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

LGA: Hornsby

APPLICANT: Zhiva Living Dural Pty Ltd (**Attachment A1**)

SITE: 3 Quarry Road and 4 Vineys Road, Dural
(Lot 2A DP 158064 and Lot 1 DP 230172, respectively)

APPLICATION: submitted to the Department on 16 July 2019

SITE ANALYSIS

The site is zoned RU2 Rural Landscape under *Hornsby Local Environmental Plan 2013 (HLEP 2013)*.

The site is approximately 29,700m² in area, contains a small dwelling house and some large trees to the northern boundary and a small dwelling house and boundary tree planting to the southern boundary and has previously been used for agricultural purposes.

The site is bounded by Quarry Road to the south, Vineys Road to the north, a rural residential property, pine plantation and flower farm to the west of the site, and a wholesale plant nursery and a rural residential property to the east of the site (**Figures 1 and 2**).

The site is currently occupied by a dwelling house to the northern section of the site and the remainder of the site has been predominantly cleared of vegetation. The site is understood to be previously used for agricultural purposes.

Topographically the site slopes from Quarry and Vineys Roads to the site's mid section, which is the lowest point on the site.

Other than the tree planting along the boundary of the site to Quarry Road (**Figure 3**), the northern section of the site accommodates some large gum trees (**Figures 6 & 7**).



Figure 1: Aerial view of surrounding area (subject site outlined in red)



Figure 2: Allotment boundaries (subject site outlined in red)



Figure 3: View from Quarry Rd from the south west corner of the site looking east across the site



Figure 4: View from Quarry Rd from the south east corner of the site, looking north across the site to Vineys Rd.



Figure 5: View from Quarry Rd looking north over adjoining plant nursery across subject site.



Figure 6: View of site from Vineys Road, showing the existing dwelling and trees on the site.



Figure 7: View from Vineys Rd from the north west corner of the site looking south across the site to Quarry Road

Surrounds & Local Character – Quarry Road

The surrounding uses are generally a mix of intensive agriculture, commercial premises and large lot rural-residential living (**Figures 8 - 11**).

The surrounding has a mixed land use and built form character that has both rural land such as small open paddocks, intensive rural horticultural uses, residential dwellings and yet intensively built up development in places including the Pacific Hills school and a strata complex of two storey business developments opposite the site at the corner of Old Northern Road (**Figures 10 & 11**).

Adjoining the site to the east is a flower nursery (**Figure 8**) and to the west is a two storey residential dwelling that is urban in appearance and closed located to the street frontage (**Figure 12**).



Figure 8: View from Quarry Rd looking north over the adjoining wholesale plant nursery



Figure 9: View from Quarry Rd (from the south west corner of the site) looking west to the commercial buildings



Figure 10: View from Quarry Rd looking west towards Old Northern Road - site to the right.

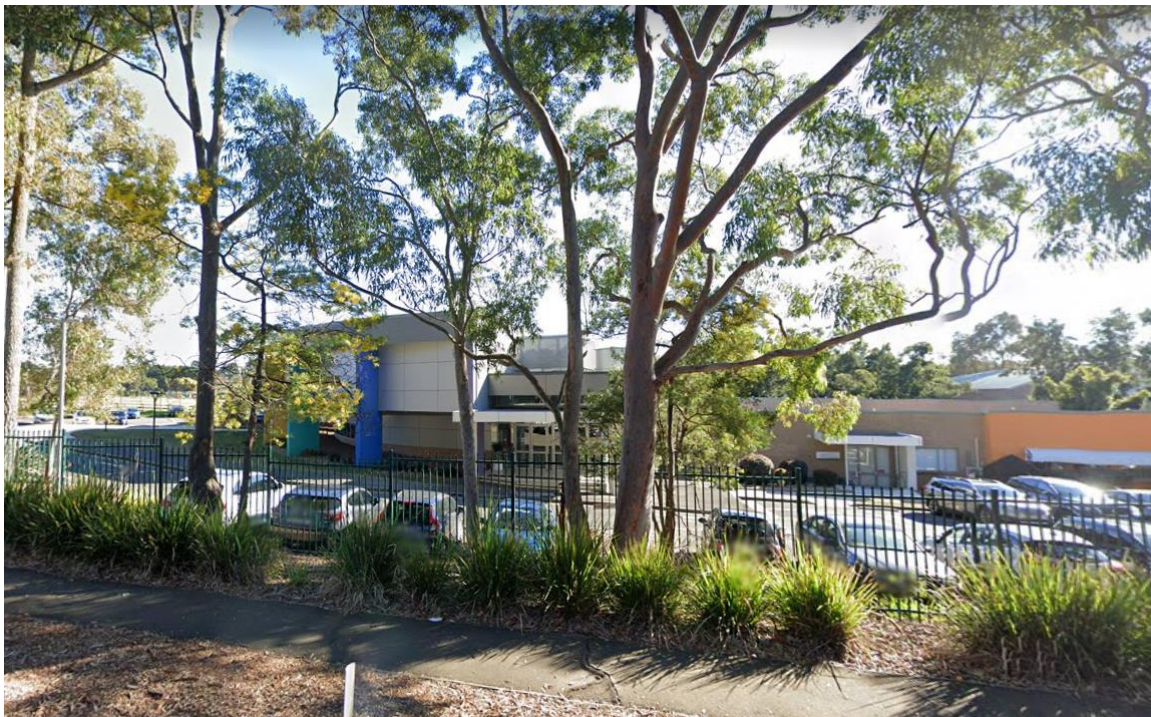


Figure 11: Pacific Hills School east of the site on Quarry Road



Figure 12: Adjoining residential dwelling adjoining the site to west on Quarry Road.

Surrounds & Local Character – Vineys Road

Vineys Road is a lower order road servicing a number of large lot rural properties, that are characterised with intermittent trees along the road side (**Figures 13 – 14**).

Adjoining the site to the north west is rural residential two storey dwelling (**Figure 15**) and to the east is a single storey rural residential dwelling (**Figure 16**).



Figure 13: View looking south-east along Vineys Rd toward the site (right).



Figure 14: View looking south-east along Vineys Rd (site to the right).



Figure 15: Adjoining residential property west of the site on Vineys Road.



Figure 16: View looking south-east along Vineys Rd toward the site (right).

Views to the site

When viewed from Old Northern Road, views to the site are obscured by the existing pine plantation to the west of the site (**Figures 16 – 17**).

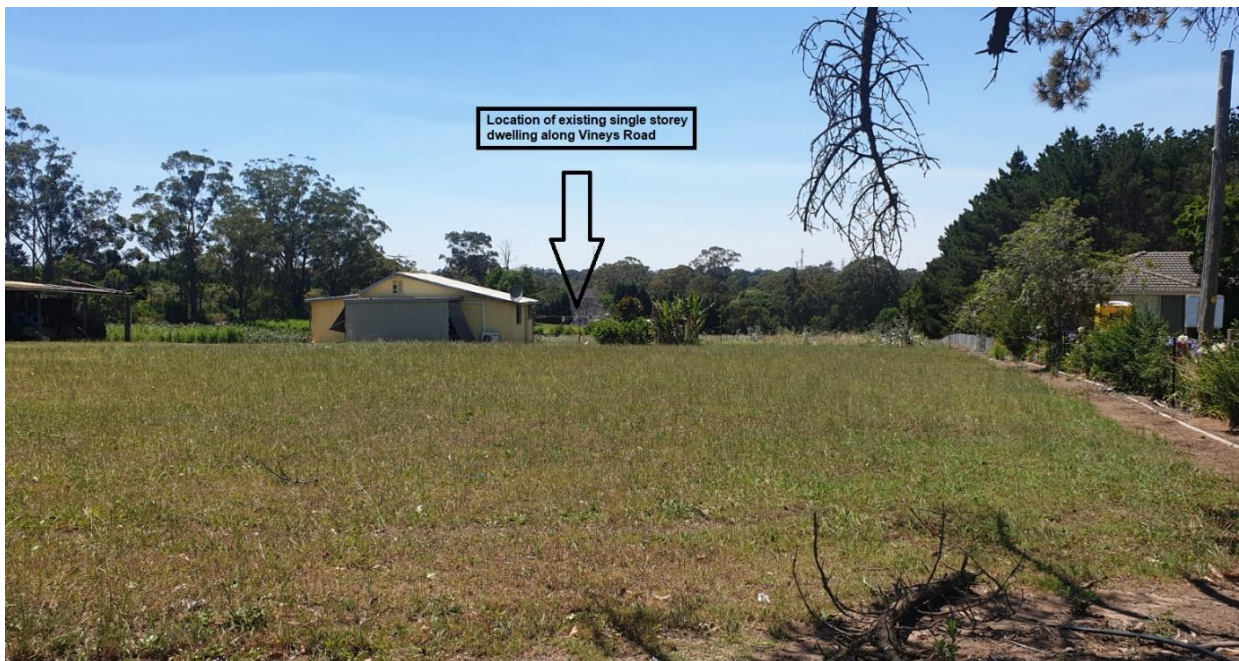


Figure 17: View from Old Northern Rd, looking east to the subject site



Figure 18: View from Vineys Rd near Old Northern Road intersection looking south-east to the site

PROPOSAL

The subject proposal is for a SCC is for a seniors living development comprising:

- 91 self-care 2 and 3 bedroom seniors living dwellings in 8 three-storey buildings;
- a 74 bed 3 storey residential care facility along the frontage of Vineys Road;
- basement car parking for 225 car spaces (177 for the serviced self-care housing and 48 for the aged care facility); and
- Various landscaping and office facilities fronting Quarry Road.

Access to the site will be from both Quarry Road and Vineys Road, the basement car parking for the office facilities and the aged care facility operate independently from Vineys Road; but will tie in pedestrian links to the dwellings at the rear. Whereas vehicle access to the seniors living dwellings will be from Quarry Road.

The proposal is supported by various plans and reports (**Attachment A2-A23**). The proposal will have a maximum height of 10.5 metres (three storeys) and maximum FSR of 0.65:1. (**Figures 19-23**).

The height and bulk of the development is concentrated within the central portion of the site and will be planted out with trees and landscaping at its edge rom Vineys Road the development will appear as a single storey development (**Figure 20**), whereas the appearance of the development from Quarry Road will be two storeys with loft (**Figures 21 and 22**).

The development at Vineys will be setback 10m and 11m from the western and eastern site boundaries respectively, and at Quarry Road will be setback 11m and 20m from the western and eastern site boundaries respectively. Added to this the central development will be setback 20m from the site's eastern boundary.

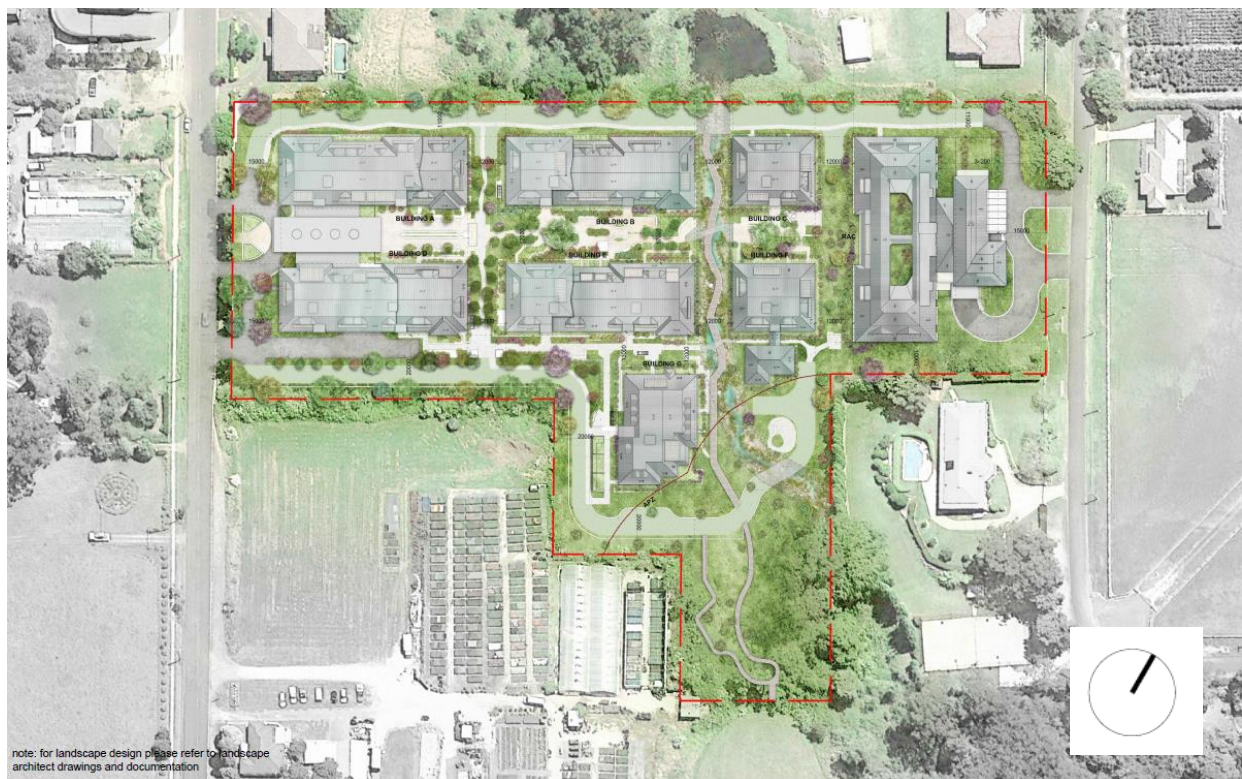


Figure 19: Development concept (source: Marchese & Partners)



Figure 20: Elevations from Vineys Road looking south-west towards the Residential Aged Care Facility.

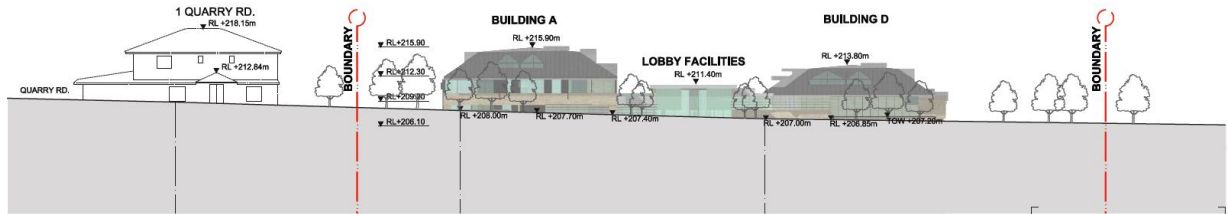


Figure 21: Elevations from Quarry Road looking North East towards Building A, Building D and the lobby.



Figure 22: Perspective views from Quarry Road.

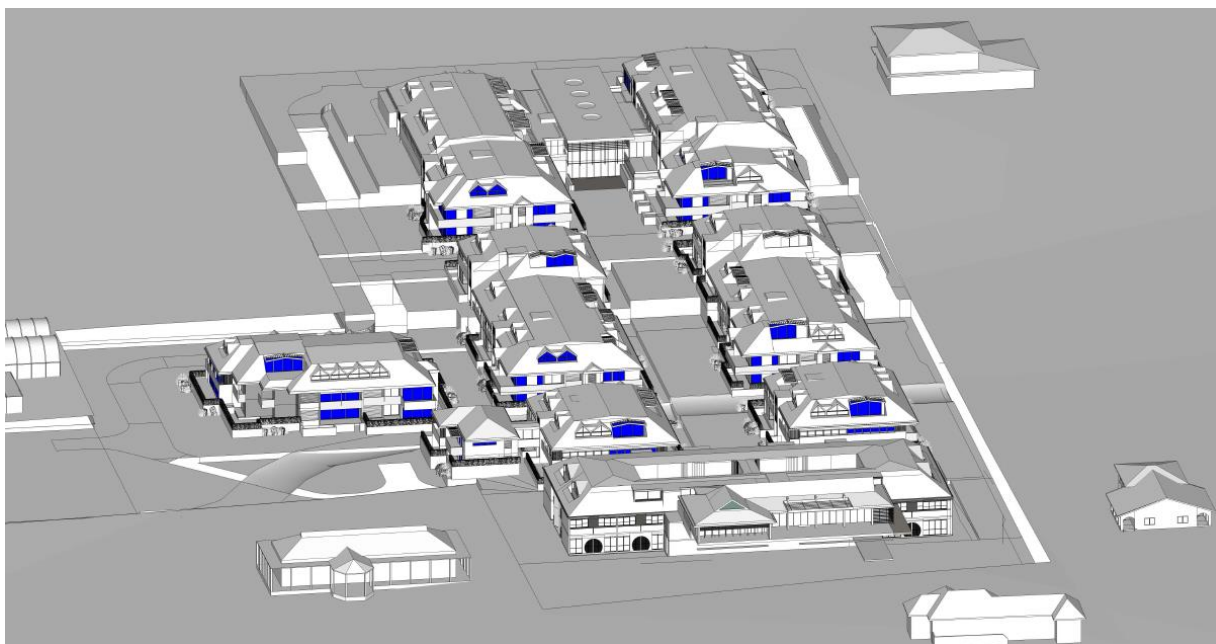


Figure 23: Concept plans looking south-west across the site, with the residential aged care facility in the foreground along Vineys Road.

BACKGROUND

A previous SCC was issued for the site by the Department on 24 May 2017 for a seniors living development comprising 219 independent living units contained within 8 three-storey buildings, a 74-bed residential aged care facility and basement parking (SCC_2016_HORNS_002_00). In accordance with clause 25(9) of the Seniors Housing SEPP, this SCC lapsed on 24 May 2019, being 2 years from the date on which it was issued.

Council had opposed the previous SCC application, commenting that the proposed development would be inconsistent with surrounding land uses, loss of vegetation and excessive bulk and scale.

The SCC issued by the Department on 24 May 2017 included conditions that the proponent was required to resolve through the lodgement of a development application including:

- Overland flood management;
- setbacks, landscaping and land use conflict;
- utility servicing to confirm reticulated water and adequate facilities for the removal or disposal of sewage; and
- traffic and access.

On 21 June 2018, the applicant lodged a further SCC application with Department (SCC_2018_HORNS_005_00) for the same concept that was considered when the SCC was issued in May 2017. This further application sought to ensure a valid SCC applied to the site and any corresponding development application after the original SCC lapsed on 24 May 2019.

On 16 July 2018, the applicant lodged a development application with Hornsby Shire Council that sought approval for:

- A 74 bed residential aged care facility;
- 146 self-care units contained within 7 three-storey buildings;
- 383 basement car parking spaces; and

- an ancillary wellness centre.

On 28 September 2018, Department wrote to applicant and invited them to withdraw their SCC application (SCC_2018_HORNS_005_00) as there was sufficient time for the development application to be determined under the SCC_2016_HORNS_002_00. This invitation was rejected by the applicant on 2 November 2018.

On 16 October 2018 the applicant sought an appeal for the DA, on the basis of a deemed refusal, with the NSW Land and Environment Court (**L&EC**).

On 5 December 2018 the Sydney North Planning Panel refused the DA on various grounds; as the proposal did not comply with the maximum building height of 10.5m under HLEP 2013 and the proposal was not compatible with the site's surrounds. The Panel also identified that the proposal did not provide sufficient evidence to satisfy the consent authority that the proposal will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage, and that NSW Fire Service had not issued concurrence.

On 31 March 2019 the Department wrote to the applicant advising that the assessment of the SCC application (SCC_2018_HORNS_005_00) would not progress until there was a determination by the L&EC, which was due before the original SCC would expire.

On 22 May 2019, the L&EC dismissed the appeal (see *Zhiva Living Dural Pty Ltd v Hornsby Shire Council* [2019] NSWLEC 1222 (**Zhiva No 1**)). The appeal was dismissed because under clause 55 of the Seniors Housing SEPP, a consent authority must not grant development consent for a residential care facility for seniors unless the proposed development includes a fire sprinkler system. The applicant was unable to provide, through the plans and documentation before the L&EC, that the development application proposed to include a fire sprinkler system.

Although the applicant proposed to satisfy the requirement for the application to include a fire sprinkler system through a condition of consent, the L&EC determined that a condition of consent cannot satisfy the jurisdictional requirement of clause 55 of the Seniors Housing SEPP. The L&EC found that the power to grant consent was not enlivened and therefore the appeal is to be dismissed. Further deliberation on the other matters in contention in the appeal was not required.

The applicant lodged intention of appeal on 23 May 2019 and sought expedited proceedings so that if successful the appeal could be reheard prior to the expiry of the SCC. Although the L&EC felt that the grounds of appeal were worthy of an expedited hearing as the chances of success were 'higher than speculative', the timeframe by which an expedited hearing was sought (being 2pm that day, and should the appeal be upheld it would be necessary to refer the matter back to the commissioner who heard *Zhiva No 1*), the expedited hearing was impractical - *Zhiva Living Dural Pty Ltd v Hornsby Shire Council* (No 2) [2019] NSWLEC 68.

On 3 June 2019, the applicant's solicitors notified the Department that they would appeal the L&EC's decision in *Zhiva No 1* and indicating that a valid SCC would still be required to ensure that the development application was capable of being determined. Under clause 50(2A) of the *Environmental Planning and Assessment Regulation 2000*, a development application must be accompanied by a SCC if it relates to development which requires a SCC under a State environmental planning policy (such as the Seniors Housing SEPP).

On 14 June 2019, the Department wrote to the applicant requesting the SCC application (SCC_2018_HORNS_005_00) subject to ongoing assessment, be updated

to reflect the scope of the development concept being considered by L&EC, which had been refused by the Sydney North Planning Panel on 5 December 2018.

On 16 July 2019, the applicant submitted the updated application, which is the subject of this assessment report.

On 28 October 2019 the L&EC determined that the applicant was denied procedural fairness in Zhiva No1, however due to the absence of a valid SCC, the L&EC could not determine the development application – Zhiva Living Dural Pty Limited v Hornsby Shire Council (No 3) [2019] NSWLEC 152.

It is understood the proponent as sought to further appeal this decision.

Further details on the history of the applications and decisions regarding the subject seniors living development on the site is included at **Attachment B**.

Outlined below in **Table 1** and shown in **Figures 8-10** is the scope of the seniors housing proposals for the site as proposed under:

- the expired SCC,
- the DA submitted to Council (and ultimately refused), and
- submitted in support of this subject SCC application (as amended).

Table 1: Comparison of 2017 SCC issued, the refused DA and the updated pending 2018 SCC application.

Proposed Amendments	Expired SCC (June 2018 application consistent with SCC_2016_HORNS_002_00 concept)	DA submitted to Council (refused by SNPP 5/12/2018)	Plans submitted in support of this subject SCC application – as amended (4 March 2019) and subject SCC application
Building Height	10.5m	10.21m-17.71m	Max 10.5m
GFA	24,537sqm	24,537sqm	19,260sqm
Number of Independent Living Units	219	146	91
Number of Buildings	9	8	8
Number of Storeys	3 storeys	3 storeys	3 storeys
Residential Aged Care Facility	74 beds	74 beds	74 beds

Figure 23 shows the plans submitted for the now expired SCC (for which a previous SCC was issued 24 May 2017). **Figure 24** shows the plans submitted in June 2018 for the DA submitted to Council.

When compared to the previous schemes for the former SCC and the DA, the current scheme has reduced the scale and density and increased setbacks to the east. It has also made a greater landscape and open space feature of the eastern and central parts of the site.



Figure 23: Concept plan for SCC issued May 2017



Figure 24: 2018 Concept plan

PERMISSIBILITY STATEMENT

The subject site is zoned RU2 Rural Landscape and is diagonally opposite, and separated by Quarry Road, to land zoned B2 Local Centre under HLEP 2013.

The Department's view is that the site is land to which the Seniors Housing SEPP applies for the following reasons:

- it adjoins land zoned primarily for urban purposes (being the abovementioned land zoned B2 Local Centre) – clause 4(1) of the Seniors Housing SEPP;
- development for the purposes of dwelling-houses is permitted on the site, which is zoned RU2 Rural Landscape under the HLEP 2013 – clause 4(1)(a)(i) of the Seniors Housing SEPP; and
- none of the exclusions in clause 4 of the Seniors Housing SEPP are relevant to the site or the land zoned B2 adjoining the site which the site relies on for the application of the Seniors Housing SEPP.

Further to our view that the site adjoins land zoned primarily for an urban purpose, being the land zoned B2 Local Centre located to the south west of the site, we note:

- Clause 4(4) of the Seniors Housing SEPP clarifies that if land (the site) would normally be directly adjoining land zoned primarily for urban purposes, except for the presence of a road (in this case Quarry Road), then it is considered to satisfy land to which the Seniors SEPP applies, and an SCC can be submitted for assessment; and
- The available judicial commentary draws a discrepancy between 'immediately adjoining' and 'adjoining', the latter of which is used in the context of clause 4(1) of the Seniors Housing SEPP and does not necessarily require immediate physical contiguity – *Hornsby Shire Council v Malcolm* (1986) 60 LGRA 429 at [434].

The existing planning controls for the subject site and surrounding land under the HLEP 2013 are shown in **Table 2** and **Figure 5**:

Table 2: Site and surround LEP controls

	Land Zones	Max Height of Buildings	Max FSR	Min Lot Size
The site	RU2 Rural Landscape	10.5m	n/a	2ha
Land adjoining the site (south west)	B2 Local Centre	8.5m	0.7:1	n/a
Land adjoining site (north, south, east, west)	RU2 Rural Landscape	10.5m	n/a	2ha

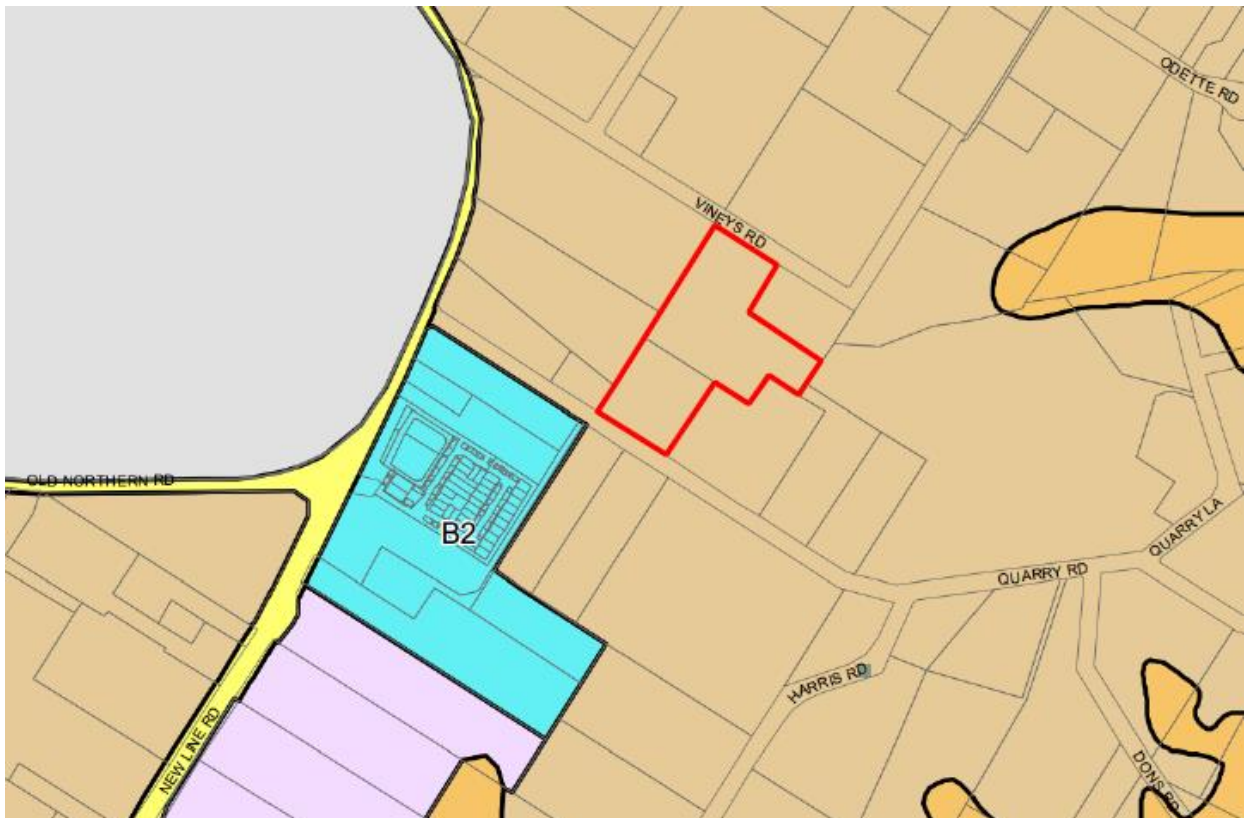


Figure 12: Land zoning map (subject site outlined in red)

ADDITIONAL SCC CONSIDERATIONS UNDER SENIORS HOUSING SEPP

(i) 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).

(ii) Proximity of Site to Current SCC/s

Clause 25(2)(c) of the Seniors Housing SEPP provides that the applicant is required to provide a cumulative impact study with their application if the land (or any part of the land) is located within a one kilometre radius of 2 or more other parcels of land over which:

- (a) there is a current SCC, or
- (b) an application for a SCC has been made but not yet determined

There are no current SCCs or pending applications for SCCs for land within 1km proximity of the site, and as such, a cumulative impact study is not required and has not been provided.

However, under clause 25(2D) of the Seniors Housing SEPP, the relevant panel may require an applicant to provide a cumulative impact study even if it has not been provided with the application if the relevant panel considers that it is necessary for it to be provided to determine whether the land concerned is suitable for more intensive development.

1. COUNCIL COMMENTS

Council provided comments on 22 August 2019 outlining a number of reasons why Council do not support the application (**Attachment C**). These comments are summarised and considered in the table below:

Issue	Council Comments
1. Inconsistency with North District Plan	<p>Council has concerns with the proliferation of seniors housing in rural areas and inconsistencies with the objectives of the District Plan and Council's draft Local Strategic Planning Statement (LSPS). Council are also participating in a pilot project in conjunction with the Greater Sydney Commission and The Hills Shire Council to conduct detailed research on land use conflicts of seniors housing development within the metropolitan rural area; and notes concerns that the SCC is inconsistent with this work underway.</p> <p><u>Response</u></p> <p>The Department notes that the subject site is within the metropolitan rural area under the Greater Sydney Region Plan, and the proposal would have an impact on the attributes the Metropolitan Rural Area (MRA). Further consideration of the MRA is given in Part 9 below in the Department's assessment. At this stage, no recommendations have been put forward by the Project Control Group (of the pilot project above). It would be premature to disclose information that is currently in draft.</p>
2. SEPP applicability	<p>Council queries if the Seniors Housing SEPP can apply to the site. Council notes land to the north, east, south and west of the site is zoned RU2 while land to the south-west is zoned B2 Local Centre, given the site is diagonally opposite the B2 urban land, Council questions if the site is adjoining land zoned for urban purposes as per SEPP clause 24.</p> <p>Council also notes the site's environmental constraints including an overland flow path across the centre of the site and significant vegetation on the eastern part of the site and may trigger Schedule 1 of the Seniors Housing SEPP.</p> <p><u>Response</u></p> <p>The site is land that would adjoin in a general sense land that is zoned primarily for urban purposes but for the presence of Quarry Road. Specifically, the B2 zoned land is in a position adjoining the site on the south-west corner.</p> <p>Further, the ecological conditions of the site alone do not preclude the Seniors Housing SEPP from applying to the land, and an assessment of the SCC proposal can be undertaken.</p>
3. Inconsistency with Hornsby LEP 2013 zone objectives	<p>Council states the proposal is inconsistent with the objectives of the RU2 Rural Landscape zone, associated development standards and Council's current rural land use planning strategy.</p>

Issue	Council Comments
4. Impact on future uses of the land	Council states the proponent has not demonstrated that the site is unsuitable for agricultural purposes and primary industry production as per the objectives of the RU2 zone. Council is concerned any future development application resulting from a SCC if issued for the site, could result in the loss of potentially productive agricultural land and fragmentation of rural land; thereby increasing the potential for land use conflict between residential and rural uses.
5. Insufficient infrastructure to support proposal	Council is concerned any future development application resulting from a SCC if issued for the site, has implications for the future provision of road infrastructure. Council states the site is not suitable for more intensive development due to the absence of a clear vision, infrastructure and funding plans for the area.
6. Inconsistent urban built form	Council is concerned that the urban built form that has been proposed would detract from the rural character of the area, and that the site coverage is excessive in the context of the surrounding rural area.

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) of the Seniors Housing SEPP).

(i) The site of the proposed development is suitable for more intensive development (clause 24(2)(a) of the Seniors Housing SEPP)

The site is in the vicinity of:

- a. Pacific Hills Christian School (250m east along Quarry Road);
- b. medical centre (200m south-west along Old Northern Road);
- c. a wholesale nursery (immediately adjoining to the east along Quarry Road);
- d. a gym (200m south-west along Old Northern Road);
- e. food stores in the B1 zoned land to the south-west;
- f. a shell service station (200m west at the intersection of Quarry Road and Old Northern Road);
- g. a vet clinic (approximately 650 driving distance along Old Northern Road; and
- h. low-density rural-residential development and vegetation in the immediate vicinity.

A public bus stop is located approximately 350 metres west from the subject site along Old Northern Road. Another bus stop is located adjacent to McDonalds along Old Northern Road, approximately 370 metres from the site.

The bus stops are regularly serviced by routes which will enable residents to access local and larger centres such as Castle Hill and Round Corner Dural for a broader range of facilities and services. The SCC application notes these bus stops are accessible via a suitable pedestrian footpath along the southern side of Quarry Road.

Site servicing suitability

The applicant advises that it is possible for the proposed development to be connected to reticulated sewer and water, however also makes mention of a possible on-site pump-out system to service the development as there is no sewer main in Quarry Road. Details of a gravity fed system to the sewer main on nearby land is provided as an option and would be subject to the grant of a compliance certificate under section 73 of the *Sydney Water Act 1994*.

The possible inclusion of a pump-out system to service sewage is not considered to be an appropriate outcome for the site and the proposed land use, as discussed further in part 9 (iii) of this report. **(Attachment A21)**. The applicants report identified that the site can be serviced appropriately by electricity and gas (identified in survey plan at **Attachment A9**).

Given that the site is currently not supported by a reticulated sewer system, and no certainty is provided that the site can be supported in the future, a condition of the SCC (if issued) would be to ensure that any development would be subject to a reticulated sewer for servicing. This requirement would address Council's concerns for the servicing of the site.

Metropolitan Rural Area

The site is identified to be within the MRA as defined in the North District Plan and A *Metropolis of Three Cities* regional plan.

The Department notes that consistency with the SCC against the North District Plan is not a requirement of the SCC assessment process under the Seniors Housing SEPP. However, the District Plan will inform a more robust assessment of the likely future uses of the site and provides commentary on why rural areas are significant moving forward.

Specifically, the North District Plan identifies that the MRA:

- Supports biodiversity and plant and animal habitats;
- supports productive agriculture;
- is underutilised and has the potential to be used for productive rural uses; and
- supports rural residential uses that provide opportunities for people to live in a pastoral or bushland setting

The District Plan clearly indicates that urban development is not consistent with the values of the MRA.

While the development is not rural in nature, it is not out of context with the current varied mix of uses and built form character already existing on adjoining and surrounding sites and within the Dural area.

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 (at least) the following criteria (clause 25(5)(b)) and clause 24(2)(b) of the Seniors Housing SEPP):

- (i) 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) of the Seniors Housing SEPP)**

Bushfire prone land

The SCC application notes the original report submitted for consideration in relation to bushfire **(Attachment A34 and A25)** remains relevant as there has been no change to the site's bushfire conditions.

The eastern portion of the site is identified as part of a vegetation buffer (100 metres and 30 metres) according to Council's Bushfire Prone Lands mapping. Current bushfire mapping from the Departments planning portal is shown in **Figure 25**.

Further, a buffer from the existing pine plantation to the west of the subject site is also considered as shown in the following figure (**Figure 26**).

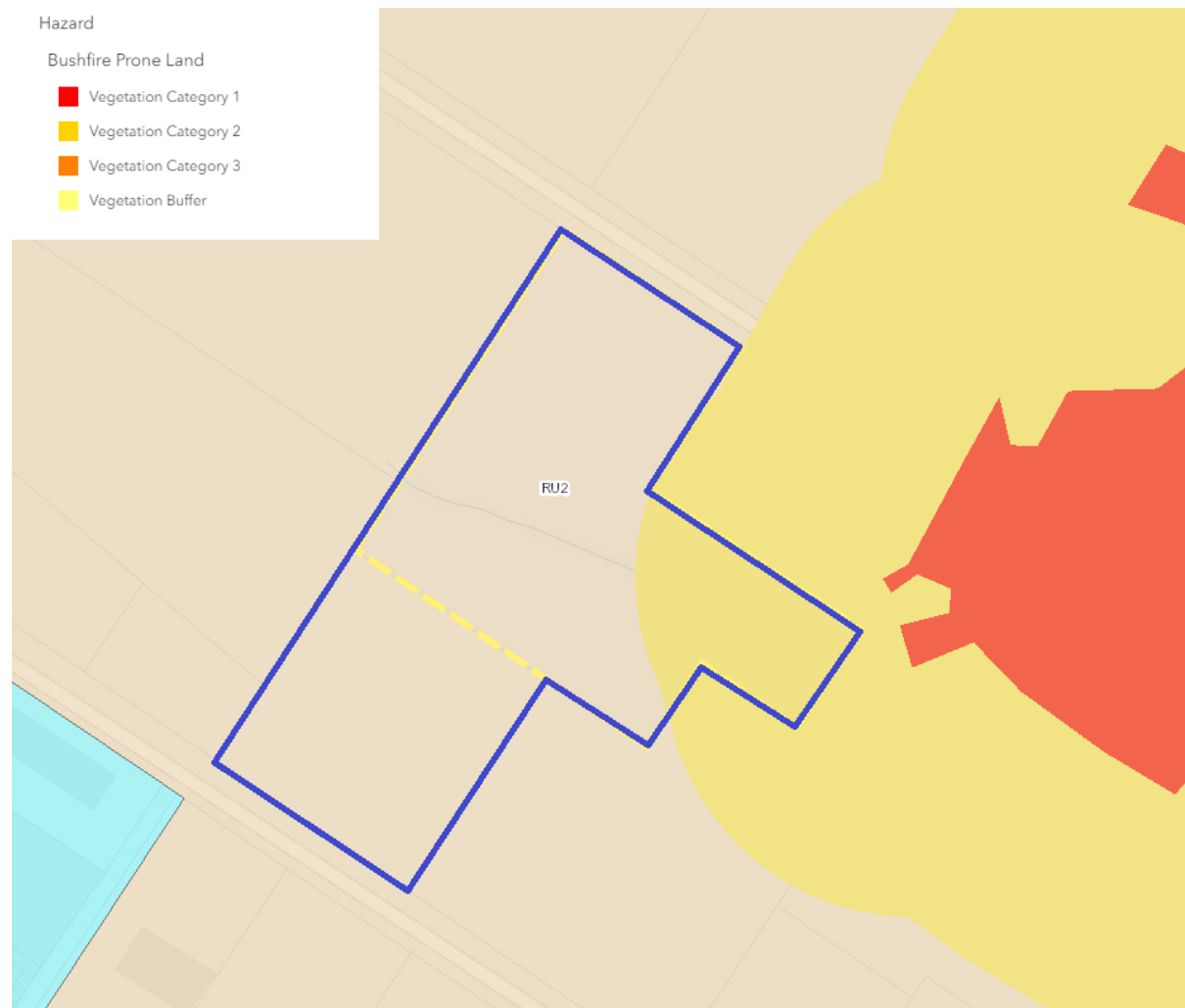


Figure 25: Bushfire mapping (Planning Portal).

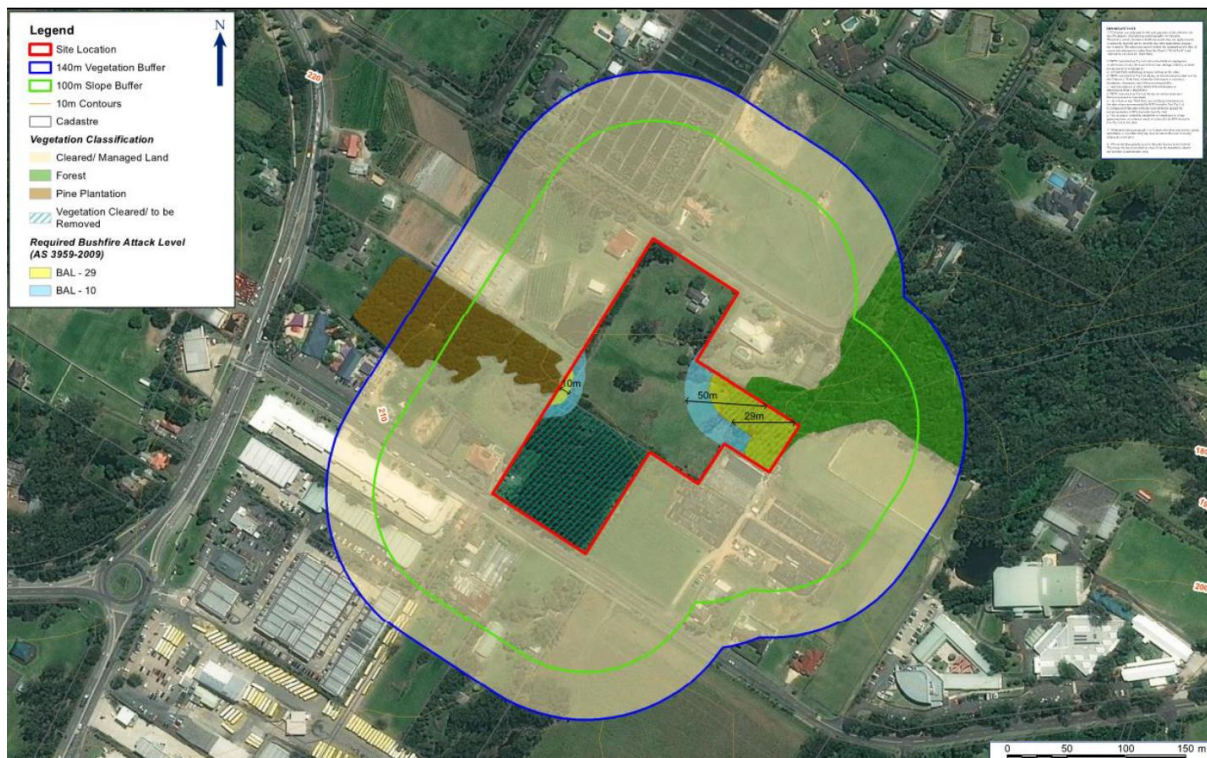


Figure 26: Bushfire buffer surrounding subject site (subject site outlined in red).

The proposed development concept indicates that no development would occur on the eastern portion of the site, which is part of the bushfire buffer zone as discussed further below.

The updated Bushfire Threat Assessment (**Attachment A14**) concludes that “*bushfire can potentially affect the proposed development from the narrow parcel of Blackbutt Gully Forest vegetation located within the eastern portion of the site resulting in possible ember and radiant heat attack*” and recommends the development meets the requirements of *Planning for Bush Fire Protection 2006* particularly in relation to access, building setbacks, gas and water supply.

The assessment also notes that in principal support is given to the development as proposal in **Figure 27** below, and the site (not inclusive of the retained Blackbutt Gully Forest comprising eastern portion of site) is to be managed as an Asset Protection Zone.

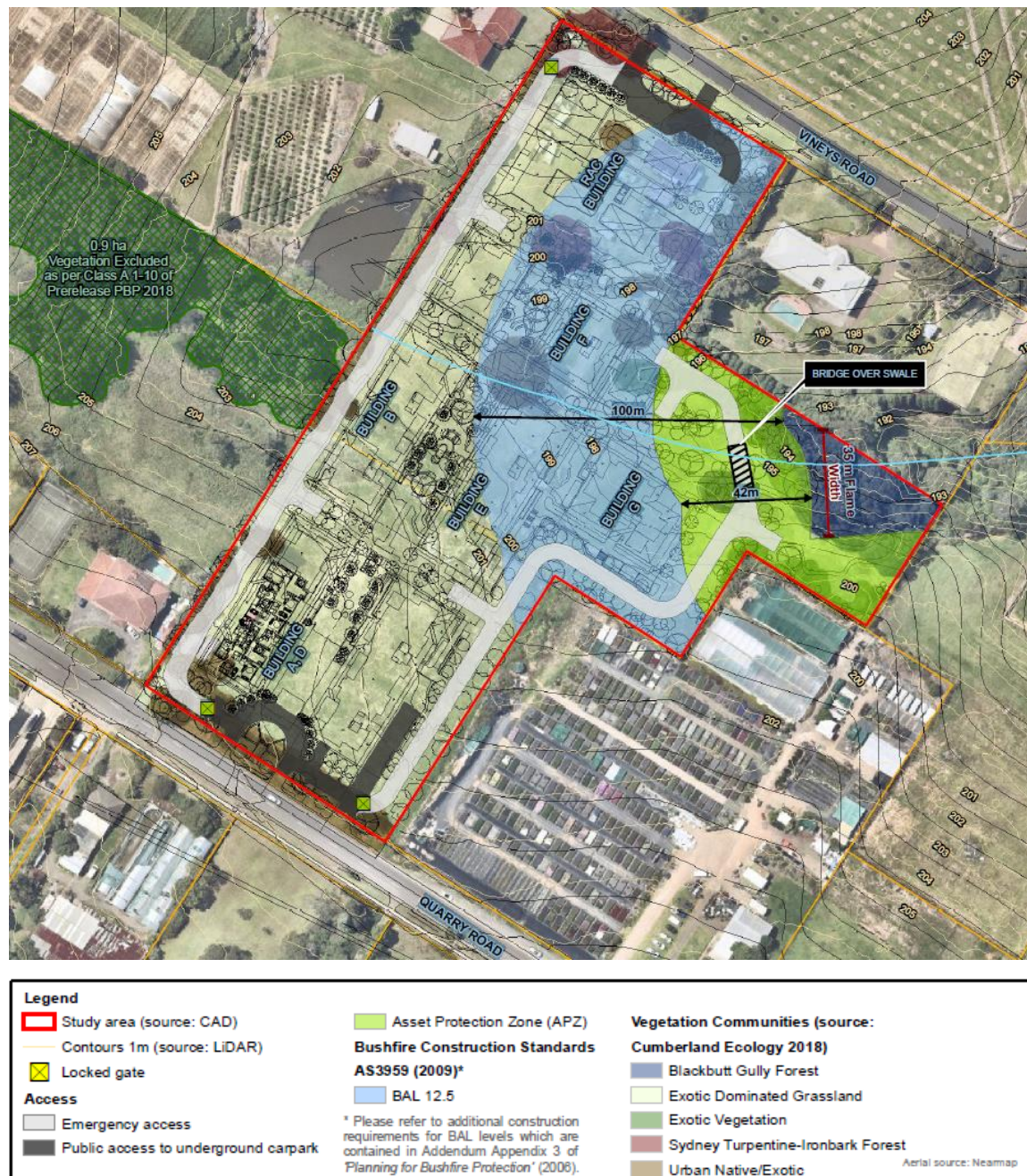


Figure 27: Bushfire Threat Assessment recommended terms of development layout

The NSW Rural Fire Service General Terms of Approval, 7 May 2019, (**Attachment A20**) states the Travers bushfire and ecology report (**Attachment A14**) “*was not conclusive enough to demonstrate how the slope and fire behaviour to the east were to perform for further assessment of the proposal*” and details conditions relating to asset protection zones; water and utilities; access; design and construction; evacuation and emergency management; and landscaping.

The development assessment process can consider the bushfire constraints of the site and apply any mitigation measures and built form outcomes to the satisfaction of the consent authority and in consultation with NSW Rural Fire Service. Therefore the proposal is acceptable in terms of bushfire prone land, and should be addressed through the development application process.

Flooding

The SCC application notes the original information submitted with the now expired SCC, and an addendum submitted as part of this SCC in 2018, in relation to flooding remains relevant as there has been no change to the site's flooding conditions (**Attachment A26 and A27**). This information includes a Flood Analysis which addresses the 1 in 100 year average recurrence interval storm event flow path (outlined in the Hornsby Overland Flow Study 2010). The report concludes the design concept will allow for the site to sufficiently drain and respond to the 1 in 100 year ARI stormwater event and the overland flow on the eastern site boundary is found to be in the low risk category. The report verifies as the overland flow routes of the upstream catchment are acceptable within the NSW Floodplain Management limits.

The flow path constraints (**Figure 28**) of the site alone do not preclude the issuing of a site compatibility certificate as the development assessment process can consider mitigation measures that may be required and built form outcomes to the satisfaction of the consent authority.

Further, the NSW Natural Resources Access Regulator has provided concurrence/General Terms of Approval to be included in a future development consent if issued (**Attachment A23**), which the applicant states is indicative of the site and future development's ability to meet the requirements of the NSW Department of Primary Industries.

The Department recognises that this matter requires further resolution of the interface with the overland paths contained within the site and adjoining properties is required and to ensure that additional flooding of the adjoining sites is not a consequence of the development. Given that the overland path is to be retained and improved it is considered that this matter is not unresolvable through detailed design and can further addressed as part of the detailed DA assessment.

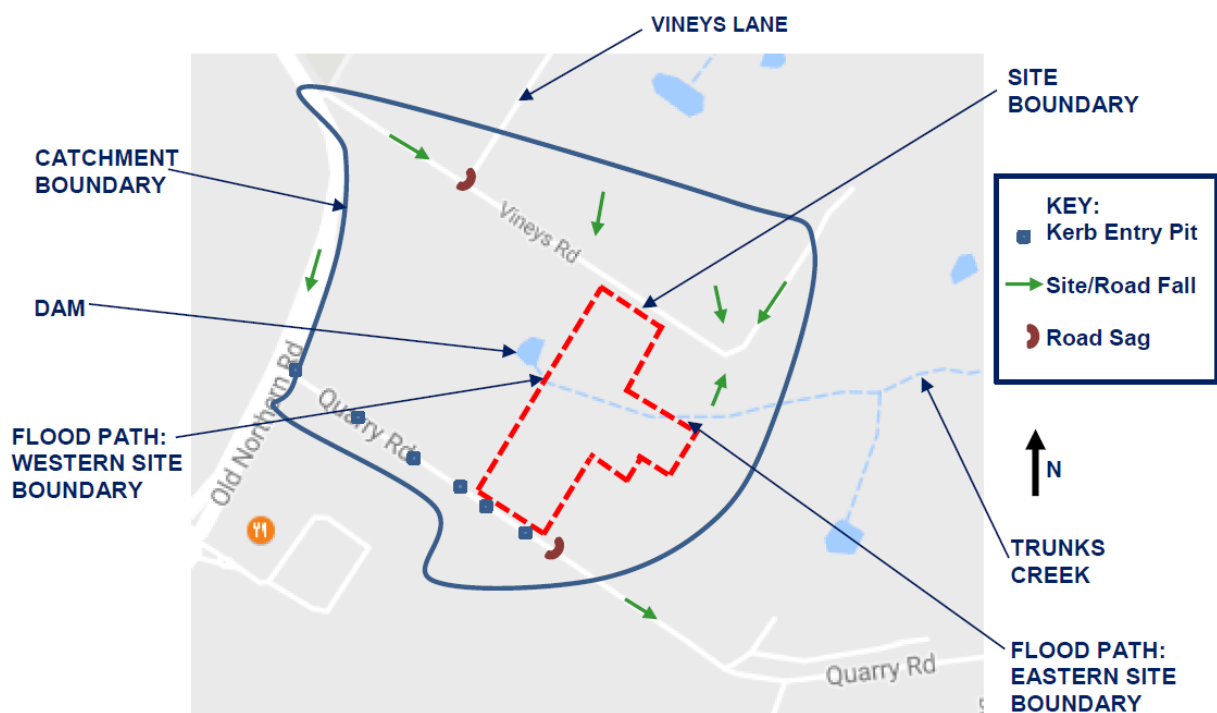


Figure 28: Flood study survey area (subject site outlined in red)

Ecology

An updated ecology report (**Attachment A8**) identifies the need to clear a small area (~0.08 ha) of scattered native trees associated with the Sydney Turpentine Ironbark Forest (**STIF**) on the northern parts of the site. This community is listed as Critically Endangered under the NSW *Biodiversity Conservation Act 2016* and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

A proposed Asset Protection Zone (**APZ**) is also to be established at the site's eastern corner (**Figure 29**), part of which (~0.07 ha) is situated within Blackbutt Gully Forest, thereby potentially requiring vegetation removal.

The applicant's Ecology Report states that within the APZ, little to no native tree removal was anticipated due to the degraded state of the vegetation in question and further the scattered and isolated STIF trees proposed to be removed occur in a highly degraded state, largely lacking native understorey elements of the community. The report also identifies two offset areas (of STIF and Blackbutt Gully Forest), which will be the subject of a vegetation management plan advising additional tree planting and weed removal.

With regard to fauna the report also identifies that *“Generally, only highly mobile, aerial fauna species would be expected to utilise the scattered tree habitat to be completely cleared by the project”*, indicating the limited potential for the site as a potential habitat for protection and/or significant fauna species.

The proposal looks to safeguard much of the Blackbutt Gully Forest community and integrate and improve this with the overall landscaping for this part of the site. Also, the use of this part of the site for an open recreational area for the development will help to allow greater appreciation of this community and serve to protect it.

It is therefore recommended that the development application for the proposal support the retention of this community and other vegetation where possible.

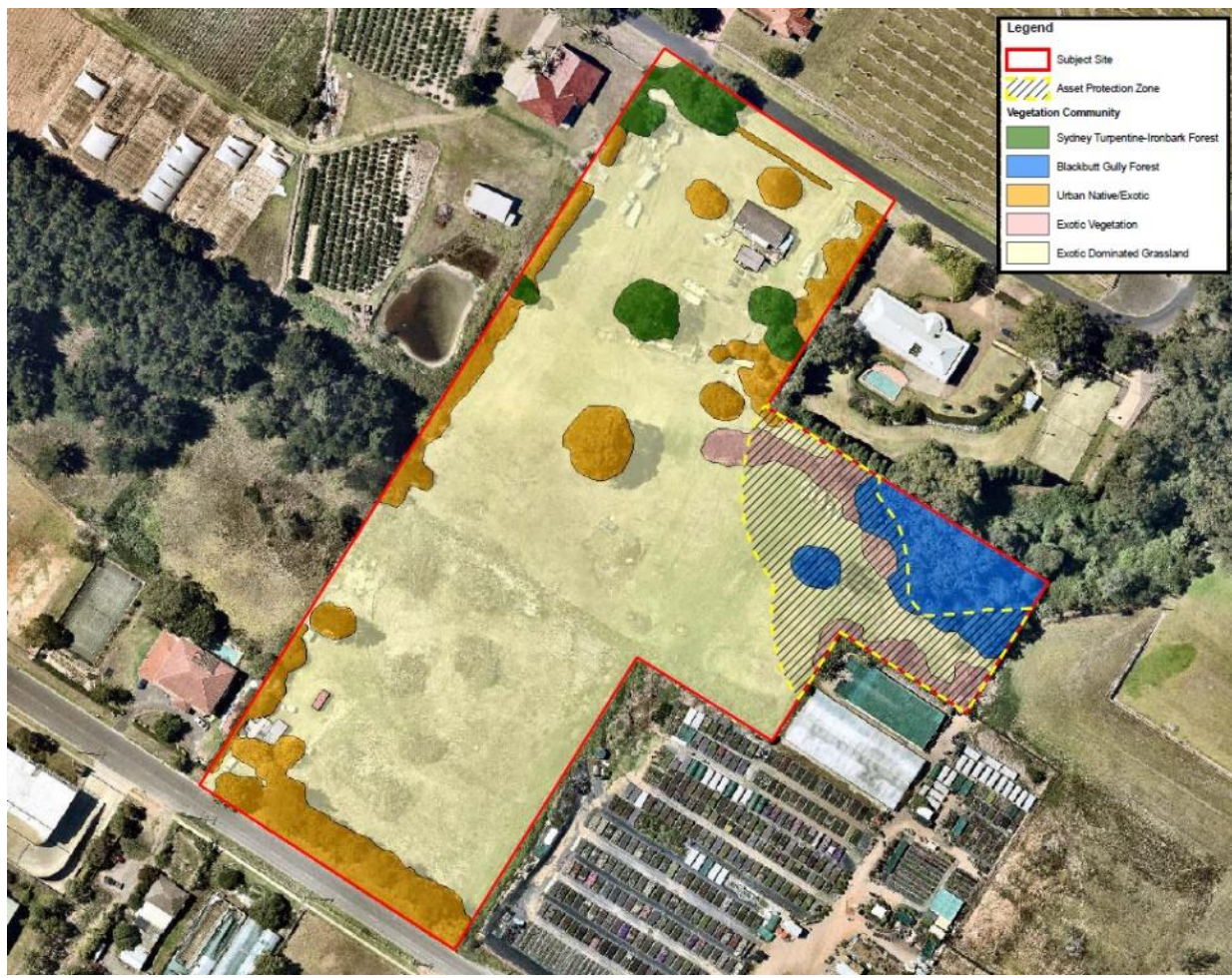


Figure 29: Site layout showing tree species and APZ.

(ii) 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's RU2 Rural Landscape zone permits a range of rural and residential uses, including dwellings, dual occupancies, secondary dwellings but also commercial and more intensive uses such as tourist and visitor uses, child care facilities and schools and universities (in accordance with the Education SEPP).

The site is also situated at the perimeter of further intensive uses such as the commercial precinct opposite the site (**Figure 30**). In summary, the site is considered to be a transitional site between more intensive development and that of more rural less intensive uses.

As previously identified, the site is located an area characterised by both rural and non-rural characterised development. Consistent however for this area is the existing planning and landscape character of mature trees along the street frontages and clusters of trees on the site and on many adjoining sites.

Council has raised concern that the redevelopment of this land for residential uses as proposed will result in a loss of potential rural agricultural land. While this is true and some agricultural uses are situated on adjoining and surrounding allotments, most of those on agricultural zoned land are used for large lot rural residential development that is not used for agricultural purposes. This is the case for the current sites, and hence

loss of the land for agricultural purposes is not considered a relevant matter in the case of this subject sites.

Based on proposed built form development intensification for the site with substantive landscaping around the site is considered to be in keeping with both the highly varied built form and density and treed landscape character.

It is recognised that land use conflicts may arise as surrounding agricultural uses to the east, due to noise or odour emissions from these adjoining uses. Through appropriate setbacks and orientation of development and use of landscaping as shown in the accompanying architectural landscape plans this will help to mitigate this impact, if a concern and can be addressed in detail as part of an assessment for a DA.

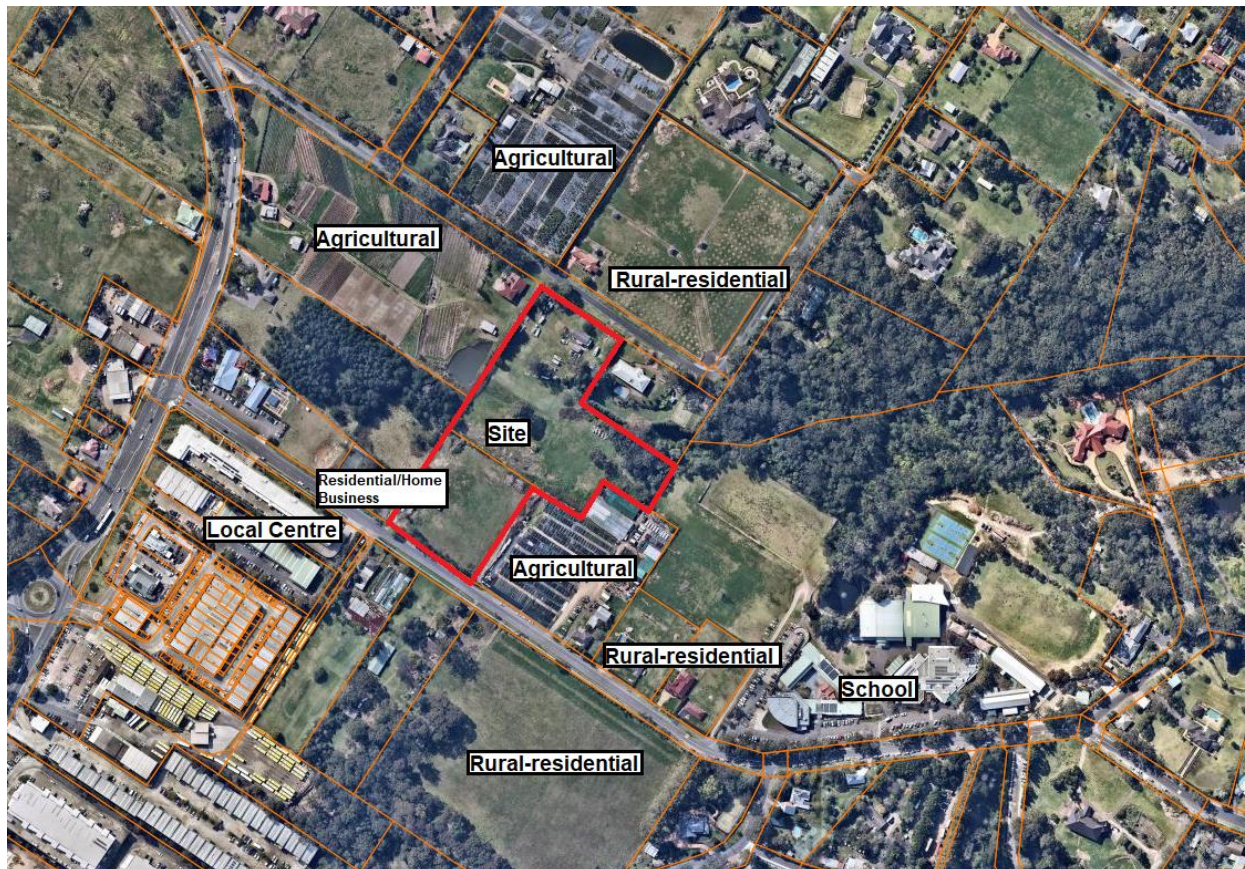


Figure 30: Aerial view of the site and surrounding land uses.

- (iii) **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 of the Seniors Housing SEPP) and any proposed financial arrangements for infrastructure provision (clause 25(5)(b)(iii) of the Seniors Housing SEPP)**

Location and access to facilities

The site is located approximately 50 metres north-east from the local centre (North Q Business Centre), on the southern corner of Quarry Road and Old Northern Road which comprises a range of services and retail premises, including retail services and a medical centre (**Figures 31 and 32**).



Figure 31: View from the intersection of Quarry Rd/Old Northern Rd, looking south-east along Quarry Rd.



Figure 32: Distance from site to Quarry Rd/Old Northern Rd intersection.

As previously noted in this report, the site is well located to bus stops with regular services that provide access to local and larger centres such as Castle Hill and Round Corner Dural for a broader range of facilities and services including shops, bank service providers, a range of retail and commercial services, community and recreation facilities and medical centres. The SCC application notes these bus stops are accessible via a suitable pedestrian footpath along the southern side of Quarry Road.

Clause 26 of the Seniors Housing SEPP requires the consent authority at the development application stage to ensure that pedestrian access footpaths comply with the gradient requirements i.e. an overall average of up to 1:14 is acceptable. Services and facilities within the immediate vicinity of the site are accessible via a suitable pedestrian footpath along the southern side of Quarry Road with an average gradient ranging from 1:42 to 1:49 (**Figure 33**).

The Department considers that access to the proposed facilities and services and provision of public transport meet the minimum requirements of clause 26 of the Seniors Housing SEPP.

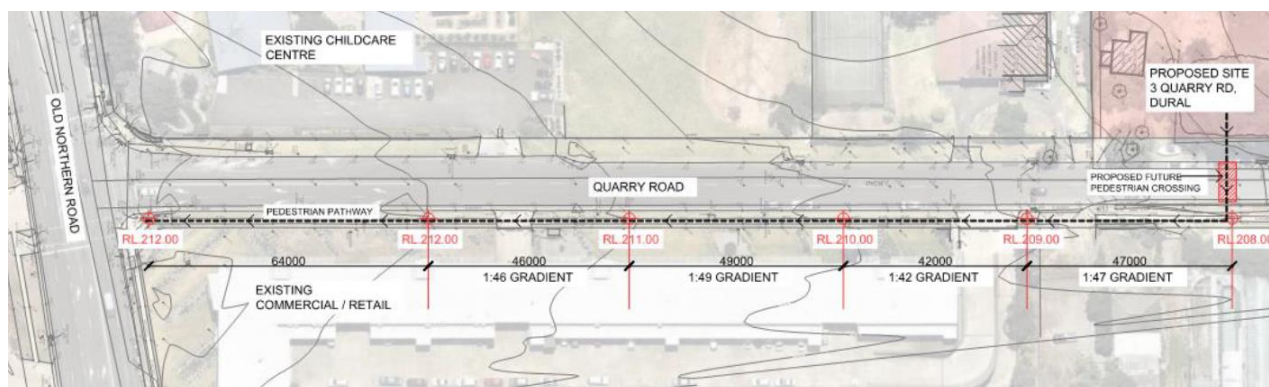


Figure 33: Footpath gradient along Quarry Road

Traffic and parking

An updated traffic report has been submitted with the SCC package (**Attachment A04**), prepared by GTA consultants, that identified that the traffic generated by the proposal will lead to a minor increase in delays for the intersections at Old Northern Road with Quarry Road and New Line Road. Specifically, the Old Northern Road/Quarry intersection “...development traffic represents less than 1.5 percent of total traffic volumes during any future road network peak period...”

The report notes that unsatisfactory delays are expected at the Old Northern Road/Vineys Road intersection, for vehicles exiting right onto Old Northern Road. Upgrades to the intersection are recommended as a result. Vineys Road is also not wide enough to support two-way movements, and a 10m long passing bay is proposed as part of the development. The proposed works to Vineys Road as a result of this development application are considered relatively minor.

The proponent’s SCC report details a total of 225 car spaces (177 spaces for the 91 serviced self-care housing and 48 spaces for the aged care facility) within a basement, which is above the Roads and Maritime Services (RMS) requirement. In addition, RMS has not objected to the development application in communications with Council as part of the current development application (**Attachment A04**). For these reasons the traffic impacts of the development are expected to be acceptable and will be further assessed as part of the DA.

- (iv) **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) of the Seniors Housing SEPP)**

The site is not zoned open space or special uses; therefore this is not a matter for consideration for this SCC report.

(v) **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) of the Seniors Housing SEPP)**

Added to the proposed drawings for the development, the proponent has submitted a character assessment (**Attachment A18**), which mirrors the Department's assessment that the development is suitable for the site with regard to the existing local character.

The proponent's character assessment provides a table to illustrate how the proposal will meet development objectives relating to place, landscape, built form, community values and user groups. The key findings of the proponent's assessment that the proposal provides a proper transition to rural residential uses, will mimic natural landform and provides a visually complementary interface through adequate setbacks.

In terms of the bulk, scale and built form the proposed seniors development is considered appropriate as:

- the single storey scale and proposed setbacks of the development as viewed from Vineys Road (**Figure 20**) mirrors that with the adjoining residential development to the east and west;
- the double storey scale and proposed setbacks of the development as viewed from Quarry Road (**Figure 21**) also mirrors the existing residential development to the west of the site;
- it provides generous separation to the development and adjoining land uses (particularly to the east to the adjoining flower nursery) (**Figures 34-37**);
- concentrates the bulk of the built form development within the central part of the site, while also ensuring development steps down with the site's topography (**Figure 37**);
- provides generous separation, especially to the east, which both allows for generous landscaping but also minimises interface issues (**Figure 19**); and
- provides a generous communal open space area is still afforded, which will provide an adaptive recreational area for residents that will receive full mid winter sun and will also help retain Blackbutt forest ecological endangered community (see **Shadow Diagrams at Attachment A9**);
- the development will not overshadow any adjoining building or the flower nursery mid winter at any time between the hours of 9am and 2pm, and only a small portion of the nursery site at 3pm (see **Shadow Diagrams at Attachment A9**);
- with the use of landscaping and due to the topography, the development is expected to have limited visibility due to the pine tree plantation west of the site; and
- when viewed from the oblique angles from further along the adjoining roads, the use of extensive landscaping the development will provide an extensive a vegetated buffer between the proposed development and the closest development to the east of the site along Vineys Road and provide additional open space to support senior residents and their visitors.

SCC Assessment Report – 3 Quarry Road and 4 Vineys Road, Dural

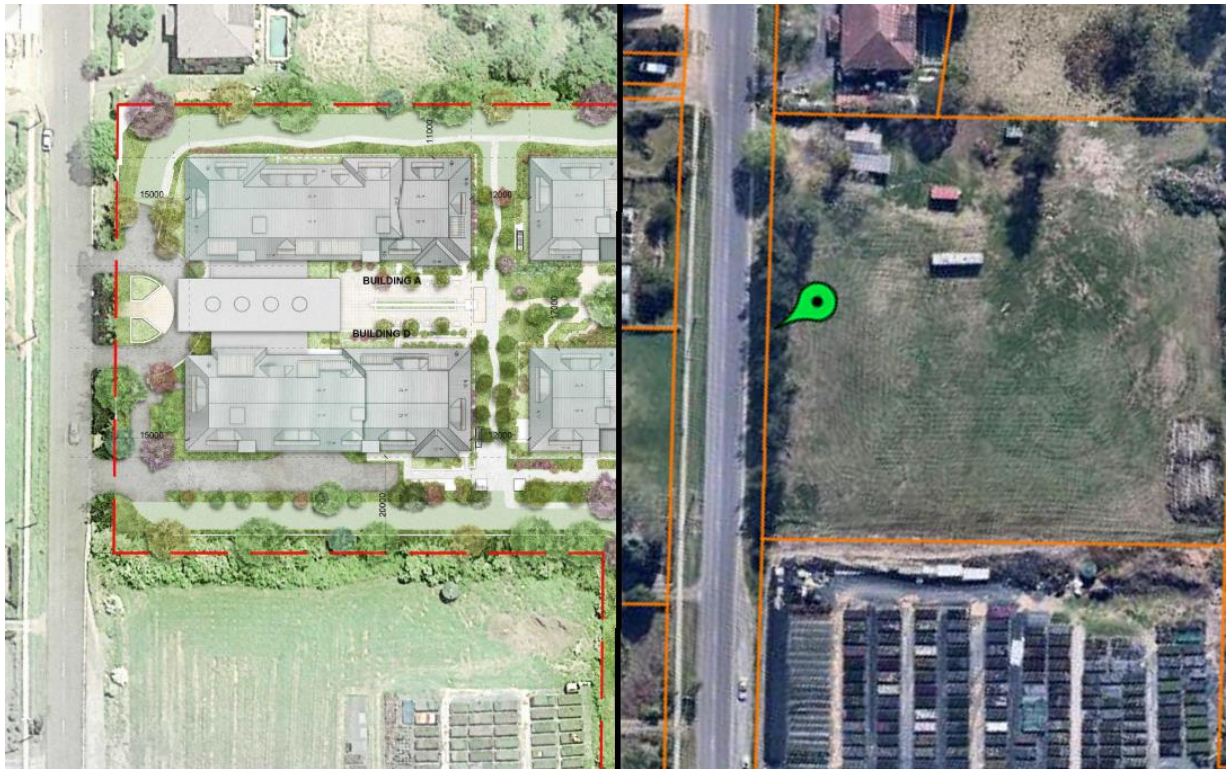


Figure 36: Comparison of the proposal and the existing site, adjacent to Quarry Road.

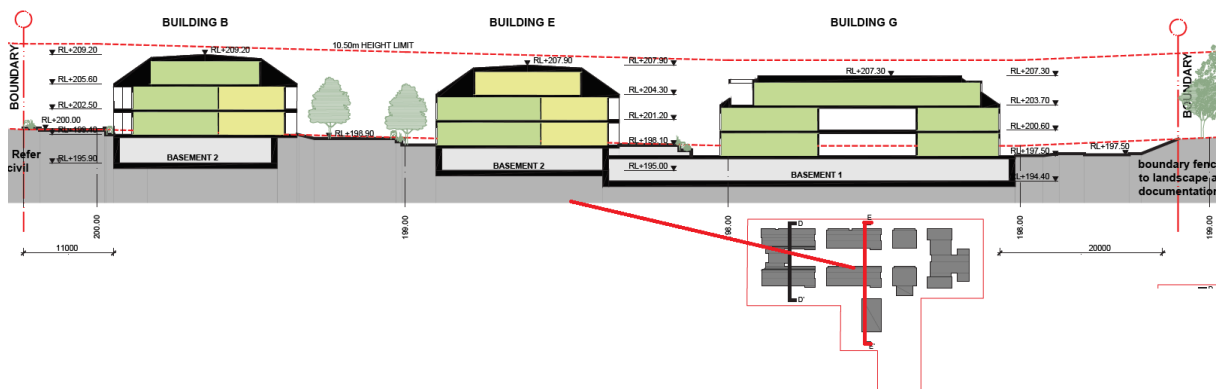


Figure 37: Section of the proposed development, looking from the centre of the site towards Vineys Road.

- (vi) **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. Current legislation governing the clearing of native vegetation is the *Local Land Services Act 2013* and the *Biodiversity Conservation Act 2016*. Sydney Turpentine Ironbark Forest (STIF), listed as Critically Endangered under the NSW *Biodiversity Conservation Act 2016* and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* has been identified on the site.

However, the applicant's Ecology Report (**Attachment A8**) states, in consultation with Council, appropriate mitigation measures can be undertaken for any potential loss or impact to vegetation on site, including offset areas for Sydney Turpentine plantings.

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

A cumulative impact study was not required as part of the application for the certificate. However, the Panel may still require an applicant to provide a cumulative impact study even if it has not been provided with the application if the relevant panel considers that it is necessary for it to be provided to determine whether the land concerned is suitable for more intensive development.

CONCLUSION

The Department considers that a Site Compatibility Certificate should be issued for on the basis that:

- the proposed use will assist in providing additional housing choice and opportunities for the seniors population in the Hornsby LGA;
- the proposal will provide seniors housing near public transport, which will help to provide good access to health, retail, banking and other facilities in the area;
- the site is suitable for more intensive use for the purposes of seniors housing, having regard to the criteria set out in clause 25(5)(b) of the SEPP and more detailed design considerations being undertaken as part of any future development application; and
- matters regarding: over land flood management, tree removal, bushfire asset protection zones, and an appropriate approach to sewer disposal can be further assessed and addressed through the development application assessment process.

To support this, it is recommended that the Panel consider conditional requirements in Schedule 2 of the SCC that will:

- ensure that height, bulk, scale, setbacks and impacts to adjoining development can be suitably addressed at the development application stage. This includes the need for the development to be compatible with the surrounding environment through the consent authority's assessment of any future development application; and
- include the requirement for use of more mature landscaping to help establish and replicate the treed character of the area and to help filter views to the adjoining residential properties.

APPLICATION PACKAGE

The following additional supporting documentation (**Attachments A3 – A27**) was provided with the application:

- Attachment A3 - Concept Architectural Plans;
- Attachment A4 - Traffic Report;
- Attachment A5 - Drainage Report;
- Attachment A6 - Acoustic Report;
- Attachment A7 - Arborist Report;
- Attachment A8 - Ecology Report;
- Attachment A9 - Development Application Architectural Plans;
- Attachment A10 - Initial SCC Report;
- Attachment A11 - Initial SEPP Assessment;
- Attachment A12 & 13 - Landscape Master Plan & Elevations;
- Attachment A14 - Bushfire Threat Assessment;
- Attachment A15 - APZ Map;
- Attachment A16 - Access Report;
- Attachment A17 – Civil Engineering Drawings
- Attachment A18 – Character Assessment
- Attachment A19 - Initial Arborist Report;
- Attachment A20 - RFS General Terms of Approval;
- Attachment A21 - Infrastructure Report;
- Attachment A22 - Gradients to Bus Stops;
- Attachment A23 - Natural Resources Regulator's General Terms of Approval;
- Attachment A24 – 2016 Bushfire Threat Assessment;
- Attachment A25 – 2018 Addendum Letter – Bushfire Report;
- Attachment A26 – 2017 Overland Flow and Flood Analysis; and
- Attachment A27 – 2018 Addendum Letter -Overland Flow and Flood Analysis.

ATTACHMENTS

Attachment A1-A27 – Applicant's SCC package

Attachment B – History of SCC and DA events for site

Attachment C – Comments from Council

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