal does not comply with the land use and development controls for the site.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP) applies to land zoned primarily for urban purposes, or, adjoining land zoned for urban purposes.

The Seniors Housing SEPP is applicable under clause 4(1) if dwelling houses are permissible with consent. The site is zoned RU6 under The Hills Local Environmental Plan 2012 (LEP) and dwelling houses are permitted with consent.

For the Seniors Housing SEPP to apply in accordance with clause 4(4) the land must meet the following criteria:

'land that adjoins land that is zoned primarily for urban purposes includes (but is not limited to) land that would directly adjoin land that is zoned primarily for urban

purposes but for the presence of a public road to which there is direct vehicular and pedestrian access from the adjoining land’.

The land to the east of the site (separated by Mills Road) is zoned R2 Low Density Residential under the LEP (Figure 3). The Seniors Housing SEPP applies to the subject land as it adjoins land zoned primarily for urban purposes.

As previously discussed, a SCC has previously been issued for the site. However, clauses 25(5)(c) and 25(5A) of the Seniors Housing SEPP do not apply, as these clauses only relate to a proposal where the land was previously certified and the proposal includes additional land.

The existing planning controls for the subject site and surrounding land under the LEP are seen in Table 1 and Figure 3.

	Land Zone	Maximum Height of Buildings	Minimum Lot Size
The Site	RU6 – Transition	10m	2ha
Land to the east	R2– Low Density Residential	9m	700sqm

Table 1: Site and surrounding land LEP controls

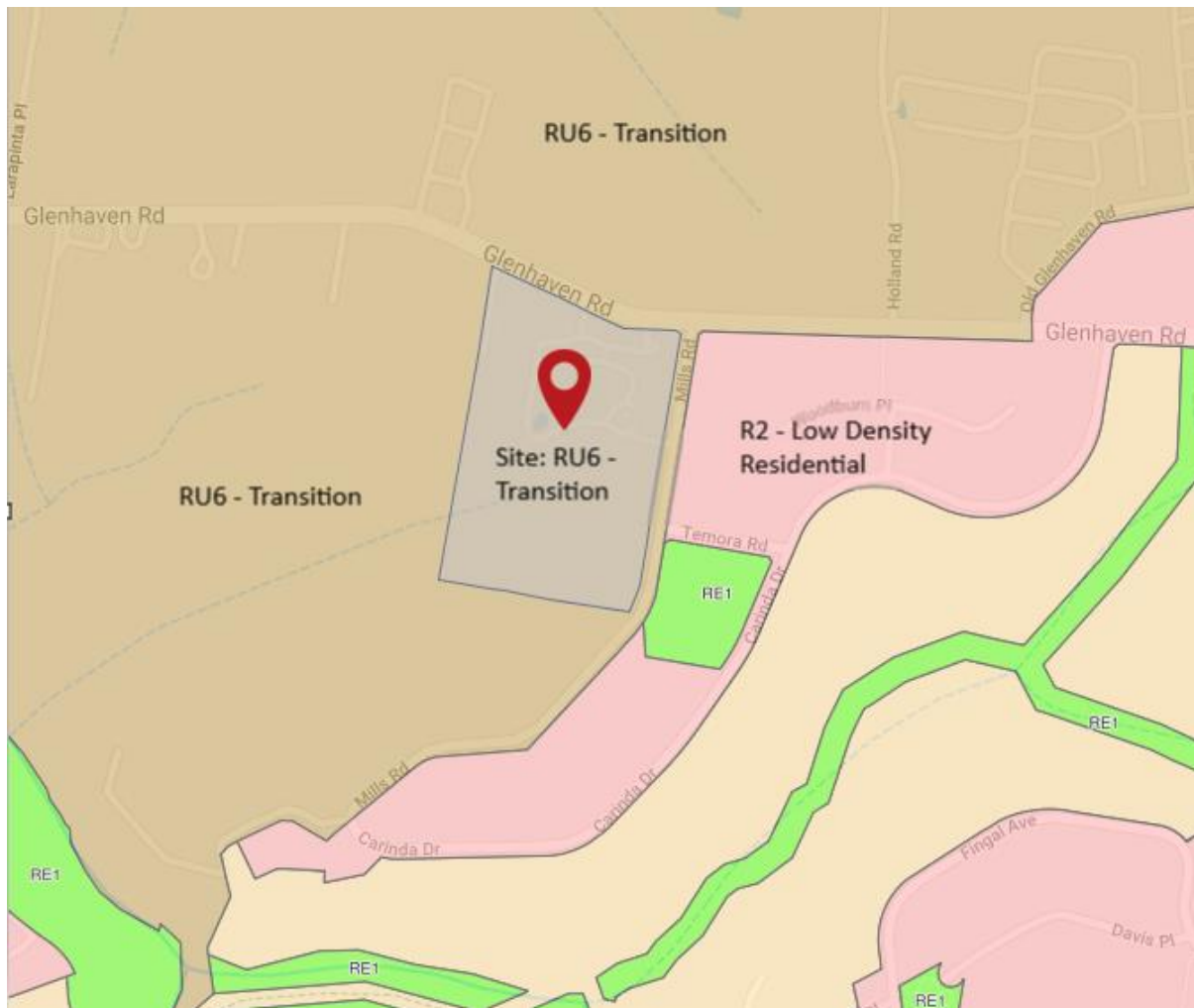


Figure 3: Land Zone Map (NSW Planning Portal).

PREVIOUSLY ISSUED SITE COMPATIBILITY CERTIFICATE ON THE LAND

Amendments to the Seniors SEPP were introduced on 1 October 2018 to ensure further analysis is given to the impacts of urban creep on non-urban land.

As stated in the permissibility section of this report, this application is for the same land as a previously issued certificate and therefore does not trigger the recent SEPP amendments in relation to previously certified land.

PROXIMITY OF SITE TO WHICH THERE IS A CURRENT SITE COMPATIBILITY CERTIFICATE, OR AN APPLICATION HAS BEEN MADE BUT NOT YET DETERMINED (CLAUSE 25(2)(c))

A cumulative impact study is not required as only one SCC is currently within 1km of the site and under consideration.

The only other SCC within 1km of the site is at 9 Old Glenhaven Road, Glenhaven.

CLAUSES 24(2) AND 25(5)

The panel must not issue a certificate unless the panel:

- (a) has taken into account any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the general manager of the council within 21 days after the application for the certificate was made;

(b) is of the opinion that:

- (i) the site of the proposed development is suitable for more intensive development; and
- (ii) the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the criteria specified in clause 25(5)(b).

Council Comments

On 19 November 2018 the Department forwarded the application to The Hills Shire Council advising its comments would be required within 21 days, in accordance with the requirements of the Seniors Housing SEPP.

Council wrote to the Department objecting to the SCC (**Attachment E**). Council's comments are summarised below:

Issue	Council comments
1. Inconsistent with Regional and District Plan	<p>Inconsistencies between the Seniors SEPP and the Greater Sydney Regional Plan and Central City District Plan, particularly in relation to the Metropolitan Rural Area.</p> <p>DPE Response: As discussed later in this report, it is considered the site and surrounds are suitable for transitioning and accommodating higher intensity land uses. The site contains an existing seniors living facility and aged care facility, with the development of 12 additional dwellings not affecting any agricultural production use. It is acknowledged that the subject site is within the Metropolitan Rural Area, however, the subject site is already utilised for the purpose of Seniors housing and the additional 12 dwellings will utilise existing services that are currently provided to the subject site.</p>
2. Lack of regional vision and infrastructure for rural lands	<p>Council has identified that the Dural/Glenhaven locality has multiple seniors housing developments that are already contributing to cumulative infrastructure impacts (i.e. traffic generation and capacity of the local road network) and impact on the low density rural residential character of the locality.</p> <p>DPE Response: The Department acknowledges the unique challenges Council is facing regarding development in rural areas and notes that there is already an existing Seniors Living development on the subject site. The Seniors SEPP provides a mechanism for applicants to be given an opportunity to submit SCCs, and for these to be assessed on their merit. While it is possible that the proposal would have a minor impact on service infrastructure, given the proposal will be able to draw on existing infrastructure within the site, and the minor increase in the number of dwellings, the site is considered capable of accommodating the additional</p>

Issue	Council comments
	development, consistent with the criteria established in the Seniors SEPP and subject to a development consent that further considers traffic impacts.
3. Impact on adjoining landowners.	<p>The proposal would result in the fragmentation of rural land sterilising future use for agricultural purposes and would also increase the potential for land use conflict between residential uses and farming practices located in proximity to the site. The proposal also relies on the adjoining property to the west to establish an asset protection zone.</p> <p><u>DPE Response:</u></p> <p>The site already has an existing aged care development in operation and therefore, will not further fragment rural land or sterilise land that may be used for agricultural purposes. The proposal does not include any additional land, but will extend the footprint of the senior housing development to the west.</p> <p>The Bushfire report submitted with this SCC identifies that the site can be developed in accordance with <i>Planning for Bushfire Protection 2006</i>. The Department acknowledges that the development is using ‘existing maintained land within neighbouring residential allotments.’</p> <p><i>Planning for Bushfire Protection 2006</i> establishes the framework for the assessment of bushfire risk. If the development does rely on neighbouring land then this will need to be addressed in greater detail at the development application stage, including the potential need to introduce a legal mechanism, such as an easement for maintenance, that ensures the asset protection zone will be maintained in perpetuity on the adjoining land.</p> <p>This will be subject to a detailed assessment at the development application stage to determine the appropriateness of the concept plan, and if any alternative solutions could be considered to ensure compliance with <i>Planning for Bushfire Protection 2006</i>. It is recommended that a requirement be placed on the SCC that the proponent must demonstrate compliance with <i>Planning for Bushfire Protection 2006</i>.</p>
4. Local Character	<p>Council has expressed concerns surrounding the impact of large scale seniors housing developments on the Metropolitan Rural Area, with the RU6 zone typically being 2 dwellings per hectare. This also has an impact on the local traffic and the capacity of the local road network.</p> <p><u>DPE Response:</u></p> <p>The development of seniors housing in accordance with the provisions of the Seniors Housing SEPP is considered appropriate, as the site already has an existing aged care</p>

Issue	Council comments
	development in operation with an established higher density, adjacent to small lot residential dwellings. The proposal of 12 additional single storey dwellings will not significantly impact on the existing character of the locality or the local road network. The draft SCC identifies that a maximum of 12 single storey villas may be constructed on the site, subject to demonstrating appropriate built form outcomes and mitigation of impacts.

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The panel must not issue a certificate unless the panel is of the opinion that the site of the proposed development is suitable for more intensive development (clause 24(2)(a)):

1. The site of the proposed development is suitable for more intensive development (clause 24(2)(a))

The land is currently used for large lot rural-residential purposes, and contains a large dwelling house adjacent to its western side boundary (former No.146) and an aged care facility comprising of 60 hostel beds and 24 seniors living dwellings on the north-eastern portion of the site.

The existing aged care dwellings are single storey whilst the hostel is two storey.

Ecological and Biodiversity

The southern portion of the site contains natural, dense bushland (Figure 4). The proposal does not involve the removal of any vegetation from the southern half of the site. The report identifies that no vegetation removal is proposed as part of establishing any asset protection zone.

An ecological assessment of the existing vegetation has been undertaken by Keystone Ecological (**Attachment D3**) and identified that the dominant existing vegetation is a combination of Sydney Sandstone Gully Forest and Shale Transition Forest (SSTF). SSTF is identified as an endangered ecological community.

Four large Tallowood trees are identified along the front boundary of the site. The ecological report states that these trees are not locally native, occurring naturally no further than the Central Coast north of the Hawkesbury River. However, these trees are proposed to be retained.

The bushland to the south is identified on the Terrestrial Biodiversity layer of the Hills LEP 2012 and is proposed to be retained. It is not anticipated that this proposal will have any significant impact on the bushland to the south of the development area as no clearing or development in this area is proposed.



Figure 4: Vegetation within site

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND LAND USES

The panel must not issue a certificate unless the panel is of the opinion that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the following criteria (clause 25(5)(b)) and clause 24(2)(b)):

- 1. The natural environment (including known significant environmental values, resources or hazards) and the existing and approved uses of land in the vicinity of the proposed development (clause 25(5)(b)(i))**

Bushfire, vegetation and drainage

As a result of dense bushland located through the southern portion of the site, there is an identified bushfire risk applying to the proposed development. Figure 5 demonstrates the land which is mapped as bushfire prone land.



Figure 5: Bushfire hazard - 146 Glenhaven Road, Glenhaven.

The proposal is categorised as a Special Fire Protection Purpose and requires the concurrence of the NSW Rural Fire Service if a development application is lodged. The proposal is also required to be developed in accordance with NSW Rural Fire Service *Planning for Bushfire Protection 2006*.

A Bushfire Assessment (**Attachment D4**), prepared by Building Code and Bushfire Hazard Solution Pty Limited, identified bushfire safety measures and provided results of a site-specific bushfire risk assessment.

The report identifies that the application proposes to construct dwellings within bushfire vegetation buffer areas on the site. It was concluded that the proposal can provide a reasonable and satisfactory level of bushfire protection and recommended that the site can be developed in accordance with NSW Rural Fire Service *Planning for Bushfire Protection 2006*.

Further analysis and consideration of the bushfire hazards is required to be undertaken as part of the development assessment process, if a SCC is issued. It is recommended that any future development application be required to demonstrate consistency with *Planning for Bushfire Protection 2006*.

The proposed development area for the housing is located outside the areas containing high value vegetation. It is considered that the development will not adversely impact on significant vegetation and appropriate management measure could be dealt with under a development application if required.



Figure 6: Bushfire hazard separation.

Surrounding Uses

Land to the north, south and west are used for predominantly large lot rural-residential purposes. Land to the east is residential, comprising one or two storey dwellings. A small park is situated to the south-east of the site. Land to the immediate east of the development area (within the same lot) is the existing Glenhaven Gardens, for which this SCC seeks to expand. Figure 7 (below) identifies the surrounding uses.

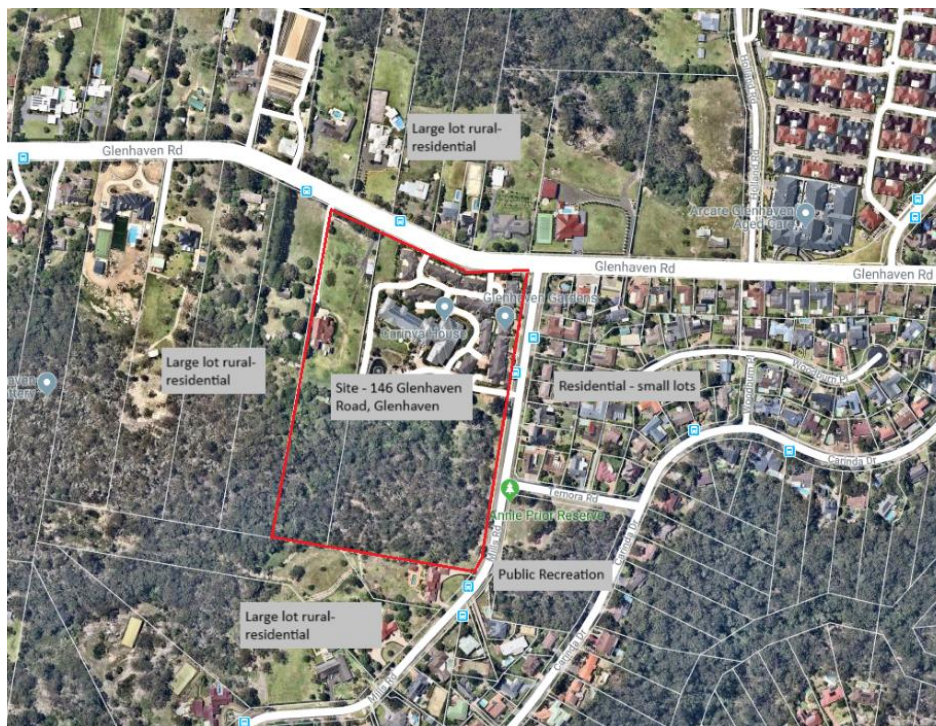


Figure 7: Surrounding uses.

The proposed development is not likely to conflict with the surrounding uses, and can ensure compatibility with the rural residential development that adjoins the site. The existing facility is not considered to be inconsistent with small-lot residential dwellings to the east, and the proposed development is not considered to be inconsistent in height with the rural-residential dwellings to the north and west.

An appropriate design response to the surrounding uses is achievable on the site, and should be analysed further through the development application process, should a SCC be issued. The SCC provides for a maximum of 12 additional dwellings on the site.

2. The impact that the proposed development is likely to have on the uses that, in the opinion of the Panel, are likely to be the future uses of that land (clause 25(5)(b)(ii))

The site is currently used for seniors living purposes, and the proposal is an expansion of this use.

The proposal is not likely to have any adverse impacts on future uses of the land. Further information on the surrounding uses is given in Part 1 of the Compatibility section of this report.

Further strategic justification

It is noted when considering a SCC application, the assessment can only consider matters outlined in clause 25(5) of the SEPP. This clause relates to council comments, the natural environment, the impact on future uses of the land, services and infrastructure, the bulk and scale of the development, the removal of native vegetation and the cumulative effect of seniors housing. The SEPP does not reference the local, district or regional strategic plans for consideration. However, the relevant strategic plans identify the need to provide seniors housing in locations close to amenities, and are outlined below to provide a broader picture of the strategic context:

Greater Sydney Region Plan:

- Objective 6 – Services and infrastructure meet communities’ changing needs.
This objective indicates the need to plan for health services to respond to growth in the ageing population, ensuring there are services that respond to the needs of the community. Parramatta and The Hills local government areas have the largest projected growth in the 65-84 age groups. The proposed development will assist in providing access to services required by elderly people and intends to provide an extension to the existing health care facilities on site; and
- Objective 7 – Communities are healthy, resilient and socially connected.
This objective relates to the need to ensure people have access to services and social networks. The proposed development is located adjacent to a zoned urban area, allowing connectivity to the local community, and allows for connection to essential services through an existing bus network within 400m. It is noted that the proposal for Seniors Housing satisfies the provisions of the Seniors SEPP when considered independently.

Central City District Plan:

- Action 73 aims to maintain or enhance the values of the Metropolitan Rural Area (MRA) using place-based planning to deliver targeted environmental, social and economic outcomes, including rural residential development. The subject site and its location in the RU6 zone contains an established bus network, with bus stops adjoining the site providing access to essential services and amenities. The Greater Sydney Commission and the Department are currently carrying out an investigation with The Hills Shire Council and Hornsby Shire Council, into the application of the SEPP to the MRA. It is considered that the current application should be assessed on its merit, and the proposal satisfies the Seniors SEPP independently.
- 3. The services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision (clause 25(5)(b)(iii))**

The subject site is located approximately 1.2km from Glenhaven Shopping centre, 4.5km from the commercial/retail precinct at Dural, and 7.0km to Castle Hill.

Glenhaven Shopping Centre (Glenhaven Court) provides a pharmacy, hairdresser and various takeaway shops. The larger retail precincts of Dural and Castle Hill provide major retail outlets and essential services.

The planning report identifies that the subject site is reliant upon a bus stop located directly adjacent on Mills Road, serviced by Route 603. Route 603 connects patrons from Rouse Hill Town Centre to Parramatta via Glenhaven, Knightsbridge and Castle Hill. The report identifies that the frequency of the bus route is 11 services between 8am and 6pm weekdays, 14 services Saturday and 10 services Sunday.

The bus stop is within a 400m distance for residents, by way of an internal pathway through the existing village. The existing path through the site is the main access pathway to the bus stops along Mills Road and is capable of complying with the gradient requirements of clauses 26(2)(3)(4) of the SEPP.



Figure 8: Internal access to bus stops along Mills Road.

- 4. In the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development (clause 25(5)(b)(iv))**

The site is not zoned open space or special uses.

- 5. Without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development (clause 25(5)(b)(v))**

The concept development layout (**Attachment D7**) identifies seniors housing that are low density dwellings, that are single storey with a 10m setback from Glenhaven Road, consistent with the existing Seniors Housing dwellings on the site. The proposal also retains the front boundary Tallowwood trees.

It is considered that the proposal can be designed to be of a low-scale with reduced impacts on the existing rural-residential uses that surrounding most of the site. A requirement has been proposed for the SCC which seeks to ensure that bulk, scale and built form appropriately responds to surrounding land uses and transitions appropriately. The proposal is a minor extension to an existing facility and is not considered to be out character with the locality.

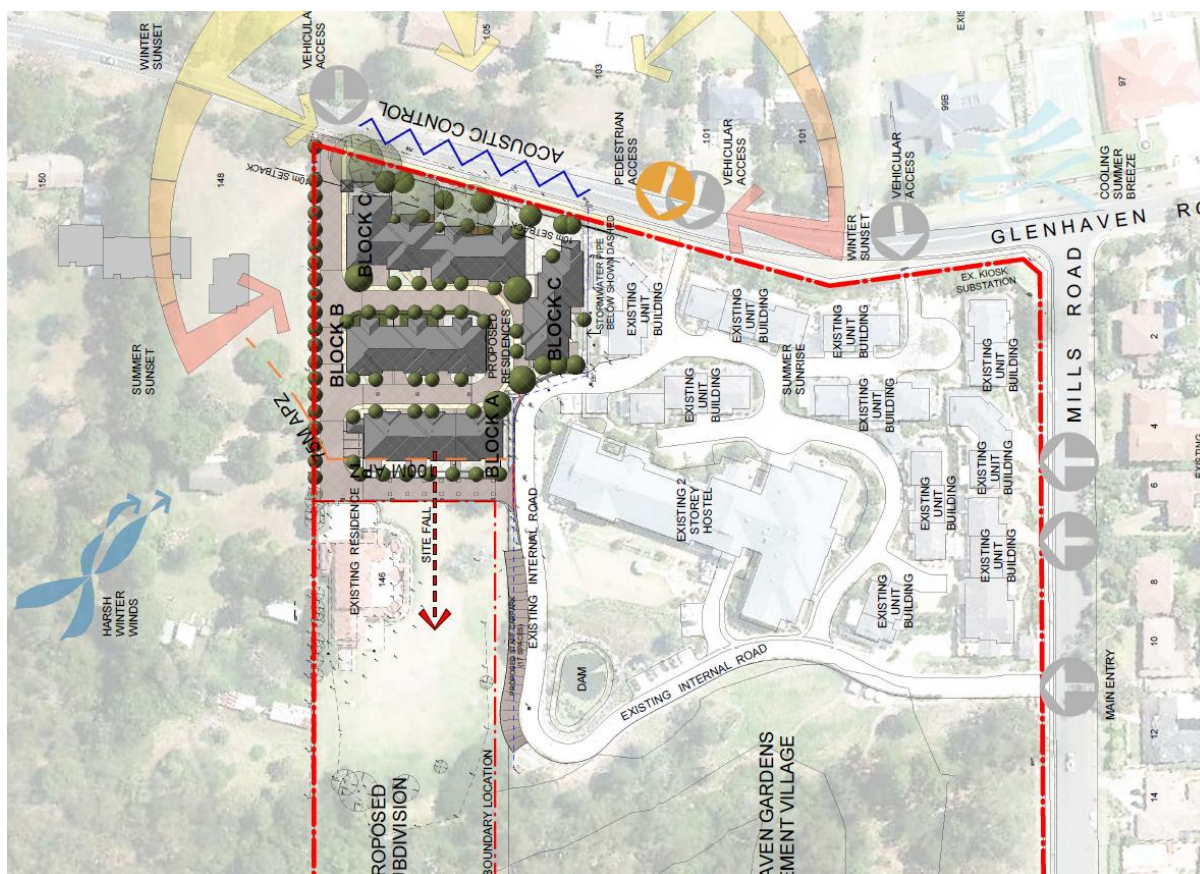


Figure 9: Site analysis plan

6. If the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the *Native Vegetation Act 2003*—the impact that the proposed development is likely to have on the conservation and management of native vegetation (clause 25(5)(b)(vi))

The *Native Vegetation Act 2003* was repealed on 24 August 2017 and replaced with the *Biodiversity Conservation Act 2016*. If relevant to this application, native vegetation clearing is addressed in section 1 above.

7. The impacts identified in any cumulative impact study provided in connection with the application for the certificate (clause 25(5)(b)(vii))

There is a current site compatibility certificate for 9 Old Glenhaven Road, Glenhaven. As this is the only SCC within 1km of the site, no cumulative impact study is required.

CONCLUSION

The site adjoins land zoned for urban purposes and meets the requirements of the Seniors Housing SEPP.

The proposed development will provide housing diversity for the needs of seniors housing and care facilities for people with a disability in a locality where there are no significant constraints to the proposed development.

The application for an SCC is consistent with clause 25 of the Seniors Housing SEPP and it is considered that housing for seniors or people with disability is a suitable use of the site and compatible with the surrounding land use as:

- it will contribute to meeting the growing needs for seniors housing in the north-west of Sydney;
- the proposed seniors housing development will not preclude any known future use for the land;
- appropriate access to essential services is provided through existing public transport options;
- the proposed development is generally in keeping with the existing and future surrounding developments, with further details regarding the proposed bulk and scale to be addressed as a requirement in the SCC;
- there is sufficient land area to enable development while providing an appropriate bushfire response in accordance with *Planning for Bush Fire Protection 2006*; and
- appropriate access to essential services is provided through existing public transport options.

The assessment of the SCC has had due consideration for the previously refused development application. Council's concerns relating to the lack of conformity to existing rural character, the subsequent loss of agricultural land, incremental urban periphery development and inconsistency with the local strategic planning framework, are noted. It is considered that these matters can be adequately addressed during the assessment of a development application as discussed in the report.

The assessment of the SCC concludes that the site may accommodate the proposed development subject to a development application that will further analyse the bulk and scale, as well as the bushfire hazards and biodiversity values that the site contains. Depending on the outcome of each issue, this may result in a reduction in the number of additional dwellings that can be developed on the site.

As such, a maximum of 12 additional dwellings has been conditioned in the draft certificate.

It is recommended that the following requirements are attached to the SCC:

- biodiversity – any future development is to ensure the conservation and management of native vegetation on the site in accordance with relevant NSW and Commonwealth legislation;
- bush fire management – any future development is to be carried out in accordance with the relevant provisions of *Planning for Bushfire Protection 2006* (or as updated), through concurrence with the NSW Rural Fire Service. Any required Asset Protection Zone is not to require the removal of any vegetation listed under the *Biodiversity Conservation Act 2016*;
- bulk, scale and built form to appropriately respond to surrounding land uses and transition appropriately;
- setbacks, landscaping, design and visual amenity.

These matters are to be determined through the assessment of a development application under section 4.15 of the *Environmental Planning and Assessment Act 1979*.

ATTACHMENTS

Attachment A - Draft SCC

Attachment B - Draft letter to applicant

Attachment C - Draft letter to the Hills Shire Council

Attachment D - SCC application package

D1 - Cover letter and submission

D2 - SCC report

D3 - Ecological Report - 140-146 Glenhaven Road, Glenhaven

D4 - Bush Fire Assessment - 140-146 Glenhaven Road, Glenhaven

D5 - Access Report - 140-146 Glenhaven Road, Glenhaven

D6 - Architectural Plans -Site Analysis Plan - 140-146 Glenhaven Road, Glenhaven

D7 - Architectural Plans -Ground Floor Plan - 140-146 Glenhaven Road, Glenhaven

D8- Architectural Plans - Elevations - 140-146 Glenhaven Road, Glenhaven

Attachment E - Council comments

Attachment F - Site map

Attachment G - Land zone map

Attachment H – Development application refusal

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