

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

SITE: 392 Galston Road and 5 Mid Dural Road, Galston (Lot 1 DP 654433 and Lot C DP 38865).

APPLICANT: Vigor Master Pty Ltd on behalf of the landowners. The application (**Attachment Form**) for a site compatibility certificate (SCC) was lodged with the Department on 20 February 2019.

PROPOSAL: The proposal requests consideration of an SCC for 94 self-contained seniors living dwellings ranging from one to two storeys and a two-storey community facility on the subject site (**Attachment D**). The site has previously been issued an SCC for 94 dwellings. The key difference between the previously issued SCC and the current SCC is that the previous SCC required that the built form be limited to one storey. An aerial map and proposed site plan can be viewed at Figures 1 and 2 (below and next page).



Figure 1: Aerial map of site at 392 Galston Road and 5 Mid Dural Road, Galston (outlined in red).

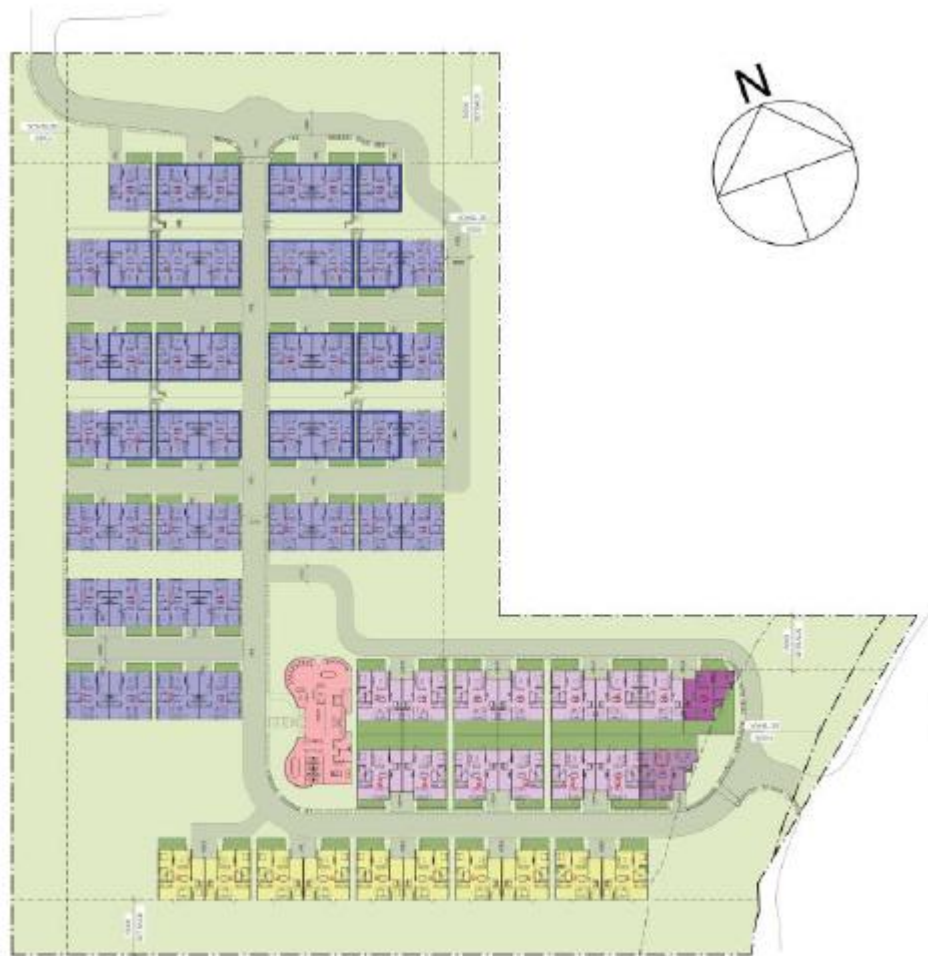


Figure 2: Proposed site plan (two-storey dwellings are outlined in dark blue).

The site has a development consent approved by the Land and Environment Court on 12 January 2012 for 76 single-storey seniors dwellings and a community centre. The deferred commencement conditions required further information on the on-site sewage system, including capacity, design and pump-out rates. The design of the on-site sewer management system and the need for more open space to install the wastewater system contributed to the reduction of dwellings from the 94 proposed in the initial SCC to the 76 dwellings as approved.

The current SCC application also proposes changes to vehicular access and internal layouts that differ from the Court-approved development. The initial approved plan and the initial SCC site plan are shown at Figures 3 and 4 (next page and page 4).

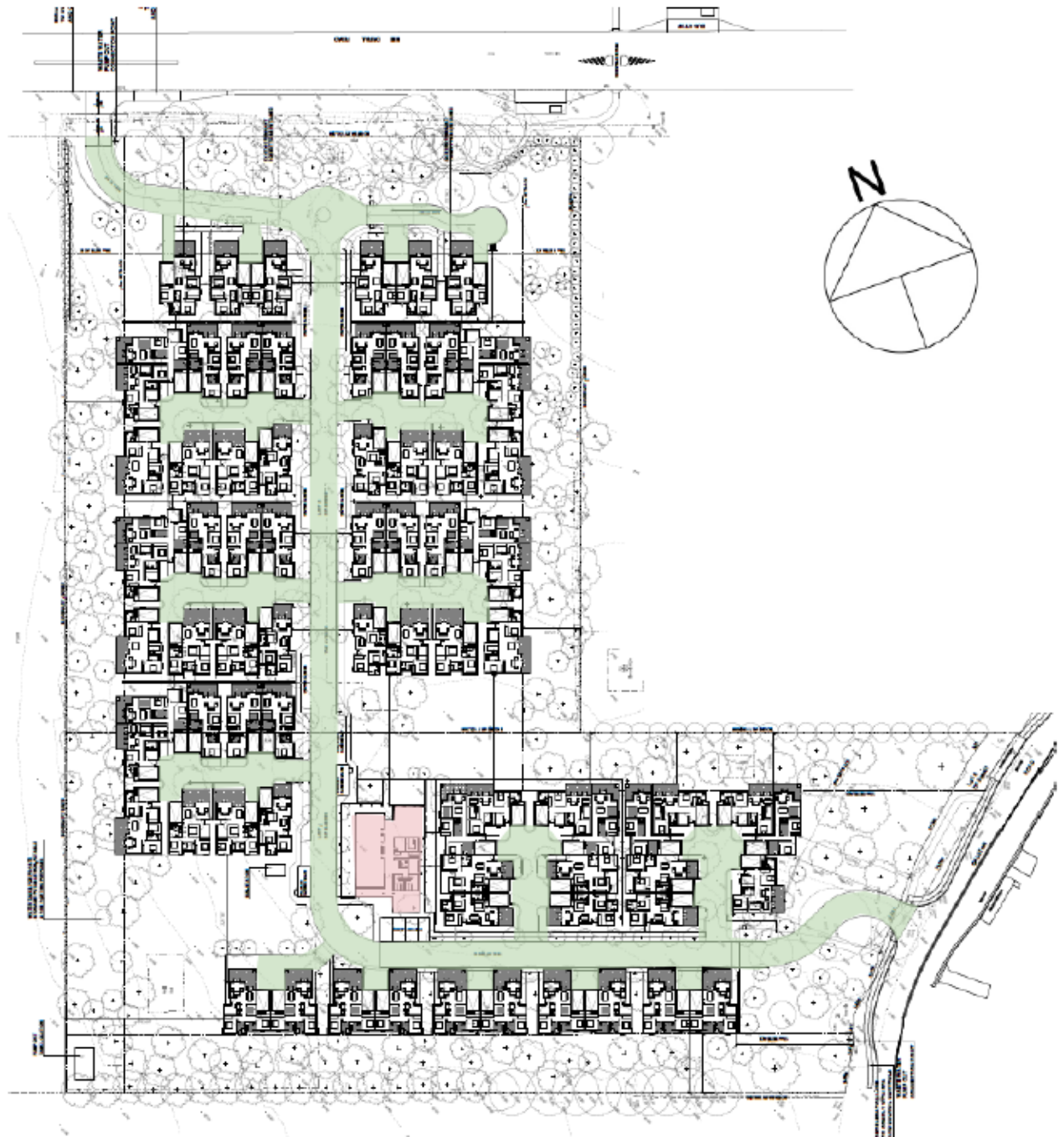


Figure 3: Site plan of the Land and Environment Court-approved development application – 76 single-storey dwellings.

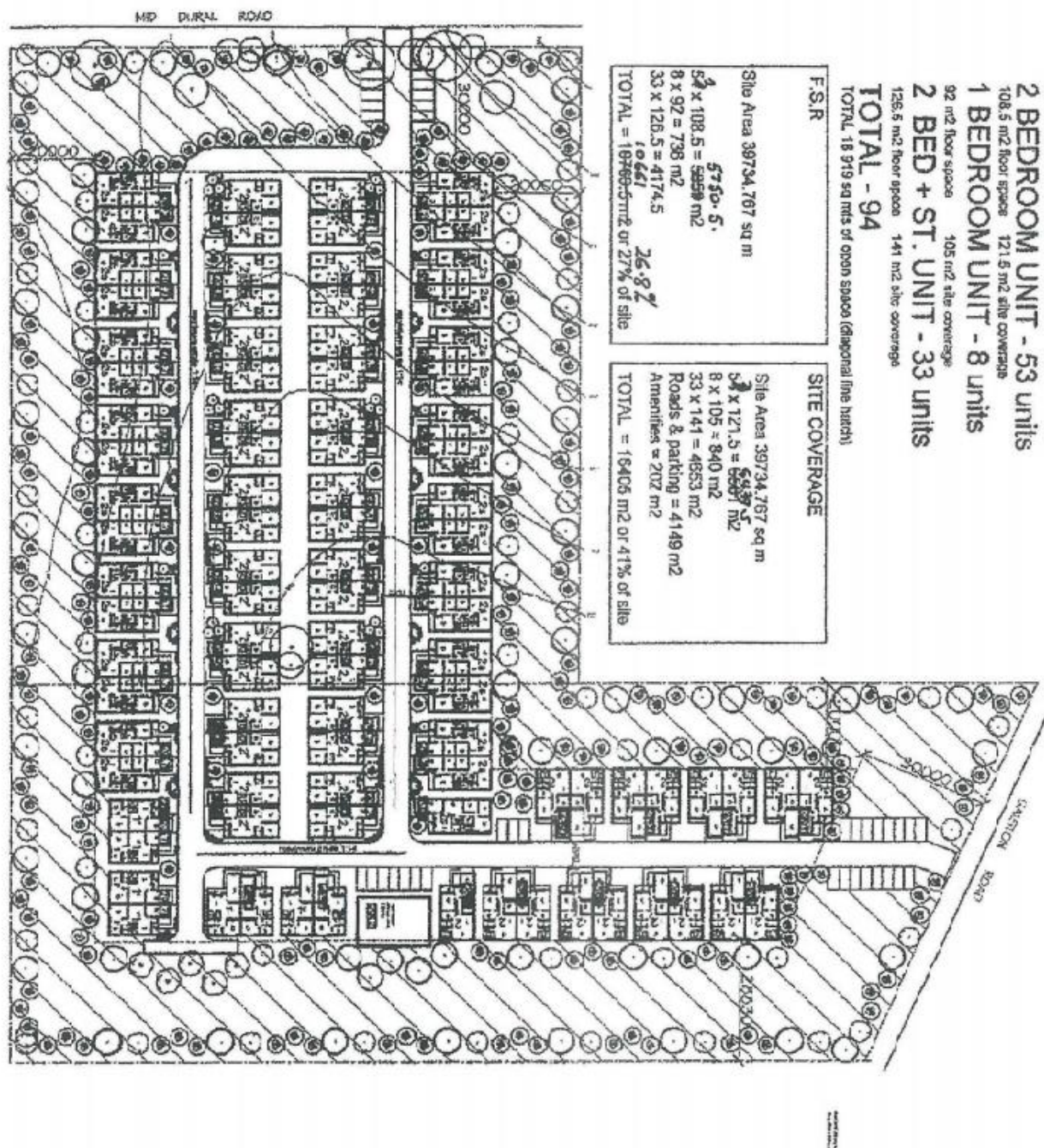


Figure 4: Site plan of the previous SCC (issued in 2010) – 94 single-storey dwellings.

To the best of the Department's knowledge, there has been no evidence to suggest a need for an increase in residential density for the development. However, concerns from the operators recommended an increase in floor space for the community facility. This is explained on page 11 of this report.

LGA: Hornsby Shire

PERMISSIBILITY STATEMENT

The two lots forming the site are zoned RU2 Rural Landscape under the Hornsby Local Environmental Plan (LEP) 2013. Seniors housing is prohibited in the RU2 zone.

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

The Seniors Housing SEPP is applicable under clause 4(1) if dwelling houses are permissible with consent in the RU2 zone. Dwelling houses are permitted with consent in the RU2 Rural Landscape zone under the Hornsby LEP 2013.

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

‘land that adjoins land that is zoned primarily for urban purposes includes (but is not limited to) land that would directly adjoin land that is zoned primarily for urban purposes but for the presence of a public road to which there is direct vehicular and pedestrian access from the adjoining land’.

The land to the north of 5 Mid Dural Road, Galston is zoned R2 Low Density Residential under the Hornsby LEP 2013. The Seniors Housing SEPP applies to the subject land as it adjoins land zoned primarily for urban purposes. Both lots that form the site have been issued an SCC (**Attachment E1**). The current application is for the same land as the previously issued certificate and requests an expanded two-storey community facility and the same number of dwellings as sought in the previous SCC (94), albeit in a varied form of two storeys. The previous SCC identified that any future seniors housing was to be single-storey only.

The site has been issued development consent for 76 single-storey seniors living dwellings and a community facility (**Attachment E2**). Subsequent modifications have been approved to facilitate a staged development and minor alterations (**Attachments E3–E4**). Further modifications are being assessed by Council. Development consent for additional dwellings (greater than the 76 dwellings given in the original development consent) has not been sought as part of the approved or existing modifications.

An amendment to the original development consent, involving 18 additional dwellings ranging from one to two storeys and an expanded community facility, will require a new SCC as it is not considered to be substantially the same development as that which was originally approved.

The planning controls for the subject site and surrounding land under the Hornsby LEP 2013 are provided in Table 1 and Figure 5 (next page).

Table 1: Site and surrounding land LEP controls – Hornsby LEP 2013

	Land zone	Maximum height of buildings	Minimum lot size
The site	RU2 Rural Landscape	10.5m	2ha
Land adjoining to the north	R2 Low Density Residential	8.5m	500m ²

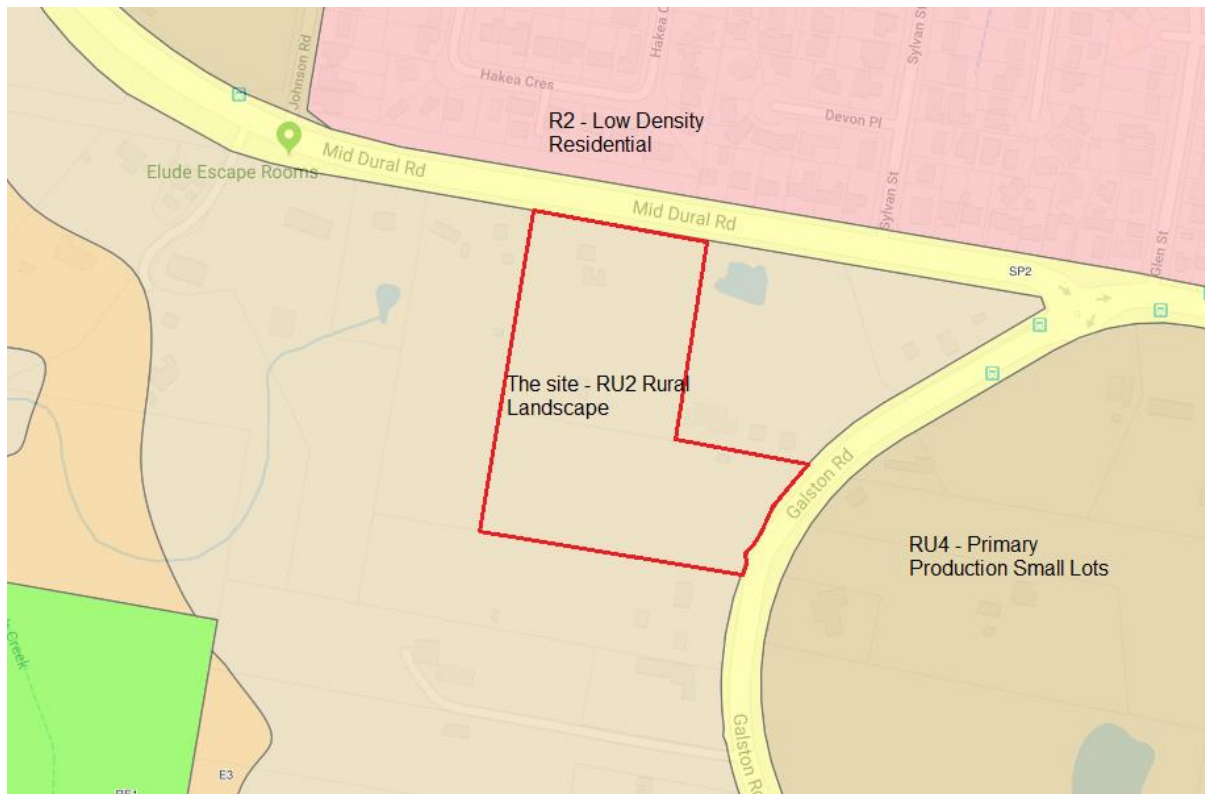


Figure 5: Land zone map under the Hornsby LEP 2013 (source: NSW Planning Portal).

The provisions under clause 4 of the Seniors Housing SEPP provide that an SCC can be issued for the site because:

- development for the purpose of dwelling houses is permitted on the land with consent, satisfying clause 4(1)(a);
- land that is primarily zoned for urban purposes adjoins the site to the north, satisfying clause 4(5)(b); and
- the land is not considered to contain environmentally sensitive land, as prescribed in *Schedule 1 Environmentally sensitive land* under the Seniors Housing SEPP.

PREVIOUSLY ISSUED SITE COMPATIBILITY CERTIFICATE ON THE LAND

An SCC was previously issued for the site (**Attachment E1**). Amendments to the Seniors Housing SEPP were introduced on 1 October 2018 to prevent urban creep into non-urban land.

As stated in the permissibility section of this report (page 4), this application is for the same land as a previously issued certificate and is not considered to be urban creep. Conditions surrounding lot consolidation were applied as part of the development consent issued by the Land and Environment Court.

If a site has already been issued an SCC and the current request is for the exact same land, clauses 25(5)(c) and 25(5A) are not triggered and will not prevent the assessment of the current application.

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).

CLAUSE 25(2)(C)

A cumulative impact study is not required. A recent SCC application for 328a, 330-334 Galston Road, Galston was within 1km of the site. However, the Sydney North Planning Panel determined not to issue an SCC.

COUNCIL COMMENTS

On 25 February 2019, the Department forwarded the SCC application to Council advising comments would be required within 21 days in accordance with the requirements of the Seniors Housing SEPP.

Council wrote to the Department on 28 March 2019 raising concerns similar to those it had with the previously issued SCC (**Attachment A**) and raising additional concerns. Council's comments are summarised below:

Issue	Council comments
1. The proposed development is significantly more intensive than the original SCC application and what has been granted development consent.	<p>Council has identified that the current SCC application is significantly more intensive than the original SCC and is not compatible with the surrounding land uses. Council has also identified that throughout the assessment of the active development consent, certain site constraints and the appropriate design of the on-site sewer system led to a reduced number of dwellings (76 approved, reduced from the 94 identified in the original SCC).</p> <p>Department response: The Department supports Council in its concerns about the increase in the proposed density. While the site may have development consent for seniors housing, the proposed increase in dwelling yield is incompatible with the surrounding rural character and land uses, particularly the proposed two-storey built form outcomes. The Department believes any future residential development would amplify the issues surrounding the on-site pump-out system. This is explained later in this report (page 11).</p>

Issue	Council comments
2. The impact on future uses of the land and adjoining owners	<p>Council has commented that the development would fragment rural land and sterilise its future use for agricultural purposes. Council has further concerns regarding land-use conflicts between residential uses and farming practices. The proposal also relies on the adjoining property to the west to establish an asset protection zone.</p> <p>Department response: The site has development consent for seniors housing and this SCC will not have a significant impact on future uses of the land. However, land surrounding the site comprises rural-residential and agricultural production uses, and the increase in density is not supported.</p>
3. Traffic impacts	<p>Council has concerns regarding the increase in car spaces from 76 for the approved development to 130 for the proposed 94 dwellings. No traffic study has been submitted to support this increase.</p> <p>Department response: The Department supports Council's concerns regarding the increase in density from the approved development. The increase in dwelling numbers and car parking on the site is not supported, particularly as the proposed car parking increase is exponentially larger than the existing car parking rates per dwelling.</p>
4. Access requirements	<p>Council has concerns regarding the ability of the proposal to comply with clause 26 of the Seniors Housing SEPP, specifically the gradients of pathways around Galston village where residents of the development may be dropped off.</p> <p>Department response: The site has an active consent for the development of seniors housing, and construction has commenced. In this context, issuing a new SCC will not resolve this issue.</p>
5. Inconsistent with the region and district plans	<p>Council has identified inconsistencies between the Seniors Housing SEPP and the Greater Sydney Region Plan and North District Plan, particularly in relation to the metropolitan rural area.</p> <p>Department response: The Department recognises the inconsistencies between the SEPP and strategic frameworks that apply to Greater Sydney. The new SCC cannot address the development that has been approved, only the suitability of the site for further intensification of the approved development. Further intensification of land uses on the site is not supported.</p>

Issue	Council comments
6. Local character	<p>Council has expressed concerns surrounding the impact of large-scale seniors housing developments on the metropolitan rural area, with the RU6 zone typically being two dwellings per hectare.</p> <p>Department response: The Department acknowledges that there is an operational development consent on the site. The Department does not support further intensification of the land uses on the site, particularly the addition of two-storey building elements for the purpose of seniors living dwellings.</p>

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

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

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

The land has development consent for the purposes of seniors living. The development consent is for 76 single-storey dwellings and a community facility. The proponent's SCC application identifies that both lots forming the site have been largely vacant in recent times, with agricultural purposes in the past (**Attachment C**).

Construction works have begun on the site, involving civil infrastructure and the community centre. The SCC application identifies that the community centre and all civil infrastructure are expected to be completed by the end of 2019.

While seniors living development will occur on the site, further intensification of development through additional building height and increased car parking is not supported.

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND LAND USES

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

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

The approved use of the land is for seniors housing and it is being developed for this purpose. The site is not bushfire prone or identified on any native vegetation protection or terrestrial biodiversity mapping.

Biodiversity

The SCC application identifies that the native vegetation along the Mid Dural Road front setback will be retained and protected, and that the proposed modifications sought will not significantly affect the Council-approved vegetation management plan (**Attachment E18**).

The proposal will not significantly affect the natural environment as the proposed built form is proposed to be within the existing approved development footprint.

Surrounding uses

Uses to the east, west and south of the site are predominantly rural residential in nature, containing a mix of agribusinesses such as retail nurseries and agricultural production.

To the north of the site, separated by Mid Dural Road, is R2-zoned land. This area contains a mix of one-storey and two-storey dwellings (Figure 6, below). Despite the smaller lots to the north, Mid Dural Road contains a heavily vegetated road verge either side, representing a rural character.



Figure 6: Surrounding land uses.

The proposed expansion of the approved seniors living development through increased density and car parking is considered to be incompatible with the surrounding land uses and rural character.

Metropolitan rural area

The site is identified in the North District Plan to be within the metropolitan rural area (MRA). Generally, the district plan identifies the MRA as a scenic and cultural asset that has the potential for more productive uses and to provide an opportunity for people to live in a distinctive rural setting. The plan includes the following planning priorities:

- Planning Priority N17 – Protecting and enhancing scenic and cultural landscapes. This priority highlights the role the MRA plays in the identity and international profile of Greater Sydney; and
- Planning Priority N18 – Better managing rural areas. This priority focuses on how land within the MRA has the potential to provide various productive uses

while maintaining the biodiversity values. The priority also highlights that the villages and towns within the MRA will not play a role in residential growth, and that urban development should be limited to the urban area.

While development consent has been issued to construct 76 seniors housing dwellings and a community facility, this occurred prior to the release of the district plan. As previously stated, further intensification of density and parking is not supported.

Waste disposal

Due to the rural location of the site, the proposal and active development consent are not supported by any reticulated system for waste disposal. Waste disposal for the 76 dwellings that have been given consent is proposed to be through a truck pump-out system, which will be on-site for six hours a week. No information has been given with the current proposal.

The reliance on a tanker to pump out effluent may have an impact on the natural environment and amenity of residents through increased noise, pollution and odour. The method of waste disposal and the rural locality suggest that intensification of the site is not appropriate and should not be supported.

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

The site is approved for seniors living purposes, and development of the land has commenced.

The proposal is not likely to have any adverse impacts on future uses of the land.

Page 9 of this report addresses surrounding land uses.

3. The services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision (clause 25(5)(b)(iii))

A letter from the village operator (**Attachment E7**) identified concerns surrounding the size of the approved community facility and the capability to provide satisfactory amenity for the village residents. It encourages an increased floor area for the facility. The development proposes to expand the approved community facility through the following:

- a parking area containing seven parking spaces;
- a 24-seat movie theatre;
- an indoor swimming pool in the basement;
- a recreation and waiting area and multi-functions rooms;
- a gym and craft room; and
- a visiting doctor and hairdresser rooms.

The SCC application identifies that the enlarged community centre is to be completed prior to the issuing of an occupation certificate for the stage 1 dwellings.

The access report (**Attachment E8**) identifies that the proposal demonstrates compliance with the Seniors Housing SEPP for the expanded community centre.

Access to facilities

Through-site pedestrian access is provided, which also provides access to off-site bus stops. Bus stops have been approved through the existing consent for the site along both street frontages. While the SCC application identifies that the site is within 400m walking distance of the Galston Shopping Village, more accurate estimates are in the range of more than 600m walking distance (Figure 7, next page), resulting in the likelihood of residents relying on a local bus service or village bus service to access these facilities.

Local bus services (Routes 637 and 638) will provide access to Galston Shopping Village and Pennant Hills Town Centre. The local centres provide essential services including retail, pharmacies, banks, a post office and various commercial offices. The facility will supplement this access by way of a village bus to Galston Shopping Village and organised activities for the residents.

It is considered that the proposal satisfies clause 26 of the Seniors Housing SEPP. Any concerns regarding suitable access pathways should be considered by the consent authority of any future development application or modification to the existing consent.

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

The site is not zoned open space or special uses, and the proposal is not anticipated to affect land zoned for open space and special uses near the site.

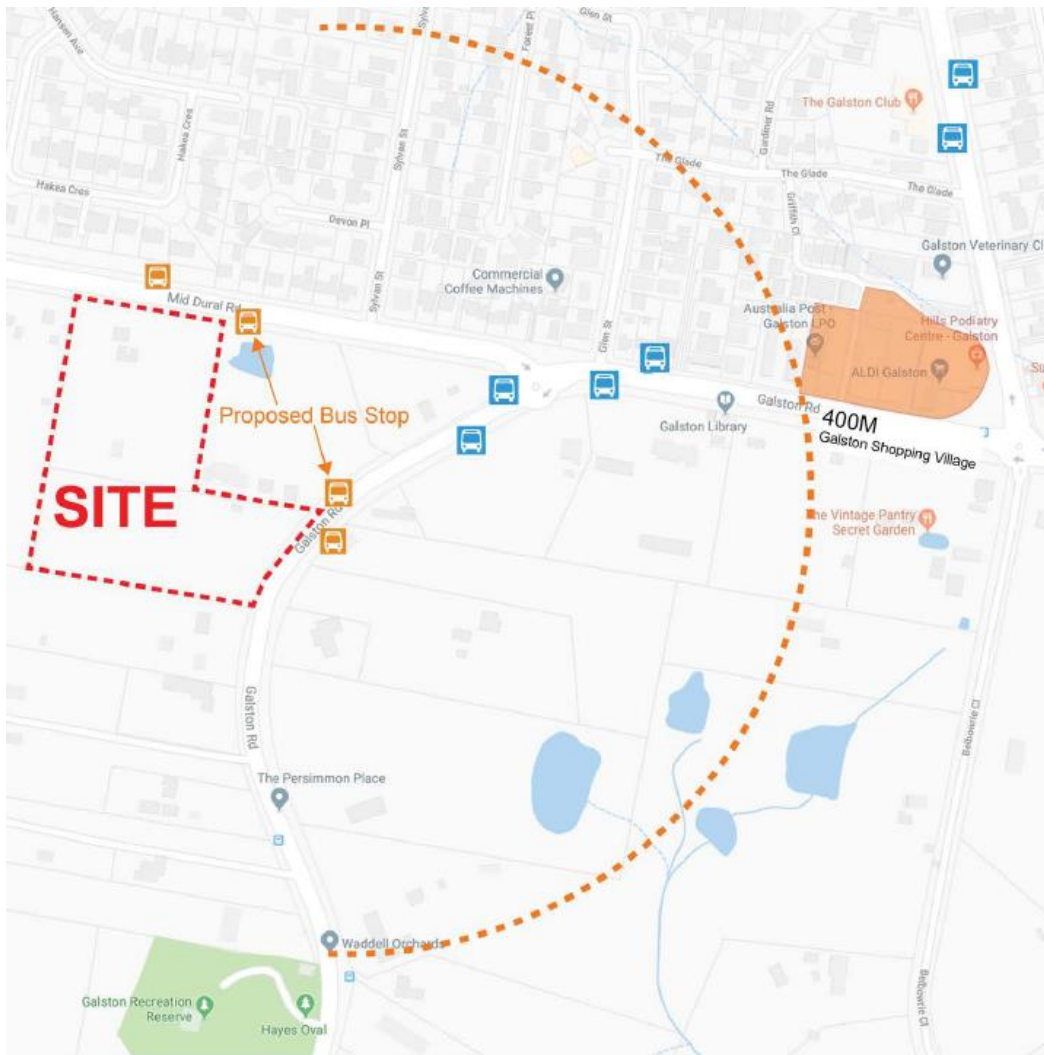


Figure 7: Accessibility map – bus stops surrounding the site and its proximity to Galston Shopping Village.

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

The concept architectural plans (**Attachment D**) identify seniors housing with a 30m front setback from Galston Road and Mid Dural Road, and a 15m setback to adjoining rural-residential sites to the east, south and west.

The dwellings range from one to two storeys with basements. Concept elevations show significant cut into the natural ground level, resulting in three-storey buildings when viewed from the finished ground level (Figure 8, next page).

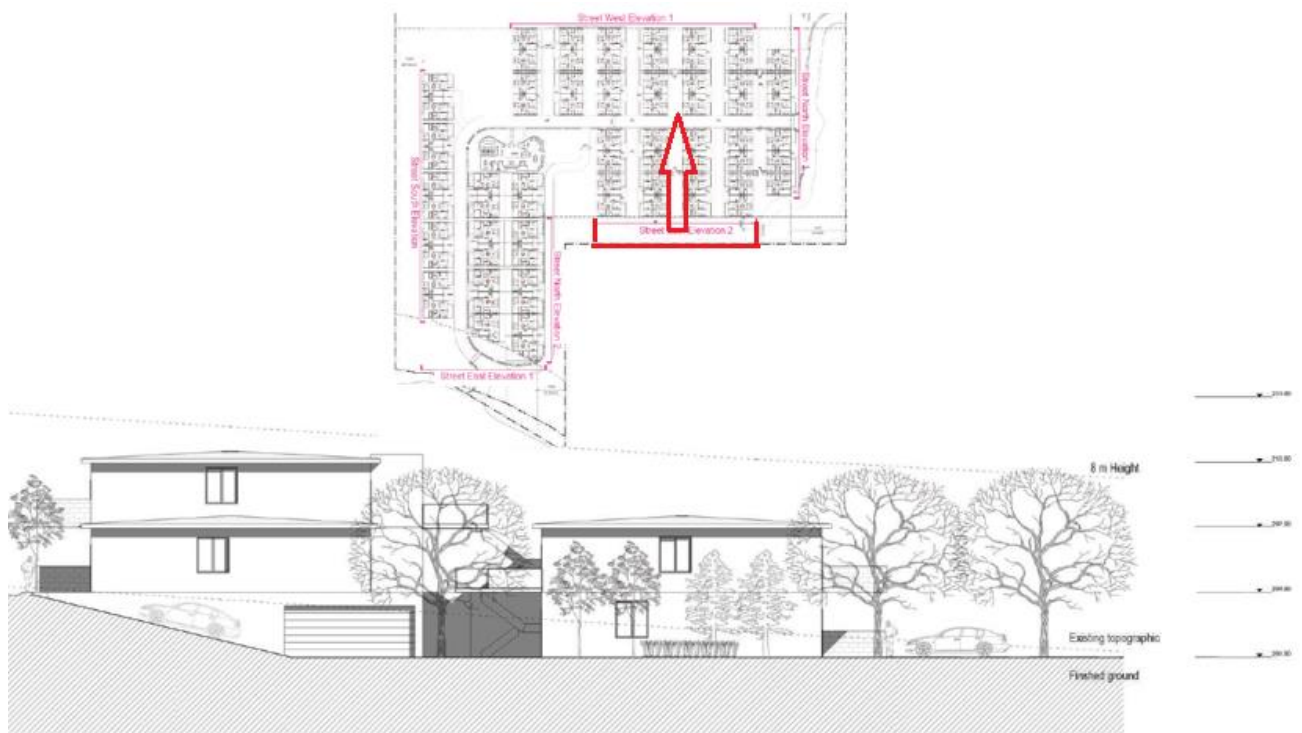


Figure 8: Section of two-storey residential development looking west over the site.

Development approval was granted on 12 January 2012 for 76 single-storey dwellings and a community facility (DA/484/2011– **Attachment E2**) through the Land and Environment Court. Site constraints, civil infrastructure and compliance with the Seniors Housing SEPP were identified as the basis for the reduction in dwellings from the proposed 94 dwellings identified in the original SCC. Previous Council assessment reports recommended refusal on the following grounds:

- concerns regarding the provision of sewer infrastructure to service the proposed dwellings;
- the proposal is not compatible with the surrounding environment;
- the cumulative impact of such a development on rural land;
- the proposal is excessive in size when put in the context of the surrounding population; and
- the impact on the agricultural viability of the land.

Considering the low-density character of the local area, the approved development plans and Council's comments, the proposed increase in residential density and built form presents an incompatible outcome for the site. While development consent exists, the issues highlighted throughout the development assessment process would be exacerbated by an increase in residential dwellings.

The Department notes the expanded community facility would increase the amenity for residents. The expansion is also in direct response to concerns identified by the village operator regarding the ability to provide for the residents of the approved 76 dwellings. The Department has no in-principle objections to the expansion of the approved community facility and notes that the expansion may be able to be considered by Council as a modification (subject to Council's agreement). If modifications to the

community facility are not supported as a modification application, an SCC application could be lodged for this component of the development.

Maintaining a single-storey development for residential dwellings and limiting dwelling development will allow an improved outcome for the development in terms of site access and amenity, while minimising the impact on surrounding land.

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

The *Native Vegetation Act 2003* was repealed on 24 August 2017 and replaced with the *Biodiversity Conservation Act 2016*. Native vegetation clearing is addressed on page 9 of this report.

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

As previously discussed, no cumulative impact study is required.

CONCLUSION

The site is considered unsuitable for more intensive development as:

- the proposed increase in dwelling numbers is not supported as the two-storey built form outcome is considered incompatible with surrounding land uses;
- the need for basement car parking indicates the proposal is an overdevelopment in a rural zone and significantly increases car parking on-site;
- there is a lack of capacity for a reticulated sewerage system to service the site;
- the proposed residential built form is inconsistent with the rural character of the surrounding properties; and
- the highly urbanised form of development will reduce the capacity of the area to contribute to the MRA of Greater Sydney.

The proposal results in a built form and density that does not respect the rural character and potential future uses of land near the development. Based on this, it is recommended that the SCC not be supported.

ATTACHMENTS

- Attachment A - Council comments
- Attachment B - Proposed site plan and site aerial
- Attachment C - Proponent report
- Attachment D - Architectural plans
- Attachment Form - 392 Galston Road application form
- Attachment E1 - Previous issued SCC - Appendix A
- Attachment E2 - Court approval SCC - Appendix B
- Attachment E3 - Modification to stage development - Appendix C

- Attachment E4 - Modification - Appendix D
- Attachment E5 - Construction certificate - Appendix E
- Attachment E6 - CC2 - Appendix F
- Attachment E7 - Letter regarding community centre - Appendix G
- Attachment E8 - Access consultant letter - Appendix H
- Attachment E9 - Section J report - Appendix I
- Attachment E10 - Letter from Council - septic tank - Appendix J
- Attachment E11 - Galston Road works plans - Appendix K
- Attachment E12 - Civil drawings - Appendix L
- Attachment E13 - Letter from Ausgrid - Appendix M
- Attachment E14 - Sydney Water S73 requirements - Appendix N
- Attachment E15 - Letter from Telstra - Appendix O
- Attachment E16 - Arboricultural assessment - Appendix P
- Attachment E17 - Flora and fauna assessment - Appendix Q
- Attachment E18 - Vegetation management plan - Appendix R
- Attachment E19 - Landscape plan - Appendix S
- Attachment E20 - 392 Galston Road and 5 Mid Dural Road, Galston – bus services

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