

COUNCIL ASSESSMENT REPORT – MODIFICATION APPLICATION

SYDNEY NORTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSNH-750 - DA/850/2011/G
PROPOSAL	Section 4.55(2) modification to an approved Seniors Living development - multiple amendments to Apartment Buildings 1 and 2
ADDRESS	Lot 22 DP 851940, No. 330-334 Galston Road, Galston
APPLICANT	Planik Pty Ltd
OWNER	Galston Land Pty Ltd (Living Choice)
MOD LODGEMENT DATE	19 November 2025
ORIGINAL DA DETERMINATION DATE	23 February 2012
APPLICATION TYPE	Modification Application under Section 4.55(2)
REGIONALLY SIGNIFICANT CRITERIA	Clause 2, Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: General Development over \$30 million and a Section 4.55(2) application
CIV	Unchanged - original \$32 million
CLAUSE 4.6 REQUESTS	N/A
KEY SEPP/LEP	• State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Hornsby Local Environmental Plan 2013
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	Nil

DOCUMENTS SUBMITTED FOR CONSIDERATION	Architectural Plans
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	N/A
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	18 March 2026
PLAN VERSION	Rev. 01 - 4 September 2025 and 20 October 2025 Rev. 02 - 28 January 2026
PREPARED BY	Madeleine Bayman, Senior Town Planner
COI DECLARATION	No conflict of interest declared
DATE OF REPORT	26 February 2026

EXECUTIVE SUMMARY

The modification application has been lodged pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and seeks consent for amendments to a consent granted under DA/850/2011 approved by the Panel on 23 February 2013. This consent approved the demolition of existing structures and construction of a seniors living development comprising 96 self-contained dwelling-houses and a community facility in 6 stages at Lot 22 DP 851940, No. 330-334 Galston Road, Galston.

The consent has subsequently been amended on 8 September 2021 by the Panel and on 26 April 2022, 2 August 2023 and 13 December 2023 by Council.

The modification application includes the relevant information required by Clause 100 of the Environmental Planning and Assessment Regulation 2021 ('2021 EP&A Regulation').

The application is referred to the Sydney North Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause 2 of Schedule 6 State Environmental Planning Policy (Planning Systems) 2021 as it comprises general development with a CIV over \$30 million. The proposed modification satisfies the criteria to be considered by the Panel in the Instruction issued pursuant to Clause 275(2) of the EP&A Regulation 2021 (formerly CI 123BA of the Regulation 2000).

The proposed modification application seeks to modify an existing approved Seniors Living development including multiple amendments to apartment Buildings 1 and 2 to improve the quality of dwellings. The proposed modification is considered to satisfy the substantially the same development test required by Section 4.55 of the EP&A Act.

The application was placed on public exhibition from 24 November 2025 to 13 December 2025, with nil submissions received.

The proposed modification contravenes the ceiling height development standard under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 by more than 10%.

Following consideration of the matters for consideration under Section 4.15(1) and 4.55 of the EP&A Act, it is considered that the proposed modification can be supported.

1 BACKGROUND

On 23 February 2012, the Sydney West Joint Regional Planning Panel approved DA/850/2011 (JRPP No. 2011SYW096) for demolition of existing structures and construction of a seniors living development comprising 96 self-contained dwelling houses and a community facility in 6 stages.

On 2 November 2016, Council wrote to the applicant stating that the deferred consent commencement condition had been achieved following submission of additional information.

The applicant submitted the following information demonstrating that the existing consent had been physically commenced:

- A Stage 1 Construction Certificate
- Evidence of demolition of buildings
- Tree protection works

On 12 February 2021, modification application No. DA/850/2011/A was withdrawn by the applicant.

On 8 September 2021, Council approved modification application No. DA/850/2011/B for the reconfiguration of the seniors living scheme with reduction in units from 96 to 88 units, modified internal roads and landscaping, deletion of block A and expansion of leisure centre. The modification of the staging of the consent was also approved as follows:

- Stage 1: All roads, Leisure Centre, (4 apartments) and all 40 villas,
- Stage 2: Apartment Building No. 2 - 26 units,
- Stage 3: Apartment Building No. 1 - 18 units.

On 26 April 2022, Council approved modification application No. DA/850/2011/C for alterations to the layout of villas, addition of bedrooms and conversion to double garages, layout changes to the Leisure Centre, a front entrance wall and sign along with a shelter and letter box bank, and service locations including hydrant booster/ substation. The modification application also approved to amend Condition 67 so that the Channelised Right Hand turn lane (CHR) is completed prior to occupation of Stage 2 rather than Stage 1.

On 2 August 2023, Council approved DA/820/2011/D to modify the approved Seniors Living development as follows:

- Delay the requirement for completion of roadworks under condition 66C to after completion of more than 40 villas and the amendment of the driveway intersection from a Channelised Right Turn (CHR) arrangement to a left in - left out arrangement which would avoid tree removal/impacts along the southern side of Galston Rd due to road widening and the relocation of major water mains.
- Modify TfNSW conditions 66C (TfNSW condition 3) and 75D (TfNSW condition 4) and delete condition 66N (TfNSW condition 14) accordingly.
- Amend conditions 54, 56 and 58 to delete any reference to the CHR.

On 13 December 2023, Council approved DA/820/2011/E to delete the requirement for the temporary leisure centre under Stage 1 of the development and provide external recreation activities/services for first stage residents while the main leisure centre is built and delete condition No. 52(c) relating to the sewer connection.

2 THE SITE AND LOCALITY

2.1 The Site

The irregular shaped site comprises one rural parcel located on the northern side of Galston Road. The subject property has a total area of 3.71ha with a frontage of 209.3m to Galston Road.

Construction of the seniors living development comprising 96 self-contained dwelling houses and a community facility commenced in 2022 and currently the majority villas have been built. The Leisure centre has also commenced construction. Internal roads and vehicular access to Galston Road have been completed. Widening Galston Road, provision of a bus bay and kerb and gutter works are currently progressing.



Figure 1: Nearmap Aerial Photograph of the site (in red) as of 25 March 2024.

2.2 The Locality

The site forms part of the rural area adjoining the eastern boundary of Galston Village. The 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. 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. A small holding comprising residential use is located on the eastern side of the subject property.

3 THE PROPOSAL

3.1 The Approved Development

The approved development as modified (DA/850/2011/B) is for demolition of existing structures and construction of a seniors living development comprising 88 self-contained dwellings (comprising villas and units) and a community facility in 3 stages.

The approved residential development comprises:

- 40 single storey self-contained dwelling houses (32 x 2 bedroom villas and 8 x 3 bedroom villas) including 18 attached and 22 detached villas, single garages for 29 villas and double garages for 11 villas.
- 48 self-contained apartments/units accommodated in 2 apartment blocks (numbered 1 and 2 on site plan) and the leisure centre building with car parking located at ground and basement levels. The basements include a total of 52 car spaces. An additional 21 car spaces are provided for residents, visitors and staff within the leisure centre building. Each block is approved at a maximum two-storeys in height. The composition of units is as follows:
 - 6 x 1 bedroom units
 - 38 x 2 bedroom units
 - 4 x 3 bedroom units

The approved development is to occur in 3 stages:

- Stage 1: Construction of all roads, Leisure Centre, 4 apartments/units and all 40 villas,
- Stage 2: Construction of apartment Building No. 2 - 26 units,
- Stage 3: Construction of apartment Building No. 1 - 18 units.

3.2 The Proposed Modification

The application seeks to modify the approved Seniors Living development including multiple amendments to Apartment Buildings 1 and 2. The number of dwellings would remain unchanged.

The proposed amendments would improve the quality of dwellings and result in a positive urban design outcome that would not impact the character and amenity of neighbours or the precinct.

The proposed modifications are summarised as follows:

- Apartment Building 1:
 - Reconfigure basement and provide bike parking storage and storage area under balcony
 - Increase parking by 2 small spaces in basement
 - Internal apartment minor re-configurations
 - Some balcony and pergola extensions to apartments
 - Added external stairs (northern elevation)
 - Decrease in overall roof height by 1283mm and roof slope direction change. Maximum height of 9.01m
 - Increase in overall roof height by 708mm and roof slope direction change
 - Minor external materiality amendments - brick work to cladding
 - Structural blade columns added to balconies; and
 - Removal of eastern balcony to unit 306 (first floor).
- Apartment Building 2:
 - Reconfigure basement including lift lobby, relocate lockers and relocate bike racks
 - Increase parking count to 31 spaces (3 small spaces added in a stacked arrangement and 4 other spaces to replace relocated lockers)
 - Internal apartment minor reconfigurations
 - Some balcony alterations (either extended or reduced) and addition of a balcony to Unit 201
 - Added external L shaped ramp to east and north side of terrace. Podium added to main southwest access
 - Exterior southern communal balcony removed at first floor
 - Roof amendments - slope, box gutters, increase solar panels
 - Increase in overall roof height by 435mm and roof slope direction change. Maximum height 11.3m
 - Minor external material amendments

- Structural blade columns added to balconies; and
- Sliding doors changed to windows (east elevation)

No changes are proposed to the villas, leisure centre or civil and landscape elements of the proposal.

Table 1 details the proposed changes to conditions.

Table 1: Proposed Changes to Conditions

Condition No	Condition requirements	Change Proposed	Reason for Change
2	Approved plans and supporting documents	Modify architectural plans	Modify to update plans to reflect proposed modification
11A, 28, 34, 35 & 44	Waste management details	Modify to update waste management requirements	Update compliance requirements

4 STATUTORY CONSIDERATIONS

When determining a modification application, the consent authority must take into consideration the matters outlined in [4.55(2) of the EP&A Act in relation to modification of consents provisions, Section 4.15(1) of the EP&A Act in relation to matters for consideration for applications and Part 5 of the 2021 EP&A Regulation in relation to information requirements and notification. These matters are considered below.

4.1 Section 4.55 of the EP&A Act

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if a number of matters are satisfactorily addressed pursuant to Section 4.55(2) of the EP&A Act. The matters include the following:

For Section 4.55(2) applications:

- (a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all) (s4.55(2)(a)), and*

With respect to (a), it is considered that the proposal as amended is substantially the same as the development originally approved. An in-depth discussion regarding this clause is provided below.

In accordance with the NSW Land and Environment Court decision *Moto Projects (No 2) Pty Ltd v North Sydney Council* (1999), paragraphs 55 and 56, Bignold J described the process for consideration of a proposed modification of development as follows:

- “55. *The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the approved development.*
56. *The comparative task does not merely involve a comparison of the physical features or components of the development as approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation,*

qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."

Therefore, in order for Council to consider a Section 4.55, the following must be considered:

- Consideration of the numerical differences in all key aspects of the development.
- Consideration of the non-numerical factors (e.g. in visual impact, traffic impacts or changed land uses); and
- Consideration of any changes relating to a material and essential feature of the approved development.

With respect to (a), the amended development would maintain the existing approved built form/footprint of the development and would not have any additional amenity or environmental impacts to the site and its surrounds. The modification is considered minor in nature including a number of small changes to the apartments to improve the overall quality, design and accessibility for the Seniors Living development.

Council considers that the modification to the approved Seniors Living development would not result in an intensification of the approved use, noting the number of units would be retained and the amendments would provide an improved quality of design.

The more substantial changes to the original development application occurred under mod B. Legal advice was provided and supported under this application, which concluded that the proposal was substantially the same development and could be dealt with under a modification. Council's legal advice concluded that the proposal could be considered as a Section 4.55 modification.

Accordingly, Council considers that the amended development is substantially the same as the original.

- (b) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent (s4.55(2)(b)), and*

Section 4.55(2)(b) is not applicable as the development is not an integrated development or a State significant development.

- (c) *it has notified the application in accordance with—*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent (s4.55(2)(c)), and*

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between in accordance with the Hornsby Community Engagement Plan.

- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be (Section 4.55(2)(d)).*

The modification application was notified between 24 November 2025 and 13 December 2025 and nil submissions were received.

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified (Section 4.55(3)).*

In accordance with Section 4.55(3) the matters referred to in Section 4.15(1) of the Act, are addressed within the body of this report. With respect to the reasons given by the consent authority for the grant of the consent that is sought to be modified, the reasons provided in granting consent to DA/850/2011 are as follows:

- *The proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.*
- *The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy.*

As outlined in the body of this report, the proposed modification would continue to meet the desired outcomes of Council's planning controls and the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

4.2 Section 4.15(1) of the EP&A Act

Section 4.15(1) of the EP&A Act contains matters which the consent authority must take into consideration in determining a development application and modification applications pursuant to Section 4.55(3), which are of relevance to the application.

These matters include the following, which are considered in detail below:

- (a) *the provisions of—*
- (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iv) *(iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (v) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

that apply to the land to which the development application relates,

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

4.3 Section 4.15(1)(a) - Provisions of Environmental Planning Instruments, Proposed Instruments, DCPs, Planning Agreements and the Regulations

The relevant provisions under s4.15(1)(a) are considered below.

4.4 Environmental planning instruments (s4.15(1)(a)(i))

The following Environmental Planning Instruments are relevant to this application.

4.4.1 Rural Fire Act 1997

The site is identified as bushfire prone, and the proposed development constitutes 'integrated development' under Division 4.8 of the *Environmental Planning and Assessment Act 1979* and a Bush Fire Safety Authority pursuant to Section 100B of the *Rural Fires Act 1997*.

The RFS raised no concerns with the approved development and provided General Terms of Approval (GTA) and a Bush Fire Safety Authority, subject to conditions requiring water, electricity, gas and landscaping to comply with *Planning for Bushfire Protection 2019* and preparation of a bushfire emergency management and evacuation plan to be submitted to the Local Emergency Management Committee.

The proposed modifications would not be inconsistent with the existing General Terms of Approval, and no concerns are raised in this regard.

4.4.2 Hornsby Local Environmental Plan 2013

The proposed development has been assessed having regard to the provisions of the Hornsby Local Environmental Plan 2013 (HLEP).

4.4.2.1 Zoning of Land and Permissibility

The subject land is zoned RU4 Primary Production Small Lots under the HLEP. The objectives of the RU4 zone are:

- *To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage land uses that support primary production, including low-scale and low-intensity tourist and visitor accommodation and the provision of farm produce direct to the public.*
- *To ensure that development does not unreasonably increase the demand for public infrastructure, services or facilities*

The proposed development is defined as 'Seniors Housing' under the HLEP. Seniors Housing is a prohibited land use under the HLEP in the RU4 zone. Notwithstanding, the proposal is permitted under an existing Site Compatibility Certificate issued by the Department of Planning on 14 February 2011 for 96 serviced self-care dwellings in the form of 38 detached and attached houses and 58 apartments in 2-storey blocks and a community centre comprising meeting rooms, office space, communal kitchen and other facilities.

The modification is subject to the provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 which prevails to the extent of any inconsistency with the HLEP.

4.4.2.2 Height of Buildings

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 10.5m. The approved development exceeded the height development standard with the highest building (the leisure centre), having a maximum height of 10.871m.

It is noted that Seniors SEPP height controls prevail to the extent of any inconsistency with the HLEP. The applicable height control from the Seniors SEPP is 8m which is a ceiling height control, discussed further in section 2.9 of this report.

Notwithstanding, the modification proposes an HLEP height variation of 7.7% with an overall height of 11.306m for Apartment 2. The overall height of Apartment 1 would be 9.01m which complies with the HLEP height requirements. The overall height varies from the previously approved modification due to roof plane changes and the variation to natural ground below.

Height plane diagrams were provided by the Applicant to demonstrate the minor nature of the extent of roof height variations. It is considered that the character of the area would be maintained by the proposal, and these height variations are considered acceptable.

4.4.2.3 Heritage Conservation

Clause 5.10 of the HLEP sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a heritage conservation area. Accordingly, no further assessment regarding heritage is necessary.

4.4.2.4 Earthworks

Clause 6.2 of the HLEP states that consent is required for proposed earthworks on site. Before granting consent for earthworks, the consent authority is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

The proposed modification does not result in further excavation beyond that originally approved and is considered acceptable in this regard.

4.4.2.5 Design Excellence

Clause 6.8 of the HLEP sets out matters for consideration to determine whether a proposed development exhibits a high standard of design. The Clause applies to development proposals on land with a permitted height limit over 29.5m (10 storeys or more) as well as attached dwellings, multi dwelling housing, residential flat buildings and shop top housing.

Clause 6.8 states that development consent must not be granted to development to which this Clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

To enable the implementation of 'Clause 6.8 Design Excellence' in the HLEP, Council has established a panel of suitably qualified architecture and urban design professionals to undertake a review of the design quality of relevant developments.

Given the proposal involves minor changes to the overall design to improve amenity, the application was not referred to the panel for further review.

Notwithstanding, previous modifications have been considered by the panel and concluded that the modification achieves a design that is sympathetic to the rural area and increases amenity to future residents and to the low density dwellings adjoining the site to the east.

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

Seniors Housing is now assessed under Chapter 3 Part 5 of State Environmental Planning Policy (Housing) 2021 (Housing SEPP). Notwithstanding, Schedule 7A clause 2 General Savings Provisions of the Housing SEPP confirms that the policy does not apply to this modification and that the applicable legislation for this modification to be assessed under is State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP).

SEPP Housing 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 Seniors SEPP enables development for serviced self-care housing on land that adjoins an urban zone; subject to the site being certified by the Department of Planning as suitable for more intensive development, pursuant to a SCC. The approved development is in accordance with these provisions. An assessment of the modification against relevant provisions of the policy is provided below.

4.4.3.1 Permissibility and Site Compatibility Certificate

Clause 4 of SEPP HSDP lists the circumstances to which the policy applies. As the policy does not directly apply to RU4 zoned land, the original application relied on a SCC on the basis that the site adjoined land zoned for urban purposes. Council has previously received legal advice from the Applicant, which was reviewed by Council's Legal Team with regard to whether a consent authority is required to consider the conditions of an SCC as part of a modification application. The advice notes that the effect of Clause 24 and 25 of SEPP Seniors is that once a development consent is issued, the SCC has fulfilled its purpose. Further, it states that there is no requirement for a modification application to refer back to the certificate as Clause 24(2) of SEPP HSPD requires the certificate for permissibility of development in a development application, as distinct from a modification application under the Act.

On this basis, an assessment against the original SCC is not required.

4.4.3.2 Clause 32 - Design of Residential Development

In considering an application for seniors living, a consent authority must not grant consent unless it is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 (Clauses 33 to 39).

Clause 33 Neighbourhood amenity and streetscape

A consideration of Clause 33 is for development to recognise and maintain the character of the area.

Council raises no objections to the proposed changes to the apartment buildings. The changes in roof slope direction, addition of lift overruns and access ramps are considered minor, largely indiscernible from the approved development and would not pose any impacts to the streetscape or neighbourhood amenity.

Clause 34 Visual and Acoustic Privacy

The application does not seek to modify the approved privacy measures of the approved apartment buildings and whilst some balconies are being slightly altered to improve amenity, the changes would maintain the approved orientation and are configured in a manner that retains the amenity and privacy outcomes of the approved development. Bedrooms are generally located away from roads and parking area and well set back from Galston Road.

Clause 35 Solar Access and Design for Climate

With consideration to Clause 35, the amended apartments would achieve sufficient solar access as demonstrated by the approved development. The application would not modify compliance in terms of solar access or ventilation.

Clause 36 and 37

The amended proposal does not require an assessment against Clauses 36 and 37 (crime prevention and stormwater) and would remain as originally approved in this regard.

Clause 38 Accessibility

The amended proposal would not change any pedestrian links throughout the site. Improvements are proposed within the basement level and additional access ramps to improve overall accessibility throughout the site. An updated Access Report was submitted with the modification to demonstrate compliance with accessibility requirements.

Clause 39 Waste Management

Whilst no major changes are proposed under this application in terms of waste management for the overall site, small design changes including altered basement bin enclosures are proposed and considered acceptable. Accordingly, conditions have been amended under Schedule 1 to ensure adequate construction and ongoing waste management throughout the site.

4.4.3.3 Clause 40 - Development Standards

The proposal would maintain compliance with the relevant development standards contained within Clause 40 of the Seniors SEPP

Clause 40(4) prescribes maximum height controls of 8m and 2 storeys for developments in residential zones where residential flat buildings are not permitted. This clause does not apply as the site is zoned Rural.

4.4.3.4 Standards for hostels and self-contained dwellings (Clause 41)

This clause provides development standards to ensure an adequate level of access for people with disabilities. The application includes an updated Access Report that addresses the controls in the SEPP and confirms compliance with the relevant accessibility standards. Apartment car spaces comply with accessibility requirements.

4.4.3.5 Serviced self-care housing (Clause 42)

All required on-site services and facilities would be provided to the residents. In this regard, a Draft Service agreement format from the intended Seniors Housing provider 'Living Choice' was provided with the approved development and would continue to apply. It is considered that the application satisfies the requirements of Clause 42, subject to the retention of the existing conditions of consent.

4.4.3.6 Transport Services to local centres (Clause 43)

Local bus services are available with bus shelters being located within a reasonable distance to provide access for residents to the local centres. Additionally, the applicant has previously advised that a 12 seater shuttle bus service would be provided for the residents if required. This is provided via existing conditions of consent.

4.4.3.7 Availability of facilities and services (Clause 44)

All necessary services required are to be provided to residents prior to the occupation of the housing. This is required by existing conditions of consent.

4.4.3.8 Clause 50 - Standards That Cannot be Used to Refuse Development Consent for Self-Contained Dwellings

Clause 50 of the Senior SEPP includes non-discretionary development standards and states “a consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds”. A discussion is provided below in this regard.

- a) **building height:** *if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys).*

Comment: As discussed in section 2.4.2 of this report, due to changes to roof design and slope direction, the maximum overall roof height has changed with Apartment 1 reducing by 1.28m and Apartment 2 increasing by 435mm.

In relation to the 8 metre ceiling height control, there has been a further exceedance (159 mm) to the previous approved ceiling height for Apartment 1 and a significant reduction (-726 mm) to Apartment 2. It is noted that there is no proposed floor to ceiling height changes, and these amendments result from landform under the highest points of both buildings.

As noted by the Applicant, the vast majority of the site complies with the ceiling height control. The variation of 16% Apartment 1 and 10.5% Apartment 2 represent respectively a slight increase and significant decrease to the approved modification (modification (2021)). Although Apartment 1 has an increased ceiling height, its overall maximum height has reduced by 1.28m and conversely Apartment 2 has a decrease in its exceedance for ceiling height, but overall height has increased slightly. It is considered that the roof area impacted is very minor and the overall bulk and scale would remain substantially the same. The modified approved building height envelope is overlaid on the current proposed elevations for comparison. (Refer to DWG A122 /A123 & A124 for each Apartment set).

Previously, the applicant's submission to vary the 8m maximum building height development standard of the SEPP was considered well founded and acceptable as the overall height of the apartment buildings would not be perceptible from the streetscape or adjoining properties. In addition, the overall scale of the development would be similar to that approved as the proposal would be a maximum two storeys in height.

Given the minor nature of the variations proposed, it is considered that the amended proposal would be acceptable in terms of building height.

- b) **density and scale:** *if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.*

Comment: The submitted plans indicate that development as amended would have an FSR of 0.336:1 and comply with the standard.

- c) **landscaped area:** *if -*

i. in the case of a development application made by a social housing provider - a minimum 35 square metres of landscaped area per dwelling is provided, or

ii. in any other case - a minimum of 30% of the area of the site is to be landscaped.

Comment: The submitted plans indicate that the proposal would comply with the 30% landscaping requirement as approximately 52.23% of the total site would be landscaped.

- d) **Deep Soil Zone:** *if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site.*

Comment: The submitted plans indicates that the proposal would comply with the 15% deep soil requirement.

- e) **Solar access:** *if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.*

Comment: 87% of living rooms and private open spaces would receive adequate sunlight between 9am and 3pm during Winter Solstice. Remains unchanged under this application.

- e) **Private open space for in-fill self-care housing:** *if - in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1-bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area.*

Comment: This clause does not apply to serviced self-care housing developments, Notwithstanding, the private open space of each of the units would include functional private open space.

- f) *(Repealed)*

- g) **Parking:** *if at least the following is provided*

- i. *0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or*
- ii. *1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider”.*

Comment: The proposed number of car parking spaces is compliant with the standard. All 2 bedroom dwellings are provided with 1 car spaces, and 3 bedroom dwellings provided with 2 car spaces are required. Adequate staff, visitor and disabled parking spaces is also provided.

4.4.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of chapter 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

4.4.1.1 Chapter 6 Water Catchments

The site is located within the catchment of the Hawkesbury-Nepean River. The aim of this chapter is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of development are considered in the regional context. This chapter contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, significant vegetation habitats, extraction, environmental heritage and scenic quality, recreation and tourism, and agriculture.

The plan addresses matters related to biodiversity, ecology and environment protection; public access to, and use of, foreshores and waterways; interrelationship of waterway and foreshore uses; foreshore

and waterways scenic quality; maintenance, protection and enhancement of views and boat storage facilities.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the modified proposal would not impact on the water quality of the catchment and would comply with the requirements of chapter 6 of the Biodiversity and Conservation SEPP.

4.4.2 State Environmental Planning Policy (Resilience and Hazards) 2021

The application has been assessed against the requirements of chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

4.4.2.1 Chapter 4 Remediation of Land

Section 4.6 of the Resilience and Hazard SEPP states that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

The application was originally assessed against the requirements of State Environmental Planning Policy No. 55 (former SEPP). This Policy provides State-wide planning controls requiring that consent must not be granted to the carrying out of development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

No further assessment is required under the policy as the existing conditions of consent would ensure that the site is remediated prior to commencement of works, the soil is tested prior to disposal, and a validation report is prepared in accordance with the relevant guidelines.

The proposed modification is acceptable with regard to this policy and no further assessment is required.

4.4.3 State Environmental Planning Policy (Sustainable Buildings) 2022

The application has been assessed against the requirements of chapter 2 of State Environmental Planning Policy (Sustainable Buildings) 2022 which seeks to encourage the design and delivery of more sustainable buildings.

Chapter 2 sets out the Standards for residential development. The proposal includes an updated BASIX certificate for amended Apartment buildings 1 and 2 in accordance with the requirements of the SEPP including the list of commitments to be complied with at the construction stage and during the use of the premises. The BASIX certificate achieves the minimum scores for energy and water use, and thermal performance.

The proposal is acceptable in this regard and condition No. 2 of consent has been amended accordingly.

4.4.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

The application has been assessed against the requirements of chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

4.4.4.1 Frontage to a Classified Road

The application is subject to assessment under Section 2.119 of the SEPP given the proposal has a frontage to a classified road being Galston Road.

Section 2.119(2) of the Policy states:

- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

There are no changes proposed under this modification with regards to vehicular access from Galston Road or increased traffic generation. As such, no further assessment is required under the policy.

4.4.5 State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

The provisions of Chapter 2 of State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) have been considered in the assessment of the modification application. The proposal is regionally significant development pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is considered a modified development to General Development over \$30 million. Accordingly, the Sydney North Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

4.5 Provisions of any Proposed Instruments (s4.15 (1)(a)(ii))

There are no current draft environmental planning instruments.

4.6 Provisions of any Development Control Plan (s4.15(1)(a)(iii))

The following Development Control Plan is relevant to this application:

- Hornsby Development Control Plan 2024

The proposed development has been assessed having regard to the relevant performance and prescriptive design controls contained within the Hornsby Development Control Plan 2024 (HDCP). Council notes that the proposal has been assessed predominantly against the requirements of Seniors SEPP in accordance with the prescriptive measure of Part 7.2 of the HDCP which states development for seniors housing should comply with the planning controls in the SEPP.

The amended proposal maintains compliance with the general controls of the HDCP, and no further assessment is required in this regard.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- Hornsby Shire Council S7.11 Development Contributions Plan 2020-2030

This Contributions Plan has been considered and applies to the development. As the proposal would not alter the number of units approved, the retention of an existing condition requiring a monetary Section 7.11 contribution is recommended.

4.7 Planning agreements under Section 7.4 of the EP&A Act (s4.15(1)(a)(iia))

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

4.8 Provisions of Regulations (s4.15(1)(a)(iv))

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS2601

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the Regs are relevant to the proposal.

Section 63 (considerations for erection of temporary structures) of the Regs are not relevant to the proposal.

These provisions of the Regs remain unaltered under this application and are addressed in the recommended conditions (where necessary).

4.9 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

4.9.1 Context and setting

The proposed modifications would not result in significant changes to the approved built form and scale of the development and is consistent with the original approval.

4.9.2 Access and traffic

The proposed modification would not result in significant changes to vehicle movements or traffic generation and is consistent with the original approval.

4.9.3 Waste Management

Overall, waste management for the site remains substantially unchanged; however, conditions have amended to reflect any changes to the location of bins and bin rooms with the basement levels of the apartments.

4.9.4 Earthworks

The proposed modification does not result in further excavation beyond that originally approved and no further assessment is required in this regard.

4.9.5 Stormwater Management

The modifications would not result in significant changes to stormwater management, and no further assessment is required in this regard.

4.9.6 Flora and fauna impacts

The amended development would not require the removal of additional vegetation no further assessment is required in this regard.

4.9.7 Natural hazards

The land is identified as being subject to bushfire risk. The proposed modifications would not be inconsistent with the existing NSW RFS General Terms of Approval, and no concerns are raised in this regard.

4.9.8 Social impact

The residential development would improve housing choice in the locality by providing a range of household types. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire. The proposal will maintain a positive social impact by providing community centres, apartments and villas with quality internal amenity.

4.9.9 Economic impact

The proposal would have a minor positive impact on the local economy in conjunction with other new residential development in the locality by generating an increase in demand for local services.

Accordingly, it is considered that the proposed modification will not result in any significant adverse impacts in the locality as outlined above.

4.10 Section 4.15(1)(c) - Suitability of the site

The subject site is identified as bushfire prone. The site is considered to be capable of accommodating the development. The scale of the modified development is consistent with the capability of the site and is considered acceptable.

4.11 Section 4.15(1)(d) - Public Submissions

Nil submissions were received in respect to the proposed modification.

4.12 Section 4.15(1)(e) - 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 application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

4.13 Part 5 of the 2021 EP&A Regulation

There are a number of matters required to be addressed in an application for modification of development consent pursuant to Division 1, 2 and 3 of Part 5 of the 2021 EP&A Regulation. These matters are considered in Table 2 below.

Table 2: Consideration of the Requirements under the Regulation

Matter	Comment	Comply
Clause 100 Application for modification of development consent		
May be made by— (a) the owner of the land to which it relates, or (b) another person, with the consent of the owner of the land (CI 98(1))	The application has been made by Planik Pty Ltd with consent from the owner of the land being Galston Land Pty Ltd (Living Choice).	Y
NSW Aboriginal Land Council consent required for land owned by a Local Aboriginal Land Council (CI 98(6)).	The land is not owned by a Local Aboriginal Land Council and consent is not required.	N/A
Form approved by Planning Secretary and on portal (CI 99).	The application has been provided in accordance with the Regulation.	Y
Applicant details (CI 100(1)(a))	Provided on the NSW Planning Portal ('the Portal').	Y
Description of the development (CI 100(1)(b))	Provided on the Portal and outlined in Section 3 of this Report.	Y
Address and title details (CI 100(1)(c))	Provided on the Portal and outlined in Section 2 of this Report.	Y
Description of the proposed modification (CI 100(1)(d))	Provided on the Portal and outlined in Section 3 of this Report.	Y
Whether to correct a minor error, mis-description or miscalculation, or some other effect (CI 100(1)(e))	The proposed modification is to modify the original consent under Section 4.55(2) to allow multiple amendments to apartment Buildings 1 and 2 to improve the quality of dwellings and is not to correct a minor error, misdescription or miscalculation.	Y
Description of the expected impacts of the modification (CI 100(1)(f))	There are unlikely to be any significant impacts resulting from the proposed modification given there are no significant changes to the external building form or features. Only minor changes are proposed largely to the internal layout of the dwelling.	Y
Undertaking that modified development will remain substantially same as	The modified development will remain substantially the same development as that	Y

development originally approved (CI 100(1)(g))	originally approved. Refer to Section 4.1 of this Report.	
If accompanied by a Biodiversity development assessment report, the biodiversity credits information (CI 100(1)(h))	A biodiversity development assessment report is not required.	N/A
Owner's consent (CI 100(1)(i))	An undertaking has been provided on the Portal.	Y
Whether the application is being made to the Court (under section 4.55) or to the consent authority (under section 4.56) (CI 100(1)(j)).	This Application is made to the consent authority pursuant to Section 4.55(2) of the EP&A Act.	Y
BASIX Certificate (CI 100(3))	The proposed modification does involve BASIX development, and an updated BASIX Certificate has not been provided.	Y
Penrith Lakes Development Corporation (CI 101)	The proposed modification does not Penrith Lakes Development Corporation.	N/A
Qualified designer statement for residential apartment development (CI 102)	The proposed modification does involve residential apartment development; however, a qualified designer statement is not required as this was a not a requirement under the original application and the proposed changes would not substantially alter the overall design.	N/A
Mining and petroleum development consents (CI 102)	The proposed modification does not impact mining and petroleum development consents.	N/A
Notification and exhibition requirements (CII 105-112)	Refer to Section 5.3 of this report.	Y
Notification of concurrence authorities and approval bodies (CI 109) (to be undertaken by Council)	The modification application is not required to be referred to the relevant concurrence and approval bodies as outlined in Section 5.1 of this Report.	N/A

5 REFERRALS AND SUBMISSIONS

5.1 Agency Referrals and Concurrence

The modification application was not required to be referred to Transport for NSW as no physical changes are proposed to the approved vehicle entries from Galston Road.

The modification application was not required to be referred to NSW Rural Fire Service as the proposed modifications would not be inconsistent with the existing General Terms of Approval and there are no substantial changes to the overall to design to warrant further assessment.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the existing recommended conditions of consent.

5.2 Council Referrals

The modification application was referred to various Council officers for technical review as outlined Table 3. The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

Table 3: Consideration of Council Referrals

Officer	Comments	Resolved
Building	Council's Building Certifier reviewed the submitted plans and considered that there were no objections to the modification and did not recommend additional or modification conditions.	Yes
Waste	Council's Waste officer reviewed the submitted plans and considered that there were no objections subject to amended conditions.	Yes (conditions)

5.3 Notification and Community Consultation

The modification application was notified in accordance with the Council's Community Engagement Plan from 24 November 2025 until 13 December 2025. The notification included the following:

- A sign placed on the site
- Notification letters sent to adjoining and adjacent properties (a rough estimate of the number of letters sent)
- Notification on the Council's website.

The Council received nil submissions to the proposal.

6 CONCLUSION

This modification application has been considered in accordance with the requirements of the EP&A Act and the 2021 EP&A Regulation as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The development generally meets the desired outcomes of Council's planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Having regard to the circumstances of the case, approval of the application is recommended.

7 RECOMMENDATION

It is recommended:

- That the Modification Application DA/850/2011/G for demolition of existing structures and construction of a seniors living development comprising 88 self-contained dwelling houses and a community facility in 3 stages at Lot 22 DP 851940, No. 330-334 Galston Road, Galston be

approved pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A; and

- Pursuant to Clause 118 of the *Environmental Planning and Assessment Regulation 2021*, a notice of determination is to be prepared by Council following the Panel's determination of this modification application.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Architectural Plans