

JRPP No.:	2011SYW066
Development Application No:	DA/484/2011
Description of Proposal:	Demolition of existing dwelling houses and construction of a Seniors Living development comprising 76 self-contained dwellings, a community facility and waste water management system.
Property Description:	Lot 1 DP 654433, No. 392 Galston Road, Galston and Lot C DP 38865, No. 5 Mid Dural Road, Galston
Applicant:	Mr John Mustaca
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 Rural BA (Small Holdings - Agricultural Landscapes) Zone State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
Estimated Value:	\$23,792,750
Report Author:	Garry Mahony – Senior Town Planner
Instructing Officers:	Rod Pickles – Manager Assessment Team 2 Scott Phillips - Executive Manager Planning

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

1. The application proposes demolition of existing dwelling houses and construction of a Seniors Living development comprising 76 self-contained dwellings, a community facility and waste water management system.
2. The development application is very much the same as the previous Seniors Living proposal for 78 dwellings on the site (DA/832/2010) refused by the Sydney West Joint Regional Planning Panel on 20 December 2010.
3. The proposal is considered unsatisfactory in respect to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as the proposal is not compatible with the surrounding environment and is not adequately provided with water and sewer services.
4. The development application is the subject of an appeal in the Land and Environment Court against Council's deemed refusal of the application (Proceedings No. 10677 of 2011).
5. Twenty eight submissions have been received in respect of the application.

RECOMMENDATION

THAT:

Development Application No. 484/2011 for the demolition of existing dwelling houses and construction of a Seniors Living development comprising 76 self-contained dwellings, a community facility and waste water management system at Lot 1 DP 654433, No. 392 Galston Road, Galston and Lot C DP 38865, No. 5 Mid Dural Road, Galston be refused for the reasons detailed in Schedule 1 of this report.

HISTORY OF THE APPLICATION

On 20 December 2010 the Sydney West Joint Regional Planning Panel considered DA/832/2010 for a Seniors Living development comprising 78 dwellings, community centre and associated infrastructure on the subject site and resolved to refuse the application on the following grounds:

1. *Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the consent authority is not satisfied that the site is compatible with the surrounding land uses.*
2. *Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, and notwithstanding the issued site compatibility certificate by the Director General of the Department of Planning, it is considered that the proposal does not comply with the Site Compatibility Criteria contained within State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, in particular the impact of the development on the natural environment, the impact of the development on future uses of the land, the lack of services and infrastructure to service the development and the cumulative impact of the development on the character of Galston Village.*
3. *Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development fails to satisfy any of the objectives of the Rural BA (Small Holdings - Agricultural Landscapes) Zone under Hornsby Shire Local Environmental Plan 1994.*
4. *Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal is excessive in size and population and would consequently have an adverse implication on the character of Galston Village.*
5. *Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal would adversely impact upon the agricultural viability of the land and the locality.*
6. *Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the consent authority is not satisfied that the site is suitable for the development having regard to the constraints on the disposal of sewage.*
7. *Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the consent authority is not satisfied that the site is suitable for the development having regard to Council's strategic housing strategy which seeks to limit urban growth in the Galston Village and provide more appropriate locations for seniors housing that are sewered and have access to better public transport services.*
8. *Pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal would set an*

undesirable precedent for similar inappropriate development and is therefore not in the public interest.

On 2 March 2011 an amendment to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, was gazetted (since repealed). The amendment, concerning Site Compatibility Certificates, deleted Clause 24(3)(a)(ii) which provided as follows:

- (3) *Nothing in this clause:*
 - (a) *prevents a consent authority from:*
 - (ii) *refusing to grant consent to a development application to which this clause applies by reference to the consent authority's own assessment of the compatibility of the proposed development with the surrounding environment.*

The Department of Planning subsequently advised that the purpose of the amendment was to remove the provision in order to clarify matters a consent authority must take into account and avoid revisiting the decision of the Department of Planning to issue a Site Compatibility Certificate.

On 16 May 2011 the subject application DA/484/2011 was lodged for demolition of existing dwelling houses and construction of a Seniors Living development comprising 76 self-contained dwellings, a community facility and sewerage treatment facility.

On 8 June 2011 Council requested additional information including details of licensing of the proposed waste water management system.

On 21 June 2011 the applicant responded to Council's request for additional information. In response to the Licensing of the Waste Water Management System the applicant advised the licensing was a technical matter able to be addressed by condition.

On 7 July 2011 Council advised the applicant that notification of the application had not occurred in accordance with the Exhibition and Notification Development Control Plan as on-site notification of No. 392 Galston Road Galston did not take place.

On 11 July 2011 the application was renotified for 21 days.

On 29 July 2011, State Environmental Planning Policy (Repeal of Site Compatibility Provisions) 2011 was gazetted which amended State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, reinstating the previous provision for Council to refuse to grant consent with regard to Council's assessment of the compatibility of the proposed development with the surrounding environment.

On 1 August 2011 the applicant submitted an amended Waste Water Management Scheme for the proposal involving a waste water storage and pump out system for the total development.

On 4 August 2011 the applicant filed an appeal in the Land and Environment Court against Council's deemed refusal of the subject application (Proceedings No. 10677 of 2011).

THE SITE

The L shaped site comprises two rural land parcels and has a total area of 3.641 hectares. The site has a frontage of 132m to the southern side of Mid-Dural Road and a frontage of 101m to the western side of Galston Road.

The majority of the site has been previously cleared for agricultural use. The site is gently sloping and is slightly elevated at the frontages to Galston Road and Mid-Dural Road and through the central part of the site. The majority of the site falls to the western and southern boundaries.

The site includes two existing dwelling houses, sheds and other structures previously used for horticulture. The site is unoccupied and the agricultural use abandoned.

The site forms part of the rural area on the southern side of Galston village. The rural area includes a range of small scale agricultural enterprises including horticulture and grazing. A number of holdings are primarily rural/residential and not used in commercial production. The Galston village is a compact urban area clearly distinct from the surrounding rural area as defined by Galston Road and Mid-Dural Road on the southern side of the village.

The Mid-Dural Road frontage of the subject site is opposite a residential area of Galston.

The site is located 500m west of Galston village shops and 700m north of Galston High School and Galston Park recreation area.

The site includes a small area of remnant bushland identified as *Turpentine – Ironbark Forest* which is an endangered ecological community, along the Mid-Dural Road frontage of the site.

THE PROPOSAL

The proposal is for the demolition of existing buildings and construction of a Seniors Living development comprising 76 self-contained dwellings, a community centre and waste water management facility.

The proposed 76 dwellings are single storey two bedroom dwellings, 25 of the dwellings also include a study. The dwellings range in size from 92m² to 104m² and include a single car garage. The proposal includes 13 dwelling types with a range of finishes and materials including; weatherboard, face brick and rendered masonry. Sheet metal roofing in colorbond is proposed for all dwelling types. The proposed dwellings are traditional in style and construction.

The proposed development site plan involves a central accessway, with cluster housing formations of seven and nine duplex and triplex dwellings off the accessway and single and duplex dwellings fronting the accessway. The main entry is at the Galston Road frontage with through accessway connection to Mid-Dural Road.

The proposal includes a centrally located community centre that provides recreation space, kitchen and dining area. The proposed community centre has a floor area of 320m². Visitor car parking comprises 4 spaces at the community centre and 13 spaces along the accessway including 2 car parking spaces for disabled persons.

A bus stop, deceleration lane, median strip, pedestrian refuge and vehicle crossing are proposed on Galston Road at the frontage of the site. A bus stop, pedestrian refuge and deceleration lane and vehicle crossing are also proposed at the Mid-Dural Road frontage.

The proposed development is to operate as a retirement village, 'Galston Grange Retirement Village', in accordance with the *Retirement Villages Act 1999*.

The Galston area is not connected to Sydney Water sewerage infrastructure. The proposed waste water management system involves waste water storage facility and pump out.

The proposal includes landscaping to maintain remnant vegetation comprising *Turpentine – Ironbark Forest* and existing rural landscape features including windbreaks.

ASSESSMENT

The development application has been assessed having regard to the 'Metropolitan Plan for Sydney 2036', the 'North Subregion (Draft) Subregional Strategy' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). Subsequently, the following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Plan for Sydney 2036 and the North Subregion

The *Metropolitan Plan for Sydney 2036* is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2036; the challenges faced, and the directions to follow to address these challenges and achieve the vision. The draft *North Subregional Strategy* forms a framework for Council in its preparation of the *Comprehensive LEP* by the end of 2011.

The *North Subregion* sets the following targets for the Hornsby LGA by 2031:

- Employment capacity to increase by 9,000 jobs; and
- Housing stock to increase by 11,000 dwellings.

The focus of the strategy over the next 25 years is to accommodate more residential growth in existing urban areas through urban consolidation and concentrated housing growth around centres on major transport routes. The strategy provides for the rural areas of Hornsby LGA to be protected from urban development.

The proposed development is inconsistent with the aim of the strategy to protect rural lands from urban development and to maintain the rural character.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and other prescribed matters.

2.1 Hornsby Local Environmental Plan 1994

The subject land is zoned Rural BA (Small Holdings – Agricultural Landscapes) under Hornsby Local Environmental Plan 1994 (HSLEP). The objectives of the zone are:

- (a) *to restrain population growth, maintain the rural character of the area and ensure that existing or potentially productive agricultural land is preserved.*
- (b) *to promote agricultural use of land and provide for a range of compatible land uses which maintain the agricultural and rural environment of the area.*
- (c) *to ensure development is carried out in a manner that improves the environmental qualities, and is within the servicing capacity, of the area.*

The proposed development is defined as 'housing for aged or differently abled persons' under HSLEP and is prohibited in the zone.

The residential area opposite the site on Mid Dural Road is zoned Residential AR (Low Density – Rural Village). In this regard the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 apply to the subject site in respect to Lot C DP 38865, No. 5 Mid Dural Road Galston.

2.2 State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the Policy is to promote remediation of contaminated land, reducing the risk of harm to human health and the environment. The Policy requires the consideration of soil contamination in the development application assessment process. The applicant submitted a Preliminary Environmental Site assessment prepared by SDH and Associates Pty Ltd. The assessment included a history of the agricultural use of the site since the 1940s. The preliminary assessment determined soil contamination below detectable levels for heavy metals, hydrocarbons, pesticides and asbestos. The assessment recommended further soil testing following removal of buildings, structures and stockpiles on the site.

2.3 State Environmental Planning Policy – Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of this proposal on water quality, scenic quality, aquaculture, recreation and tourism.

Subject to the implementation of sediment and erosion control measures, stormwater management and wastewater management to protect water quality, the proposal would comply with the requirements of the Policy.

2.4 State Environmental Planning Policy No. 44 – Koala Habitat Protection

The provisions of this Policy apply as the site is greater than one hectare in size. The site is generally cleared land with exotic tree species prevalent in the plantings and does not represent a potential or core koala habitat. Accordingly, no further consideration of the Policy is required.

2.5 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.

BASIX Certificates for the residential component of the development have been submitted. The certificates confirm that the proposed development meets the NSW Government's requirements for sustainability. The development meets the water and energy performance targets, achieves a pass for thermal comfort and includes provision for 2000L rainwater tanks for each of the dwellings.

2.6 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP)

The Policy prevails to the extent of any inconsistency with any other environmental planning instrument.

The SEPP is the overriding planning instrument for the development of housing for aged and disabled people in NSW and provides for hostels, residential care facilities (nursing homes) self contained dwellings and multi-storey buildings. The SEPP is comprehensive in scope including land use planning provisions, design principles, development standards and standards specifically to meet the housing needs of aged and disabled people.

2.6.1 Land adjoining land zoned primarily for urban purposes (Clause 17)

The SEPP was amended in September 2007 to encourage and enable the provision of seniors housing in appropriate locations, to meet the needs of an aging population. The SEPP makes provision for development for serviced self-care housing under the *Retirement Villages Act 1999*, on land that adjoins an urban zone; subject to the site being certified by Department of Planning, as being suitable for more intensive development, pursuant to a Site Compatibility Certificate.

The subject land adjoining an urban zone is Lot C DP 38865, No. 5 Mid Dural Road Galston.

The subject land identified as Lot 1 DP 654433, No. 392 Galston Road Dural does not adjoin an urban zone. The Site Compatibility Certificate issued by the Department of Planning however includes this parcel of land.

2.6.2 Site Compatibility Certificate (Clause 24)

On 17 September 2010 the Department of Planning issued a Site Compatibility Certificate for the subject site for development for 94 serviced self care housing units and a community centre, subject to requirements (refer attached).

The submitted development application in the form presented generally addresses the requirements under Items 1, 2, 3, 4, 5, 6, 7, 9, 10 and 11 of the Site Compatibility Certificate. Notwithstanding, the Site Compatibility Certificate was the subject of concerns raised by Council when the application was made under Clause 25 of the SEPP regarding the compatibility of the proposed development with the surrounding land uses. The concerns were reiterated in Item 2 of the grounds for refusal of the previous application DA/832/2010 as follows:

2. *Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, and notwithstanding the issued site compatibility certificate by the Director General of the Department of Planning, it is considered that the proposal does not comply with the Site Compatibility Criteria contained within State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, in particular the impact of the development on the natural environment, the impact of the development on future uses of the land, the lack of services and infrastructure to service the development and the cumulative impact of the development on the character of Galston Village.*

The proposed development is essentially the same as the previous proposal in terms of the extent and scale of urban expansion into the rural zoned area.

The environment surrounding the site is primarily rural with a dwelling density of 1.58 dwellings per hectare. The proposed development has a dwelling density of 20.876 dwellings per hectare. The urban zoned area opposite the site has a dwelling density of 5.67 dwellings per hectare. The area opposite the Mid-Dural Road frontage of the site within the urban zoned area of Galston represents 16% of the surrounding area when measured as a percentage of the boundaries of the site. The remaining 84% of the area surrounding the site is rural and is to be maintained as a rural area in accordance with objectives of the Rural BA zone under HSLEP.

The proposed development represents a substantial urban expansion into the rural area which surrounds the village of Galston. While the Site Compatibility Certificate identifies the land subject to the application, the land identified as Lot 1 DP 654433, No. 392 Galston Road Galston does not adjoin land zoned for urban purposes pursuant to Clause 17. In this regard the proposal represents a precedent for the amalgamation of land holdings for consideration for urban development outside of the proper local plan making process under the Environmental Planning and Assessment Act, 1979.

The concerns previously raised by Council concerning the issue of the Site Compatibility Certificate and the compatibility of the proposed development with the surrounding environment, are reiterated as follows:

Existing and approved uses to the west, east and south are rural uses. The expansion of urban development into the rural area may result in land use conflicts. The land is zoned Rural BA (Small Holdings – Agricultural Landscapes) under the HSLEP. Housing for aged or differently abled persons is prohibited within the rural areas of the Shire. Development involving the construction of up to 94 dwellings would be inconsistent with the objectives of the Rural BA zone, namely, to restrain population growth, maintain the rural character of the area and to ensure that existing or potentially productive agricultural land is preserved. The zone objectives also seek to promote agricultural use of land and provide for a range of compatible land uses which maintain the agricultural and rural environment of the area, with development that improves environmental qualities and is within the servicing capacity of the area.

The minimum allotment size for land zoned Rural BA under the HSLEP is 2 hectares. In 2003, Council consulted with the community on the issues associated with reduced rural allotment sizes in the suburb of Galston to facilitate the provision of additional housing. The results of the consultation revealed that 50% of Galston ratepayers supported subdivision to reduced allotment sizes and 50% were opposed. Further, the results identified considerable community concern with ongoing temporary electricity service interruptions (also termed ‘brown-outs’, being less in duration than ‘black-outs’). Consultation with service providers and government agencies indicated that core infrastructure services including water and electricity are currently at capacity and that new development would be required to fund additional infrastructure. The Department of Planning indicated that any plan promoting additional subdivision would be contrary to the State Government’s housing strategies and would be unlikely to be supported. NSW Agriculture stated that it would not support the loss of potentially productive agricultural lands. Council resolved not to consider any review of allotment sizes for rural zoned lands for a range of reasons, in particular the need to retain agricultural lands, protect the environment and restrict urban development to existing areas adequately served by key infrastructure.

Item 8 of the Site Compatibility Certificate requiring the applicant to demonstrate adequate waste water treatment infrastructure and the availability of reticulated sewer is considered not to have been met in the application (refer to discussion in Section 2.6.4).

2.6.3 Location and Access to Facilities (Clause 26)

The site is located more than 400m from the Galston village centre. The proposed development relies on the proposed provision of bus stops for access to the centre's shops, retail, banking, commercial services, community services, recreation facilities and medical practitioners, for compliance with the SEPP requirements to meet the needs of residents.

The proposed bus stops at the Mid-Dural Road frontage of the site are on Route 637 of Hills Buses. The bus route provides connection between Glenorie and Castle Hill; either centre would meet the needs of residents for access to facilities. The service operates Monday to Friday and includes a reduced service Saturday, Sunday and public holidays.

The proposed bus stops at the Galston Road frontage are on Route 638 of Hills Buses, which provides connection to the Galston village centre and to Castle Hill. The service is less frequent than Route 637 and does not operate on Sundays.

The proposed bus routes would comply with the SEPP requirement for a bus service at least once between 8am and 12pm and also between 12pm and 6pm, Monday to Friday. The application includes documentation that demonstrates Hills Buses would service the site.

The applicant submits the required access gradients for pathways from the development to public transport connection can be achieved. The site is gently sloping and it is considered the required gradients could be achieved by design. Details of the existing access from the public transport service to the shops and medical facilities and compliance with the SEPP requirements have not been submitted by the applicant.

2.6.4 Water and Sewer (Clause 28)

Pursuant to the SEPP Council must be satisfied that the provision of water and sewerage infrastructure is satisfactory for the proposed development.

The site is connected to Sydney Water reticulated potable water supply. In this regard the applicant submitted a letter from Sydney Water dated 28 July 2010 which included the following advice.

- *Existing services to the property are provided by a 40 mm meter from the Sydney Water 200 mm main in Galston Road and a 20 mm meter off the 150 mm main in Mid-Dural Rd. The water system has been designed to supply single residential dwellings to single rural lots. The Dural Elevated water supply system does not have sufficient capacity to provide high peak flow-rates to the additional dwellings without a regulated supply. Accordingly a restricted supply is offered.*
- *Sydney Water is prepared to service the new development provided that the existing meters are consolidated into a single 20 mm connection off either Galston Rd or Mid-Dural Rd. The 20 mm connection will have to be flow regulated to the average daily flow-rate 0.5 l/s, be collected into an on-site storage tank and distributed throughout the development by a private internal service.*

- *The ability of the local system to provide a fire fighting service is unknown and the delivery of a fire fighting coverage to the individual dwellings should be considered. Depending on the capability of the mains, the arrangement may include a private storage tank and definitely, private reticulation. The need for high potable water quality would require separation of potable, non-potable and fire fighting systems.*

The application does not include details of on-site water storage and reticulation to augment the Sydney Water supply. Details of water supply and water pressure requirements of the NSW Fire Brigade for the proposed development also have not been provided.

The applicant submitted a letter from Sydney Water dated 5 May 2010 stating that there is no time requirement for servicing Galston as part of the Priority Sewerage Program and no planned start date for construction work for sewer infrastructure.

The proposal is for a waste water storage and pump-out system. The proposed waste water management system is subject to the provisions of the *Water Industry Competition Act 2006* which require a license to be obtained from the Independent Pricing and Regulatory Tribunal (IPART). Under the Act, the license must be obtained to construct, maintain and operate the proposed system. Applications for a license are subject to assessment by IPART in consultation with relevant authorities responsible for administration of the *Public Health Act 1991*, the *Water Management Act 2000*, the *Environmental Planning and Assessment Act, 1979* and the *Protection of the Environment Operations Act 1997*.

The IPART licensing regime applies to the proposed development following gazettal of the *Water Industry Competition (General) Amendment (Licensing Exemptions) Regulation 2010* on 17 December 2010.

The *Australian Guidelines For Water Recycling: Managing Health and Environmental Risks* (Natural Resource Management Ministerial Council, Environment Protection and Heritage Council, Australian Health Minister's Conference 2006), forms the authoritative reference document for license applications. The guidelines apply a risk management framework to protect public health and the environment.

The provision of water supply and sewer are subject to approval by IPART for the proposed development. The applicant has not provided information to demonstrate a license would be granted by IPART. The proposal is therefore considered uncertain in respect to water and sewer services.

2.6.5 Development Standards

The Seniors Living SEPP includes non-discretionary development standards whereby compliance cannot be used to refuse development consent. The following table sets out the proposal's compliance with these standards.

Seniors Living SEPP – Standards That Cannot Be Used To Refuse Consent			
Control	Proposal	Requirement	Compliance
Building Height	<8m	8m	Yes
Density	0.193:1	0.5:1	Yes
Landscaping	>30%	30%	Yes
Deep Soil Zones	>15%	15%	Yes
Private Open Space	> 15m ²	> 15m ²	Yes
Solar Access	>70%	70%	Yes
Car Parking	76 single garages 14 visitor spaces 2 disabled spaces	76 spaces	Yes
Frontage	132m	20m	Yes
Site Size	36,410m ²	1,000m ²	Yes

As detailed in the above table, the proposed development complies with the non-discretionary development standards.

The merits of the proposal in meeting the Seniors Living SEPP design principles and the *Seniors Living Policy Urban Design Guidelines for Infill Development* are discussed below.

2.6.6 Neighbourhood Amenity and Streetscape (Clause 33)

The proposed 30m front setbacks from Mid-Dural Road and Galston Road and the 15m setbacks from the common boundaries provide a buffer for screening the development and separation with neighbouring rural properties.

The proposed development forms a retirement village enclave unrelated to the surrounding rural landscape.

2.6.7 Visual and Acoustic Privacy (Clause 34)

The proposed dwellings are integrated in design to provide for separate private open space areas with regard to visual privacy and acoustic privacy of adjoining dwellings.

2.6.8 Solar Access and Design for Climate (Clause 35)

The proposed dwellings are single storey maintaining solar access. The majority of dwellings have north facing living areas.

2.6.9 Stormwater (Clause 36)

The proposed stormwater drainage system includes on-site detention to minimise runoff impacts on downstream waterways.

2.6.10 Crime Prevention (Clause 37)

The central accessway and orientation of dwellings ensures casual surveillance of the development and separation of public and private areas.

2.6.11 Accessibility (Clause 38)

The accessibility of the proposed development to public transport, shops and services is subject to confirmation in design.

2.6.12 Waste Management (Clause 39)

The central accessway would provide for waste collection vehicle access within the development.

2.6.13 Landscaping and Deep Soil Zones (Clause 50)

The proposed landscaping and deep soil areas are satisfactory in providing for residential amenity, screen planting and canopy planting. Existing landscape planting including windbreaks are retained.

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider “*the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*”.

3.1 Natural Environment

The site has been predominantly cleared for agricultural use other than for remnant trees at the Mid-Dural Road frontage of the site. The vegetation in this area is identified as an endangered ecological community *Sydney Turpentine-Ironbark Forest* (STIF). The proposed development is designed to retain this vegetation. The submitted landscape plan includes plantings to regenerate STIF.

The proposal is unlikely to have a significant impact upon the species, populations and endangered ecological communities listed under the *Threatened Species Conservation Act 1995*.

The proposal involves the removal of 19 trees none of which are identified as significant or indigenous to the area.

3.2 Built Environment

The proposed development forms an urban enclave within a rural landscape. The implications of the proposal on the built environment are addressed as follows:

3.2.1 Galston Village

Galston Village is a compact rural village with a range of shops and community facilities servicing the village and the surrounding rural area.

Council's Rural Lands Development Control Plan (Rural Lands DCP) includes The Galston Village Master Plan (refer Attachment 7) which provides urban design guidelines to enhance the rural character of the village as a compact urban area clearly defined by the road network and separate from the surrounding rural area. The Rural Lands DCP came into force on 13 February 2001 and follows on the Hornsby Shire Rural Lands Study which set the framework for Council's planning for 20 years, as implemented with gazettal of HSLEP (Amendment No. 50) on 22 December 2000.

The proposal would result in an urban extension into the rural area surrounding the village and detract from the functional form and rural character of the village. The expansion would create a precedent for further retirement villages in the surrounding rural area.

The expansion of urban development into the surrounding rural area is inconsistent with Council's desired future character of the area as established under HSLEP and is raised as a fundamental concern in the submissions objecting to the proposal. The application thwarts Council's strategic planning initiatives, the consultative plan making process and the aspirations of residents of the area.

3.2.2 Broader Implications

The proposed development is one of three rural sites subject to current Site Compatibility Certificates. A second development application (DA/850/2011) lodged 15 August 2011 for 96 dwellings at 330-334 Galston Road is currently under consideration. The third site at 353 Galston Road was nominated for 30 dwellings.

Galston Village includes approximately 400 dwellings. The subject proposal together with the other two sites subject to Site Compatibility Certificates would increase the number of dwellings by 50%. The implication of the scale of this increase in seniors' population of the village has not been subject to any planning study to examine social impacts, infrastructure provision and provision of community facilities and services.

3.2.3 Sewerage Infrastructure

The proposed waste water management system area is for on-site storage and off-site removal by tanker truck from a collection point at the Galston Road frontage of the site by pump-out.

The proposed development would generate 25,080 litres of waste water per day. The maximum size tanker vehicle is 30,000 litres. The proposed 100,320 litre storage tank would require pump-out collection 4 times a week. The pump-out takes 1 hour 10 minutes for a 30,000 litre pump-out. The cost is approximately \$2.40 per 100 litres amounting to \$720 per pump-out. The yearly cost for residents of the development would be approximately \$150,000 per year on this basis.

The proposed waste water management system is considered inefficient in respect to:

- (i) the system does not provide for sustainable use of water,
- (ii) the pump-out and collection process detracts from neighbourhood amenity.
- (iii) the system is not cost effective and results in substantial operating costs for future residents.

3.3 Social Impacts

The proposal would increase the proportion of seniors housing in Galston which is currently 7% of housing within the village area. The disproportionate increase in an aged population would place a burden on existing medical and health services and place future residents at a disadvantage in accessing appropriate health care.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy by generating an increase in demand for local services.

4. SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider “*the suitability of the site for the development*”.

The site is rural land previously used for the purpose of agriculture. The suitability of the site for the proposed Seniors Living retirement village development is limited by the lack of urban services particularly the provision of sewer infrastructure.

5. PUBLIC PARTICIPATION


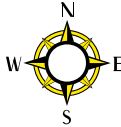
Section 79C(1)(d) of the Act requires Council to consider “any submissions made in accordance with this Act”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 31 May and 21 June 2011 with additional on-site notification between 11 July and 1 August 2011, in accordance with Council’s Notification and Exhibition Development Control Plan. In response Council received 28 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
21 SUBMISSIONS RECEIVED OUT OF MAP RANGE			

Twenty two submissions objected to the development, generally on the following grounds that the development would result in:

- a. Adverse impact on natural and built environment.

- b. Not in keeping with surrounding rural area.
- c. Departure from current development.
- d. Risk to public health of contaminated run off or sewerage overflow.
- e. Sewerage pump out costs unaffordable for seniors.
- f. Impact on downstream dam.
- g. Capacity of local services and medical centre to meet increase in population.
- h. Flooding impact on properties in Sylvan Street.
- i. Impact of traffic generation.
- j. Inconsistent with Housing Strategy.
- k. Adverse impact on local creeks already contaminated from on-site waste water systems.
- l. Housing for aged or differently abled persons prohibited in the zone.
- m. Loss of productive agricultural land and precedent for urban development.
- n. Land use conflict potential with chemical spaying of orchard.
- o. Site does not adjoin the Galston residential zone.
- p. Inconsistent with rural zone objectives.
- q. Application previously rejected by Sydney West Joint Regional Planning Panel.
- r. No immediate prospect of connection to Sydney Water's sewer system.
- s. Area isolated in event of medical emergency.

Six submissions supported, or were neutral to the development and made the following observations:

- a. Development would enable seniors to stay in the area.
- b. The development would enable people to downsize to smaller accommodation.

The merits of the matters raised in community submissions have been addressed in the body of the report other than the matter involving flooding of properties in Sylvan Street which was previously commented on by Council's engineer (DA/832/2010) as being the result of a 1 in 100 year ARI storm in excess of the pipe system capacity.

5.2 Public Agencies – Roads and Traffic Authority (RTA)

The development application was referred to the RTA for concurrence under Section 138 of the Roads Act 1993.

The RTA raised no objection to the development application and recommended conditions for the construction of central medians, construction of footpaths and kerb and gutter, and construction of pedestrian refuges, bus stops and bus shelters.

6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider “*the public interest*”.

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The proposed development is inconsistent with the objectives of the Rural BA (Small Holdings – Agricultural Landscapes) Zone and is very much the same as the previous development application DA/832/2010 refused by the Sydney West Joint Regional Planning Panel. The proposal is contrary to the established rural character of the area as provided for under HSLEP, the Rural Lands DCP and the Galston Village Master Plan. Accordingly, it is considered the proposal is not in the public interest.

CONCLUSION

The proposed development is for the demolition of existing dwelling houses and construction of a Seniors Living development comprising 76 self-contained dwellings, a community facility and waste water management system.

The development application is very much the same as the previous Seniors Living proposal for 78 dwellings on the site (DA/832/2010) refused by the Sydney West Joint Regional Planning Panel on 20 December 2010.

The application as originally submitted relied on an amendment in March 2011 to the SEPP which deleted the provision under Clause 24 which enabled refusal of the application on grounds the proposal was not compatible with the surrounding environment. The SEPP was further amended 29 July 2011 effectively reinstating the previous provision.

The application has been assessed in accordance with the provisions under Section 79C of the Environmental Planning and Assessment Act, 1979. The proposal is considered unsatisfactory in respect to in respect to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as the proposal is not compatible with the surrounding environment and is not adequately provided with water and sewer services.

It is considered the previous ground of refusal remain afoot for the proposal.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147(3) of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

Attachments:

1. Locality Plan
2. Site Plan
3. Typical Floor Plans & Elevations
4. Elevations and Sections
5. Landscape Plans
6. Site Compatibility Certificate
7. Galston Village Master Plan

SCHEDULE 1

1. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the consent authority is not satisfied that the site is compatible with the surrounding land uses.
2. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, and notwithstanding the issued site compatibility certificate by the Director General of the Department of Planning, it is considered that the proposal does not comply with the Site Compatibility Criteria contained within State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, in particular the impact of the development on the natural environment, the impact of the development on future uses of the land, the lack of services and infrastructure to service the development and the cumulative impact of the development on the character of Galston Village.
3. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development fails to satisfy any of the objectives of the Rural BA (Small Holdings - Agricultural Landscapes) Zone under Hornsby Shire Local Environmental Plan 1994.
4. Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal is excessive in size and population and would consequently have an adverse implication on the character of Galston Village.
5. Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal would adversely impact upon the agricultural viability of the land and the locality.
6. Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the consent authority is not satisfied that the site is suitable for the development having regard to the constraints on the disposal of sewage.
7. Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the consent authority is not satisfied that the site is suitable for the development having regard to Council's strategic housing strategy which seeks to limit urban growth in the Galston Village and provide more appropriate locations for seniors housing that are sewerred and have access to better public transport services.
8. Pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

- END OF REASONS FOR REFUSAL -