



**KU-RING-GAI LOCAL PLANNING PANEL MEETING
TO BE HELD ON WEDNESDAY, 2 JULY 2025 AT 11:00 AM
BY ZOOM CONFERENCING**

Item GB.1 will be determined offline as this item does not fit the criteria for a public meeting (it is not contentious – does not have more than 10 objectors). This item will be determined and published on Council's website after 48 hours of the closing of the determination meeting.

AGENDA

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NOTE: For Full Details, See Council's Website –
www.krg.nsw.gov.au under the link to business papers

APOLOGIES

DECLARATIONS OF INTEREST

GENERAL BUSINESS

- GB.1 **91 - 93 Carrington Road Wahroonga - demolition of existing structures, lot consolidation, construction of 10 independent living-multi dwellings houses, engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021**

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File: EDA0586/24

Demolition of existing structures, lot consolidation, construction of 10 independent living-multi dwellings houses, engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021

RECOMMENDATION

THAT the Ku-ring-gai Local Planning Panel, exercising the functions of Ku-ring-gai Council, as consent authority, under Section 4.16 of the Environment Planning and Assessment Act 1979, refuse development consent to eDA0586/24 for demolition of existing structures, lot consolidation, construction of 10 independent living- multi dwellings houses, engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021 on land at 91-93 Carrington Road, Wahroonga for the reasons provided in the Development Assessment Report (**Attachment A1**).

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DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	91 - 93 CARRINGTON ROAD WAHROONGA - DEMOLITION OF EXISTING STRUCTURES, LOT CONSOLIDATION, CONSTRUCTION OF 10 INDEPENDENT LIVING- MULTI DWELLINGS HOUSES, ENGINEERING, LANDSCAPING AND ASSOCIATED WORKS PURSUANT TO PART 5 OF SEPP (HOUSING) 2021
ITEM/AGENDA NO:	GB.1

APPLICATION NO:	EDA0586/24
ADDRESS:	91-93 Carrington Road, Wahroonga
WARD:	Wahroonga
DESCRIPTION OF PROPOSAL:	Demolition of existing structures, lot consolidation, construction of 10 independent living- multi dwellings houses, engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021
APPLICANT:	MSV Ultima Pty Ltd
OWNER:	Mr PH Wilson, Mrs ACM Dickinson (at time of lodgement)
DATE LODGED:	13 January 2025
SUBMISSIONS:	Eight
ASSESSMENT OFFICER:	Belinda Newell
RECOMMENDATION:	Refusal

KLPP REFERRAL CRITERION:	This application is reported to the Ku-ring-gai Local Planning Panel for determination in accordance with the Minister's section 9.1 Local Planning Panels Direction as it proposes a departure from a non-numerical development standard.
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PURPOSE OF REPORT

To determine Development Application No EDA0586/25 for 91-93 Carrington Road, Wahroonga.

This application is reported to the Ku-ring-gai Local Planning Panel for determination in accordance with the Minister's section 9.1 Local Planning Panels Direction as it proposes a departure from a non-numerical development standard.

EXECUTIVE SUMMARY

The proposal fails to include an adequate site analysis and does not properly consider the character of the area, the adjoining properties including the heritage item at the rear of the site and the location and access to facilities.

The proposed built form is uncharacteristic of the surrounding area with a non-compliant gross floor area, inadequate building setbacks and landscape design, tree impacts and impacts on the adjoining heritage item. The proposal results in privacy and amenity impacts.

On 28 February 2025, Council was notified that a deemed refusal appeal had been filed with the Land and Environment Court.

RECOMMENDATION

THAT the Ku-ring-gai Local Planning Panel, exercising the functions of Ku-ring-gai Council, as consent authority, under Section 4.16 of the Environment Planning and Assessment Act 1979, refuse development consent to eDA0586/24 for demolition of existing structures, lot consolidation, construction of 10 independent living- multi dwellings houses, engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021 on land at 91-93 Carrington Road, Wahroonga for the reasons provided in the Development Assessment Report (**Attachment A1**).

Belinda Newell
Executive Assessment Officer

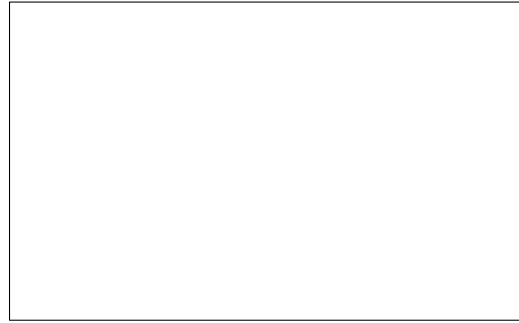
Jonathan Goodwill
Team Leader Development Assessment

Shaun Garland
Manager Development Assessment Services

Michael Miocic
Director Development & Regulation

Attachments:	A1	Development Assessment Report	2025/034457
	A2	Location sketch	2025/200806
	A3	Zoning sketch	2025/200771
	A4	Architectural plans	2024/413041
	A5	Landscape plans	2024/413045

A6 [↓](#) Statement of Facts and Contentions (Filed) 2025/199753

**DEVELOPMENT APPLICATION****ASSESSMENT REPORT**

REPORT TITLE	91 - 93 Carrington Road Wahroonga - demolition of existing structures, lot consolidation, construction of 10 independent living- multi dwellings houses, engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021
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APPLICATION NO	eDA0586/24
PROPERTY DETAILS	91 - 93 Carrington Road Wahroonga Lot J DP 410441 Lot E DP 381680 4047.00m ² R2 Low Density Residential
WARD	Wahroonga
PROPOSAL/PURPOSE	Demolition of existing structures, lot consolidation, construction of 10 independent living- multi dwellings houses, engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021
TYPE OF DEVELOPMENT	Local
APPLICANT	MSV Ultima Pty Ltd
OWNER	Mr PH Wilson, Mrs ACM Dickinson (Note: correct at time of lodgement)
DATE LODGED	13 January 2025
RECOMMENDATION	Refusal

PURPOSE OF REPORT

To determine Development Application No eDA0586/24 for demolition of existing structures, lot consolidation, construction of 10 independent living- multi dwellings houses, engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021.

This application is reported to the Ku-ring-gai Local Planning Panel for determination in accordance with the Minister's section 9.1 Local Planning Panels Direction as it proposes a departure from a non-numerical development standard.

INTEGRATED PLANNING AND REPORTING

Places, Spaces & Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai	Applications are assessed in accordance with state and local plans	Assessments are of a high quality, accurate and consider all relevant legislative requirements

EXECUTIVE SUMMARY

Issues

Non-compliant floor space ratio
Non-compliant with 'location and access to facilities' requirements
Inadequate building setbacks
Inadequate landscape design
Communal space
Tree impacts
Accessibility
Cut and fill
Visual privacy impacts
Heritage impacts
Inadequate information

Submissions

8

Land and Environment Court

Yes

Recommendation

Refusal

HISTORY**Site history**

The site has a history of low-density residential use.

Previous applications history

A Pre-DA consultation was not undertaken.

Council's records show previous applications relating to the site as follows:

91 Carrington Road:

Type	Application	Description	Decision	Date
BA	85/01176	Shed	Approved	11/7/1985
BA	86/00529	Adds & alts	Approved	14/4/1986
BA	86/00529A	Adds & alts	Approved	13/6/1987

93 Carrington Road:

Type	Application	Description	Decision	Date
BA	86/00916	Pool	Approved	8/8/1986
BA	86/01286	Additions	Approved	8/8/1986
BA	89/00458	Adds & alts	Approved	8/8/1989

Current Development Application History

Date	Action
13/01/2025	Application lodged.
17/01/2025	The application was notified to neighbouring property owners in accordance with the Ku-ring-gai Community Participation Plan for a period of 30 days, 8 submissions were received.
28/02/2025	Class 1 Deemed Refusal Appeal filed with the Land and Environment Court.
28/04/2025	Statement of Facts and Contentions filed with the Land and Environment Court.

Land and Environment Court appeal history

On 28 February 2025, Council was notified that a deemed refusal appeal had been filed with the Land and Environment Court.

THE SITE



Figure 1: aerial photograph of the site and surrounds.

Site description

The site includes two allotments described as Lot J in DP 410441 and Lot E in DP 381680 and which are known as 91 and 93 Carrington Road, Wahroonga (**Figure 1**).

The site is a rectangular shaped allotment, with a site area of 4046.4m², having a frontage of approximately 44.77m metres and a depth of 81.37 metres. The site has a cross fall of approximately 3.85 metres falling from the rear, southern boundary towards the front, northern boundary and from the western side boundary towards the eastern side boundary. The site is positioned on the southern side of Carrington Road and on the high side of the street.

No. 91 Carrington Road accommodates a part single, part 2-storey brick and tiled dwelling house. The dwelling has an L shaped footprint. The allotment is rectangular in shape with a battle axe handle to Carrington Road.



No. 93 Carrington Road is a two storey brick rendered and tiled dwelling house, which is

located centrally on the site. To the east of the dwelling house, is a detached double carport which is accessed via a driveway aligning the eastern boundary. An existing outbuilding is located behind the carport.

Existing vegetation across the site comprises mature gardens with a range of shrubs, trees and lawn areas. The vegetation includes a combination of semi-mature and mature plantings.

The site is zoned R2 Low Density Residential under the Ku-ring-gai Local Environmental Plan 2015 (LEP).

The site is mapped under the LEP as containing biodiversity significant land.

Constraint:	Application:
Visual character study category	1945-1968
Easements/rights of way	No
Heritage Item - Local	No
Heritage Item - State	No
Heritage conservation area	No
Within 100m of a heritage item	Yes
Bush fire prone land	No
Natural Resources Biodiversity	Yes 
Natural Resources Greenweb	Yes 
Natural Resources Riparian	No
Within 25m of Urban Bushland	No
Contaminated land	No
Wahroonga Estate – Clause 6.11, KLEP	N/A

Surrounding development

The site is surrounded by properties which are primarily zoned R2 Low Density Residential, comprising single and 2-storey residential dwellings, sited on varied allotment sizes. Generally, the allotments in the vicinity of the site are well landscaped. Development immediately adjoining the site comprises detached dwelling houses.

The site is adjoined to the east by No. 95 Carrington Road and No. 98A Junction Road, to the south by No. 98 Junction Road, and to the west by Nos. 89 and 89A Carrington Road, all of which are zoned similarly to the subject site. No. 98 Junction Road is mapped as heritage item 1945 “Bayllara”, dwelling house’. Nos. 95 & 98A Junction Road are located lower than

the subject site.

The existing subdivision pattern in the vicinity of the site is inconsistent and includes a variety of allotments of different sizes and configurations, including battle-axe lots.

THE PROPOSAL

The applicant seeks development consent for the demolition of existing structures, lot consolidation, construction of 10 independent living units (identified as Villa's 1-10), engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021.

Details of the proposed development include:

- 8 x 3 bedroom and 2 x 4 bedroom independent living units on the eastern and western sides of a centrally located shared driveway.
- 20 resident car spaces within 10 double attached garages.
- 2 visitors parking spaces are provided within the front setback. One is an accessible space shared with a service vehicle, the other is shared with a waste collection area.
- Each dwelling has an independent private open space, comprising a secure terrace area and garden which extends to the property boundaries. The private open space areas have direct access from the internal living areas.
- Vehicular access to the site is to be provided via a new 3.5 metres wide two-way single lane access driveway off Carrington Road.
- Pedestrian access is provided to Villas 3-10 and rear common areas via the central driveway. Separate pedestrian pathways are proposed to Villas 1 and 2 directly from Carrington Road. Villas 1 and 2 would also be required to utilise the driveway to access the individual waste storage area and the communal collection point.
- A detailed landscape proposal has been provided which includes earthworks, retaining walls and some planting along with tree removal.
- The stormwater proposal includes an on-site detention tank of 57m³ and a detention tank of 40m³ located within the common driveway. These tanks discharge to the gutter in Carrington Road.
- The waste bins will be stored between the villas at the rear and taken to the bin collection platform at the front of the property for collection on waste collection days by Council.
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- The proposal includes details for the construction of a 1.2m wide concrete footpath along the site frontage of Carrington Road, with new kerb ramps leading to the bus stops at Wahroonga Avenue that would be subject of a separate application under the *Roads Act 1993*.

CONSULTATION

Community

In accordance with Appendix 1 of the Ku-ring-gai Community Participation Plan, owners of

surrounding properties were given notice of the application. In response, submissions from the following were received.

1. S Richardson, 90 Junction Road, Wahroonga (2 submissions)
2. B and M Quinn, 98 Junction Road, Wahroonga
3. J, V and M Kennedy, 98A Junction Road, Wahroonga
4. R Radich, 89 Carrington Road, Wahroonga
5. S Kumar Polepalle, 100 Carrington Road, Wahroonga
6. L and K Willoughby, 3/201 Eastern Road, Wahroonga
7. J Cole, 95 Carrington Road, Wahroonga

The submissions raised the following issues:

Inadequate, inconsistent and insufficient documentation

It is agreed that the submitted documents and plans lack consistency and sufficient detail to enable a comprehensive and accurate assessment of the proposal against the relevant planning provisions.

Adverse impacts to the heritage item at 98 Junction Road

It is agreed that the proposal would have adverse impacts on this heritage item. Details of the impacts are included in the Heritage Advisor's comments below.

Stormwater impacts

Council's Development Engineer has reviewed the application and is satisfied that the proposed development would not result in adverse stormwater impacts.

Tree impacts and tree removal

It is agreed that the proposal would have adverse impacts on trees. Details of the impacts are included in the Landscape and Tree Assessment Officer's comments below.

Biodiversity impacts

Council's Ecological Assessment Officer has reviewed the application and is satisfied that the proposal is consistent with the biodiversity controls in the LEP and DCP. Details are included in the Ecological Assessment Officer's comments below.

Privacy and amenity impacts to adjoining properties

The proposal has not undertaken appropriate site planning and has not adequately considered the proposed ground levels, location and design of windows and the use of screening devices and landscaping to ensure an acceptable privacy impact to adjoining properties.

Inadequate tree and vegetation replenishment

The proposed landscaping fails to provide sustainable, high-quality landscaped areas with adequate amenity and does not offer sufficient screening for neighbouring properties or tree

replenishment.

Concerns in relation to sediment and erosion control and flooding

The site is not located in a flood prone area. Council's Development Engineer has reviewed the proposed stormwater design and is satisfied that the proposed development would not adversely impact on adjoining properties or the public stormwater system.

Should the application be recommended for approval conditions would be recommended in relation to sediment and erosion control.

Concerns regarding earthworks, retaining walls, soil stability, planting and associated impacts

Concerns have been raised in relation to the proposed earthworks, retaining walls and proposed planting.

Council's Development Engineer has reviewed the proposed development and has not raised concern in relation to soil stability.

Non compliance with Part 5, division 7 Non Discretionary standards SEPP Housing, FSR, transport, minimum landscape area, deep soil zone

It is agreed that the proposed development does not comply with the FSR development standard expressed by Clause 108(2)(c) and the transport requirements specified by Clause 93(2)(b)(ii). No requests to vary these development standards pursuant to Clause 4.6 'Exceptions to development standards' of the KLEP have been provided with the application.

The proposal meets the minimum landscape area and deep soil zone requirements.

Inconsistency with Part 18 'Biodiversity' of the DCP

Council's Ecological Assessment Officer has reviewed the application and is of the opinion that the proposal does not result in the removal of native endemic vegetation from lands mapped as Terrestrial biodiversity and has been sited to avoid and minimise impacts upon terrestrial biodiversity consistent with the clause under the LEP.

Consultation with neighbouring properties has not been undertaken by the applicant.

Consultation between the applicant / owner with neighbouring properties is not a requirement in accordance with the EP and A Act.

The application has been notified in accordance with Council's Community Participation Plan and the submissions have been considered.

The proposal is not compliant with the R2 zone.

Whilst seniors living is not a land use permitted in the R2 Low Density Residential zone under the KLEP, it is permitted under the provisions of SEPP (Housing) 2021.

Notwithstanding this, the proposed development is not consistent with the zone objectives as it is not compatible with the existing environmental and built character of Ku-ring-gai.

The proposal is inconsistent with the separation requirements in Part 6A.4 of the DCP.

Part 6 of the Ku-ring-gai DCP relates to town house development on land zoned R3, as such, the controls are not applicable.

The listing of the site within the biodiversity values map has been removed.

Whilst areas identified on the Biodiversity Values map were located within the subject site, a Biodiversity Map review was completed by the applicant which resulted in the Biodiversity Values mapping being removed from the subject site.

Council's Ecological Assessment Officer has stated that: *'the proposal does not trigger entry into the biodiversity offset Scheme (BOS) as the proposal will not result in the removal of native vegetation from the Biodiversity Land Values map.*

No biodiversity development assessment Report (BDAR) is deemed to be necessary in this instance'.

The proposal does not conserve the natural environment of Ku-ring-gai.

Concern has been raised in relation to tree impacts and the extent of excavation across the site as discussed within the body of the report.

Concern in relation to reduction of carbon offset and reduce climate control in the area

Concern has been raised in relation to the proposed roofs of Villas 01, 02, 03, 04, 07 and 08 as they are dark in colour which does not reduce heat absorptance and is inconsistent with the recommendations of the Seniors Housing Design Guide.

Impacts from dust and dirt during construction and mitigation measures

Conditions of consent would be recommended to minimise construction impacts if the application was recommended for approval.

Concern regarding impacts to stormwater easement and sewer lines at 89 Carrington Road

Council's Development Engineer has reviewed the application and does not raise concern in relation to the proposed stormwater design or existing easements on adjoining properties.

Sewer mains in accordance with Council's records are located along the rear boundary. Concern has been raised in relation to proposed structures on the boundary. Nevertheless, in the event of an approval standard conditions would require consultation with Sydney Water to determine requirements for adjustments to sewerage.

As there is potential for structural damage to adjoining buildings, pre and post dilapidation reports should be required.

Conditions in relation to pre and post dilapidation reports could be a requirement if the

application were to be recommended for approval.

Noise and vibration impacts

Conditions in relation to noise and vibration during construction could be imposed were the application to be recommended for approval.

Enforceability of noise and vibration requirements

Enforceable conditions could be recommended in relation to noise and vibration if the application were to be recommended for approval.

Impacts from construction lighting

Conditions could be recommended in relation to construction lighting if the application were to be recommended for approval.

Impacts from the proposed footpath to services and street trees

Concerns are raised in relation to impacts on trees/vegetation from works within the nature strip. Further information is included in the Landscape and Tree Assessment Officer's comments below.

Traffic, parking and visitor parking impacts

Council's Development Engineer has not raised concern in relation to traffic and parking. Concern has been raised in relation to the visitor parking space and the lack of landscaping within the front setback.

Road and pedestrian safety impacts

Council's Development Engineer has reviewed the application and does not consider there to be any significant adverse safety concerns for traffic or pedestrians.

Inconsistency with the existing streetscape character

While it is acknowledged that the proposed development is not envisaged under R2 zoning pursuant to KLEP, it is agreed that the proposed development has not satisfactorily considered the site and its context and is inconsistent with the predominant front setback pattern of development.

Impact on property values

Property values are not a relevant consideration under the EP and A Act.

Inadequate infrastructure and services

It is agreed that the proposed development does not comply with the requirements of Clause 93 of SEPP Housing which requires consideration of the location and access to facilities and services for independent living units.

Concern regarding waste collection and storage

Concern has been raised in relation to accessibility to and from the communal waste storage areas. It is also unclear if the bin storage areas for Villas 3 and 5, 4 and 6 and 9 and 10 are

shared. It appears that the area in front of these private bin areas would be insufficient to accommodate a wheelchair.

Impacts to swimming pool compliance

Concern has been raised regarding level changes at the boundary and the level of detail of proposed boundary fencing. Concern has also been raised in relation to works on the common boundary as owners consent has not been provided from all relevant owners in accordance with section 23(1)(a) of the EP and A Regulation.

It is agreed that owners consent is required for work on or over the common boundary.

The proposed fill may reduce the effective height of existing boundary fence adjoining No. 95 Carrington Road that functions as a swimming pool barrier in accordance with the Swimming Pools Act and Australian Standards.

Internal Referrals

Urban design

Council's Urban Design Consultant commented on the proposal as follows:

CONTEXT

The site is located on the southern side of Carrington Road, Wahroonga between Eastern Road to the east and Wahroonga Avenue to the west. The site is comprised of two lots which together have a combined area of 4,047m². The site is rectangular in shape with a northern street frontage to Carrington Road of approximately 49.7m and a depth of 81.365m measured along the eastern boundary, noting that some boundary dimensions appear to be missing. All boundary dimensions should be verified. The site has an average fall from the rear to the street of approximately 1.87m (2.2%), and an average cross fall from west to east of approximately 2.35m (4.7%).

KU-RING-GAI LOCAL ENVIRONMENTAL PLAN 2015 (KLEP2015)

The site is zoned R2 Low Density Residential under KLEP2015. The site has a mapped maximum building height of 9.5m and a maximum floor space ratio of 0.3:1. The site is mapped as having small areas of biodiversity along its front and rear boundaries. The site is not affected by mapping for heritage, riparian land or land reservation acquisition.

The site is adjoined to the east by 95 Carrington Road and 98A Junction Road, to the south by 98 Junction Road, and to the west by 89 and 89A Carrington Road, all of which are zoned similarly to the subject site. 98 Junction Road is mapped as heritage item I945 "Bayllara", dwelling house'.

SEPP (HOUSING) 2021 CHAPTER 3 (SEPPH)

Chapter 3 'Diverse Housing' Part 5 'Housing for seniors and people with a disability' is relevant to the application. SEPPH 79(c) states that 'this Part applies to land in Zone R2 Low Density Residential.' SEPPH 81(a) states that 'development for the purposes of seniors housing may be carried out with development consent on land to which this Part applies.' The site has an area of 4,047m². This meets the

minimum 1,000m² required by SEPPH 84(2)(a). The site has a frontage of approximately 49.7m measured at the building line. This meets the minimum 20m required by SEPPH 84(2)(b). The R2 Low Density Residential zone does not permit residential flat buildings (KLEP2015 2.3 and Land Use Table). SEPPH 84(2)(c)(i) requires that the development on land in a residential zone where residential flat buildings are not permitted will not result in a building height of more than 9.5m excluding the servicing equipment on the roof of the building. The proposal does not appear to exceed the maximum building height of 9.5m, noting that the eastern extent of the roof ridge of villa 07 appears to be the highest point. These aspects are considered acceptable from an urban design perspective.

SEPPH 85(1) and SEPPH Schedule 4 2(1) requires that if the whole of the site has a gradient of less than 1:10 that 100% of dwellings must have wheelchair access by a continuous accessible path of travel to an adjoining public road. Villas 03 to 10 are connected to Carrington Road by the proposed central driveway which also serves as the pedestrian path of travel. This driveway appears to fall simultaneously both along and across its length at a gradient of approximately 1:20, noting that the ground floor RL of each of the northern dwellings is set 250mm below each of the southern dwellings. The gradient of any diagonal line across this pathway may therefore be greater than 1:20 and be too steep as a ramp without handrails. SEPPH Schedule 4 parts 3(b) and 22 are also relevant. This may not meet the requirement of SEPPH 85(1) for independent living units to comply with the relevant standards specified in Schedule 4.

SEPPH 85(1) and SEPPH Schedule 4 5(1) requires that the main entrance to a dwelling have a clear opening and a circulation space that complies with AS 1428.1. Villa 04 does not provide adequate circulation space at the main entrance door. Templates for all accessibility have not been shown on the plans to demonstrate compliance and aid assessment. This does not meet the requirement of SEPPH 85(1) for independent living units to comply with the relevant standards specified in Schedule 4.

SEPPH 85(1) and SEPPH Schedule 4 6(1) and (3) require that the internal doorways to one of each primary room type have a circulation space that complies with AS 1428.1. No dwellings appear to meet this requirement as no bathroom door has adequate clearance from within the room. Templates for all accessibility should be shown on the plans to demonstrate compliance and aid assessment. This does not meet the requirement of SEPPH 85(1) for independent living units to comply with the relevant standards specified in Schedule 4.

SEPPH 85(1) and SEPPH Schedule 4 6(2) requires that an internal corridor must have an unobstructed width of 1,000mm. Villas 07 and 08 have first floor corridors less than 1,000mm in width. Templates for all accessibility should be shown on the plans to demonstrate compliance and aid assessment. This does not meet the requirement of SEPPH 85(1) for independent living units to comply with the relevant standards specified in Schedule 4.

SEPPH 85(1) and SEPPH Schedule 4 13(2)(a) requires that a private passenger lift must be at least 1,100mm wide and 1,400mm long measured from the lift car floor. All proposed private passenger lift shafts (villa 01, 02, 07 and 08) appear to be 1,450mm long which may not allow for the required 1,400mm length clear within the

lift car. This may not meet the requirement of SEPPH 85(1) for independent living units to comply with the relevant standards specified in Schedule 4.

SEPPH 85(1) and SEPP Schedule 4 18(4)(a) and (c) requires that a work surface that is at least 800mm long, clear of obstructions and not in the corner of the room, be located next to the cooktop. Villas 07 and 08 do not provide this arrangement. This does not meet the requirement of SEPPH 85(1) for independent living units to comply with the relevant standards specified in Schedule 4.

SEPPH 85(1) and SEPP Schedule 4 18(4)(e) requires that each kitchen must have an oven that has operative elements between 450mm and 1,250mm above the finished floor level and is next to a work surface. No proposed kitchens appear to have an oven to meet this requirement. This does not meet the requirement of SEPPH 85(1) for independent living units to comply with the relevant standards specified in Schedule 4.

SEPPH 85(1) and SEPP Schedule 4 20(a) requires that each independent living unit have a floor-to-ceiling linen storage cupboard that is at least 600mm wide. Villas 03, 04, 05, 06, 09 and 10 do not appear to have a linen cupboard. This does not meet the requirement of SEPPH 85(1) for independent living units to comply with the relevant standards specified in Schedule 4.

SEPPH 97(2) requires that development consent must not be granted unless the consent authority is satisfied the design of the seniors housing demonstrates that adequate consideration has been given to the design principles for seniors housing set out in Schedule 8. The proposal is not considered to recognise the desirable elements of the location's current character (see SHDG below regarding street setback). This does not meet the requirements of SEPPH Schedule 8 1(b)(i). The proposal is not considered to set back the front building on the site generally in line with the existing building line (see SHDG below regarding street setback). This does not meet the requirements of SEPPH Schedule 8 1(e). The proposal does not consider the visual and acoustic privacy of all residents of the seniors housing by using appropriate site planning including considering the location and design of windows, the use of screening devices and landscaping, and ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways (see SHDG below regarding bedrooms to driveway). This does not meet the requirements of SEPPH Schedule 8 2(a) and (b).

The proposed gross floor area is stated as being 1,926.3m². This is equivalent to a floor space ratio of 0.476:1. This meets the non-discretionary development standard of HSEPP 108(2)(c) for a density of 0.5:1 or less, that if complied with, prevent the consent authority from requiring more onerous standards. However, the method of calculation appears incorrect. Areas to check include: internalised car spaces at ground level in excess of one per dwelling, and private stairs at the ground floor (list may not be exhaustive). An independent calculation as per the definition of gross floor area provided at SEPPH 82(1)(a) and (b) (as required by SEPPH 82(2)) indicates that the proposed gross floor area is approximately 2,146m². This is equivalent to a floor space ratio of 0.530:1, or an exceedance of 122.5m² (3.0%). This does not meet the maximum floor space ratio of 0.3:1 under KLEP2015 or the non-discretionary standard of 0.5:1.

The proposed solar access is stated as being 10 of 10 (100%). This meets the non-discretionary development standard of HSEPP 108(2)(g) for a minimum of 70%, that

if complied with, prevent the consent authority from requiring more onerous standards. However, an independent assessment in plan using the surveyed true north point and comparison with the solar access diagrams indicates that the solar access modelling may be incorrect by a number of degrees.

SENIORS HOUSING DESIGN GUIDE NOVEMBER 2023 (SHDG)

SEPPH 97(1) requires that the consent authority must consider the Seniors Housing Design Guide in determining a development application. SHDG states that the purpose of these guidelines 'is to expand on the intent outlined in State Environmental Planning Policy (Housing) 2021 in the provision and delivery of this sector specific housing typology'. To do this, the SHDG describes 'objectives' which are outcomes to be achieved by seniors housing development, provides 'design guidance' on how the objective can be achieved through particular design approaches, and illustrates 'design criteria' of measurable ways to achieve the objectives for seniors housing development. The SHDG states that the 'information provided in Parts 2 and 3 set the framework for how a new development needs to demonstrate that it meets the objectives.'

The proposed facades (particularly of villas 02, 05, 06, 09 and 10) include a high proportion of walls noted as being 'render paint finish' [DA06C]. This is not considered to meet SHDG Design Guidance 2.3.5 to 'use pre-finished and low maintenance robust materials.'

The proposed street setback is approximately 9.5m to 10.8m. The street setback of the neighbouring property to the east at 95 Carrington Road is approximately 16.75m and the street setback of the neighbouring property to the west at 89 Carrington Road is approximately 14.75m. This is not considered to meet SHDG Design Guidance 4.2.5 to 'reference front setbacks of neighbouring development and acknowledge the established street pattern.' This aspect requires further design consideration. It is noted that KDCP 4A.2 3 requires a minimum of 12m setback from the street, and an average of 14m setback from the street, for two storey dwelling houses on the high side of the street. This control could be expected to set the desired future character for typical future neighbouring dwelling house development in the R2 zone. It is suggested that the front setback be increased.

The proposal does not appear to provide designed opportunities for incidental social encounters of communal spaces suitable for gathering. This is not considered to meet SHDG Design Guidance 6.3.5 that 'circulation paths...are also places for social interaction and should include places to sit and gather in small groups,' or SHDG Design Guidance 6.5.5 to 'provide frequent rest points... on outside walking paths,' or SHDG Objective 13.2 to 'create environments where owner/occupants of the units can get together for activities, socialising, events and celebrations.' It is suggested that the access footpath be defined more strongly as a separate element from the driveway, that the common landscaped space at the south end of the driveway be given more design attention and potentially expanded, and that more opportunities for sitting in communal areas be provided generally throughout.

The proposal includes bedrooms facing directly on to the driveway and common area (villas 03, 04, 05, 06, 09 and 10) with minimal setback and low hedge planting . This is not considered to meet SHDG Design Guidance 14.2.2 to 'provide generous landscape buffers for screening...'

The proposed roofs of villas 01, 02, 03, 04, 07 and 08 are dark in colour [DA06C and DA10C]. This is not considered to meet SHDG Design Guidance 14.3.3 to '...avoid using dark roof colours to reduce heat absorbance'.

DESIGN ISSUES

It is noted that the proposed site layout of a central driveway with dwellings to either side requires that significant cut and fill be undertaken to either side to manage the cross fall west to east so that dwellings can be accessed from the mid-level point. This results in a moderately sunken ground floor level to the west of the site (up to approximately 650mm) and a significantly raised ground floor level to the east of the site (approximately up to 1,900mm). This raised ground level permits overlooking of the neighbouring site in close proximity to the fence. Further, it is noted that the proposed ground floor private open spaces of the dwellings extend from the dwellings to the boundary in private ownership. This means that any planting within this area is not in common ownership and cannot necessarily be managed to achieve a suitable landscape screening outcome to the perimeter of the site.

Heritage

Council's Heritage Advisor commented on the proposal as follows:

Ku-ring-gai Local Environmental Plan (KLEP) 2015

Clause 5.10 (4) of the KLEP 2015 requires that before granting consent to the proposed works Council must consider the effect of the works on the heritage values of a place listed in the Heritage Schedule of KLEP 2015

Clause 5.10 of the KLEP 2015 requires that before granting consent to the proposed works Council must consider the effect of the works on the heritage item, nearby items or conservation area concerned. Clause 5.10 (5) allows Council to require a Heritage Impact Statement before granting consent.

Heritage Status

<i>Local Heritage Item</i>	<i>No</i>
<i>Heritage Conservation Area</i>	<i>No</i>
<i>Immediate vicinity of a heritage item</i>	<i>Yes 98 Junction Road, Wahroonga</i>
<i>Immediate vicinity of a HCA</i>	<i>No</i>

Statement of Significance

The site is adjacent to a heritage item "Bayllara", dwelling house listed in Ku-Ring-Gai LEP as individual item 1945.

Bayllara, located at 98 Junction Road Wahroonga, is listed for cultural and architectural reasons.

Councils database includes the following.

Description

Building: This property contains an Inter-war Spanish Mission style residence constructed in 1937. The dwelling is rendered in an intentionally uneven finish and features intersecting hipped roofes clad in multi-coloured Mediterranean-style round tiles. The dwelling is asymmetrical in its presentation to Junction Road, with this façade appearing to feature the main lower floor-entry, above which sits a Juliet wrought-iron balcony and base with moulded render detailing. A round covered window awning provides shelter. Other wrought iron detailing is seen on the prominence of grilles on the front façade, appearing to be present on all lower-floor windows of the house on the central and western wings, and to the set of 3 rectangular windows to the central wing of the house. A long, multi-level round-headed window appears to provide light to a central staircase. The eastern wing of the house features a series of four timber casement doors with rounded window awnings.

Setting: residential dwelling on landscaped grounds of 4047.00sqm.

Fence: appears to be a low metal gate behind vegetation which screens the property. Metal palisade type gate and rendered piers to stone driveway.
Other important features (e.g. outbuildings, garden elements): a historic outbuildings was evident in the 1943 aerial in the north-eastern corner and appears to possibly be incorporated into the more substantial corner outbuilding located in the current aerial. The nature of this building is unknown. The grounds retain the layout of the early driveway and turning circle. A new pool is located to the western boundary.

Controls

The following objectives and controls of the Ku-ring-gai Development Control Plan 2024 (KDCP) apply:

Development Control	Complies
19F. DEVELOPMENT IN THE VICINITY OF HERITAGE ITEMS OR HERITAGE CONSERVATION AREAS (HCAS)	
19F.1 Local Character and Streetscape	
General	
1. All development in the vicinity of a Heritage Item or HCA is to include a Heritage Impact Statement (HIS). The HIS is to address the effect of the proposed development on a Heritage Item or HCA and demonstrate that the proposed works will not adversely impact upon significance, including any related heritage features within the identified curtilage and setting.	
Built Form	
2. Development on sites that either directly adjoin or are in the vicinity of a Heritage Item or an HCA is to have regard to:	
i) the form of the existing building or buildings including height, roofline, setbacks and building alignment;	YES
ii) dominant architectural language such as horizontal lines and vertical segmentation;	YES
iii) proportions including door and window openings, bays, floor-to-ceiling heights and coursing levels;	YES
iv) materials and colours;	YES
v) siting and orientation;	YES
vi) setting and context;	NO
Views	
4. New development in the vicinity of a Heritage Item or HCA is to demonstrate that it will not reduce or impair important views to and from the Heritage Item from the public domain.	NO

19F.1 Local Character and Streetscape*Objectives*

1. To consider the impact on the historic curtilage and setting of the Heritage Item or HCA and related heritage features such as views, streetscape context, historical subdivisions, garden settings, alienated trees and other landscape features.
2. To retain the significance of Heritage Items or HCAs in their settings.
3. To ensure that the scale of new development does not dominate, detract from or compete with Heritage Items or HCAs in the vicinity.
4. To ensure that new development respects and conserves the significance of any nearby Heritage Items or HCA and their settings.
5. To ensure that new development does not visually dominate the adjoining or nearby Heritage Item or HCA.
6. To ensure that the scale of new development in the vicinity of a heritage item and HCA is in harmony with the streetscape and does not dominate, detract from or compete with the Heritage Item or HCA.
7. To protect significant views and vistas to and from the Heritage Item or HCA.

For the following reasons the objectives are not achieved:

**19F.1.2(iv), 19F.1.4
Setting and context
Views**

- The proposed development will be partially visible from the rear of the heritage item through deciduous trees on the site and will alter its view and setting, particularly through the winter months.
- The view from the rear of the main house and garden of the heritage item will be altered from a single residence and garden to two residences with much less vegetation. There will also be a large loss of trees throughout the whole SEPP Seniors development that will impact on the setting of the Heritage Item.
- The outbuilding located at the north-east corner of the heritage item has significance as an early 1960s preschool built to compliment the main building on the site. The potential loss of trees along the rear boundary close to the outbuilding will have an adverse impact on it.

Development Control	Complies
19F.2 Building Setbacks	
Residential Context	
2. All medium and high-density development is to have a stepped facade to any common boundary with a Heritage Item or building within the HCA. The facade is to be stepped back above an 8m height from natural ground level as per Figure 19E.2-1 in the KDCP. Facades greater than 8m high will not be permitted adjacent to a Heritage Item or building with an HCA.	YES

Development Control	Complies						
19F.2 Building Setbacks							
3. In addition to the side and rear setback controls in Section A of the KDCP, new development adjacent to a Heritage Item or building within an HCA, is to comply with the following: i) adjacent developments are to have a minimum 12m building separation to the Heritage Item or building in the HCA (more if setback requirements are not met within the 12m) as per Figure 19D.3-1 in the KDCP; ii) adjacent development is to not exceed a facade height of 8m from existing ground level, including balustrades; iii) adjacent development with a building mass above 8m high from existing ground level is to be stepped back an additional 6m from the Heritage Item as per Figure 19D.3-1 in the KDCP; Where variations in setbacks exist, the larger setback will apply.	YES						
4. Any new development is to provide the following building separation to the building eaves or wall, whichever is closest, of: i) a neighbouring Heritage Item building; or ii) a neighbouring building within a Heritage Conservation Area	YES						
<table border="1"> <thead> <tr> <th>New Development Height</th><th>New Development Height</th></tr> </thead> <tbody> <tr> <td>1 or 2 levels</td><td>Minimum 6m</td></tr> <tr> <td>3 or more levels</td><td>Minimum 12m</td></tr> </tbody> </table> <p>Refer to Figure 19F.2-1 in the KDCP.</p>	New Development Height	New Development Height	1 or 2 levels	Minimum 6m	3 or more levels	Minimum 12m	
New Development Height	New Development Height						
1 or 2 levels	Minimum 6m						
3 or more levels	Minimum 12m						

Development Control	Complies
19F.3 Gardens and Landscaping	
Gardens, Setting and Curtilage	
1. Development in the vicinity of a Heritage Item or an HCA is to: i) retain original or significant landscape features associated with the Heritage Item or HCA, or which contribute to its setting. In particular, garden settings in the vicinity are not to be adversely affected in terms of overshadowing or physical impacts on significant trees;	NO
ii) retain the established landscape character of the Heritage Item or HCA including height of the tree canopy and density of boundary landscape plantings or otherwise reinstated them in the new development;	NO
iii) include appropriate screen planting on side and rear boundaries.	NO

19F.3 Gardens and Landscaping

Objective

- To ensure that new development does not impact on the landscape character and garden setting of any nearby Heritage Item or HCA.

Council's Landscape and Tree Assessment Officer has raised concern in relation to impacts on vegetation, the landscape character and setting of the adjoining heritage item. For the following reasons the objectives are not achieved:

19F.1(i), (ii)

- The Heritage Item is adjacent to the southern (rear) boundary of the site.
- Trees T114, T117, T119, T120 & T121 are located along the southern boundary of the subject site. These trees are proposed for retention

- however the proposed works will have unacceptable impacts on the trees.
- The potential loss of the subject tree canopy may have adverse impacts on the adjoining Heritage Item.

19F.1(iii)

- The proposed transplanting of 3 x Camellia's in the south-west corner as screen planting is not considered viable.
- T116, T118 & T123 located on the southern boundary are recommended for removal as they are either weed species or in poor health. Replacement tree and shrub planting will be required.

Conclusion and recommendation

The proposed development will have an adverse impact on the heritage item in the vicinity and is not acceptable from a heritage perspective.

Landscaping

Council's Landscape and Tree Assessment Officer commented on the proposal as follows:

SEPP (Sustainable Buildings) 2022		
Chapter 2	Proposed	Complies
To encourage sustainable residential development	<p>Certificate 1778029M dated 17/12/24 is submitted with the application.</p> <p>The BASIX Certificate is not consistent with the landscape plan:</p> <ul style="list-style-type: none"> • The common areas of lawn and garden on page 2 are not consistent with the landscape plan. • The private areas of garden and lawn indicated on page 3 are not consistent with the architectural plan DA08. • A BASIX landscape compliance plan is to be submitted. • Note: The private open space areas limits the ability to provide DSZ in common areas. 	NO

SEPP (Housing) 2021 Part 5 – Housing for seniors and people with a disability		
Division 6 Design principles	Proposed	Complies
<p>Clause 99: Neighbourhood amenity and streetscape</p> <p>(f) include plants reasonably similar to other plants in the</p>	The proposal satisfies the planting design requirements of the SEPP.	YES

street		
(g) retain, wherever reasonable, significant trees	<p>The proposal is not acceptable:</p> <ul style="list-style-type: none"> Refer to detailed comments below at Part 13 of the DCP 	NO
<p>Clause 100 (a) Housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and residents by –</p> <p>(a) using appropriate landscaping</p>	<p>Appropriate landscaping has not been provided for neighbouring visual and acoustic privacy.</p> <ul style="list-style-type: none"> The proposed transplanting of 15 x Camellia's as screen planting is not considered viable. Unless the transplanting is carried out and maintained by specialists, they are unlikely to survive. The transplanted Camellia's are to be replaced with super advanced screen planting. Inappropriate placement of tall to medium trees beneath the canopies of existing trees to be retained (T22, T114) 	NO
Division 7 Non-discretionary development standards	Proposed	Complies
<p>Clause 108</p> <p>(e) at least 30% of the site is to be landscaped</p> <p>Landscape area is defined as the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool, or open air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.</p>	<p>The proposal is not acceptable:</p> <ul style="list-style-type: none"> Architectural Plan DA08 notates that the landscaped area is 1,208.4 m² or 29.85% which does not meet the minimum standard of 30%. The information provided on Plan DA08 is not consistent and is unclear in that the total landscape area of 1208.4 m² indicated under the development controls list is not consistent with the landscaped area calculations detailed on the site plan. 	NO
(f) a deep soil zone on at least 15% of the site	The proposal is not acceptable:	NO

<p>area, where each deep soil zone has a minimum dimension of 3.0m and, if practicable 65% of the deep soil zone is located at the rear of the site</p> <p>Deep soil zone is defined as a landscaped area with no buildings or structures above or below the ground</p>	<ul style="list-style-type: none"> Architectural Plan DA08 notes that the DSZ is 687.80 m² or 17% which numerically meets the minimum standard however, the proposed DSZ calculation indicated under the development controls list is not consistent with the DSZ calculations indicated on the site plan. Architectural Plan DA08 notes that the DSZ is 687.80 m² or 17% which numerically meets the minimum standard however the information provided on the plan is not consistent and is unclear in that the DSZ calculation under the development controls list is not consistent with the DSZ calculations indicated on the site plan. 	
Seniors Housing Design Guideline		
3.1 Environmental conditions		
<p>3.1.3 To manage and preserve existing natural features such as trees, overland flow paths, riparian corridors, and sensitive environments.</p> <p>3.1.6 Engage expert consultants for specific advice (bushfire, flooding, riparian, arborist, heritage and traditional knowledge holders etc), reports and actions affecting and informing the initial design as part of the primary site analysis</p>	<p>Concern is raised in relation to tree impacts as discussed in reason for refusal 6 and in Part 13 below.</p>	NO
<p>3.1.9 Provide opportunity for regeneration of natural environments by allowing suitably</p>	<p>The proposal does not satisfy this part as the retaining walls and associated cut and fill (will negatively impact on the amenity of the adjoining properties, particularly within the eastern side setback, where terraced retaining walls create narrow landscape areas that cannot support</p>	NO

sized setbacks to accommodate restorative planting to a scale that reflects the original treescape	planting at a scale reflective of the original treescape	
4.3 Setbacks		
4.3.4 Provide setbacks to respect neighbours privacy, overshadowing and existing amenity.	The retaining walls, combined with a 1.8-metre fence along the eastern boundary, will result in a total height of 2.1 to 2.8 metres above existing grades, negatively affecting the amenity of adjoining properties and does not provide setbacks to respect neighbours privacy and amenity.	NO

Part 13 Tree and Vegetation Preservation		
Objectives	Proposed	Complies
<p>To manage Ku-ring-gai's tree and vegetation resources in a sustainable manner.</p> <p>To prohibit unnecessary injury to, or destruction of, trees and vegetation.</p> <p>To secure and maintain local character and amenity.</p> <p>To sustain and enhance the tree canopy.</p>	<p>Tree removal</p> <p>The proposal indicates the removal of 96 trees.</p> <p>The proposed removal of the following trees is acceptable:</p> <ul style="list-style-type: none"> 86 trees have low to moderate landscape value (T9, T10, T12, T16, T18, T20, T21, T23, T26-35, T38, T39, T41, T43, T47-52, T54-80, T82, T84-100, T102-115) 9 trees have moderate to high landscape value (T36, T37, T40, T42, T44, T45, T46, T53, T83). The trees (excluding T81) form part of a mature stand of Cypress trees along the western boundary. The enforced retention of the trees is not viable as they would unreasonably constrain the site. Heavy pruning of conifers is also not recommended as it will leave large bare sections of the canopy. 1 tree has high landscape value (T101). Due to its central location within the site and the setbacks required to preserve the tree enforced retention of the tree would unreasonably constrain the site. <p>Additional trees recommended for removal</p> <ul style="list-style-type: none"> Trees T33, T50, T78, T89, T108, T109, T116, T118, T123 are proposed for retention however should be removed due 	<p>YES</p> <p>NO</p>

	<p>to poor health, structure or are nominated weed species.</p> <p>Tree impacts</p> <p>The following trees are impacted by the proposal:</p> <p><u>T3 & T4 – 2 x Acer palmatum Japanese Maple)</u></p> <ul style="list-style-type: none"> Unclear whether pruning works are required to allow vehicle access via the proposed driveway. <p>NO</p> <p><u>T22 – Cedrus deodara (Himalayan Cedar)</u></p> <ul style="list-style-type: none"> The proposed dwelling, patio, fill and retaining walls encroach within 19% of the TPZ which is a major encroachment under AS4970-2009. There is additional encroachment from the proposed masonry fence along the eastern boundary. Amendments will be required to reduce the TPZ encroachment to 15%. The arborist has not confirmed whether pruning works are required to construct the dwelling. <p>NO</p> <p><u>T114 – Lophostemon confertus (Brushbox)</u></p> <ul style="list-style-type: none"> The proposed dwellings and associated cut will encroach within 29% of the TPZ and within the SRZ which is a major encroachment under AS4970-2009. Amendments will be required to reduce the TPZ encroachment to 15%. <p>NO</p> <p><u>T120 – Liquidambar styraciflua (Liquidambar)</u></p> <ul style="list-style-type: none"> The proposed dwelling will encroach within 19% of the TPZ which is a major encroachment under AS4970-2009. Liquidambars are very tolerant of root disturbance therefore the impacts will be acceptable however due to potential canopy overhang Villa 9 should be relocated. <p>NO</p> <p><u>T121 - Lophostemon confertus (Brushbox)</u></p> <ul style="list-style-type: none"> The proposed dwelling, patio, fill and retaining walls will encroach within 18% of <p>NO</p>	
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	<p><i>the TPZ and within the SRZ which is a major encroachment under AS4970-2009.</i></p> <p><u><i>Trees impacted by cut and fill and associated retaining walls</i></u></p> <ul style="list-style-type: none"> <i>The proposed retention of the existing mature trees including T30, T35, T38, T39, T41, T43, T49, T54, T58, T54, T65, T80, T87, T106, T114, T117, T119, T120, T123 located within the side and rear setbacks is not possible due to the proposed cut and fill and construction of retaining walls with a nil setback to the eastern, western and southern boundaries.</i> <p><u><i>Trees impacted by the proposed front masonry fence</i></u></p> <ul style="list-style-type: none"> <i>The proposed masonry front fence will encroach within the TPZ and SRZ of T1, T5, T8, T14, T17, T22 resulting in a major encroachment under AS4970-2009.</i> 	<p>NO</p> <p>NO</p>
Part 19 Heritage Items and Heritage Conservation Areas		
<p>19F.3 Gardens and Landscaping – in the vicinity of Heritage Items/HCAAs</p> <p>C1. Development in the vicinity of a Heritage Item or an HCA is to:</p> <p>i) retain original or significant landscape features associated with the Heritage Item or HCA, or which contribute to its setting. In particular, garden settings in the</p>	<p><i>The landscape plan is acceptable.</i></p> <p><i>The proposal is not acceptable:</i></p>	<p>YES</p> <p>NO</p>

<p>vicinity are not to be adversely affected in terms of overshadowing or physical impacts on significant trees;</p> <p>ii) retain the established landscape character of the Heritage Item or HCA including height of the tree canopy and density of boundary landscape plantings or otherwise reinstated them in the new development;</p> <p>iii) include appropriate screen planting on side and rear boundaries.</p>	<ul style="list-style-type: none"> The Heritage Item is adjacent to the southern (rear) boundary of the site. Trees T114, T117, T119, T120 & T121 are located along the southern boundary of the subject site. These trees are proposed for retention however the proposed works will have unacceptable impacts on the trees. The potential loss of the subject tree canopy may have adverse impacts on the adjoining Heritage Item. <p>The proposal is not acceptable:</p> <ul style="list-style-type: none"> The proposed transplanting of 3 x Camellia's in the south west corner as screen planting is not considered viable. T116, T118 & T123 located on the southern boundary are recommended for removal as they are either weed species or in poor health. Replacement tree and shrub planting have not been provided. 	NO
Part 21 General Site Design		
<p>21.1 Earthworks and Slope</p> <p>C3. Landscape cut or fill should not be more than 600mm above or below natural ground line.</p>	<p>The proposal is not acceptable:</p> <ul style="list-style-type: none"> The proposed landscape fill within the eastern side setback ranges from 600mm to 1m which does not satisfy C5. See comments below at C5 and C8 	NO
<p>C4. A minimum 0.6m width is required</p>	<p>The proposal is not acceptable:</p> <ul style="list-style-type: none"> The terraced retaining walls within the eastern side setback are a minimum of 	NO

between retaining walls.	600mm apart, however it does not satisfy C5. See comments below at C5 and C8.	
C5. Existing ground level is to be maintained for a distance of 2m from any boundary.	<p>The proposal is not acceptable:</p> <ul style="list-style-type: none"> Existing ground level has not been maintained for 2m from the eastern, western and southern boundaries. The proposed fill and retaining walls will have an adverse amenity impact on adjoining land. 	NO
C8. Retaining walls, excavated and filled areas are to be located and constructed to have no adverse impact on iii) trees and vegetation to be retained on site or on adjoining sites	<p>The proposal is not acceptable:</p> <ul style="list-style-type: none"> The proposed retaining walls and associated cut and fill along the eastern, western and southern boundaries will either require removal of or have unacceptable impacts on 19 trees including T30, T35, T38, T39, T41, T43, T49, T54, T58, T54, T65, T80, T87, T106, T114, T117, T119, T120, T123. 	NO
<p>21.2 Landscape Design</p> <p>To ensure the landscape design and species selection is suitable to the site its context and considers the amenity of residents and neighbours.</p>	<p>The landscape plan is not acceptable:</p> <ul style="list-style-type: none"> The landscaped area does not satisfy Cl 108(e) of Division 7 of the SEPP (Housing) 2021 in that the landscaped area is <30% of the site. The proposed transplanting of 15 x Camellia's as screen planting is not considered viable. Unless the transplanting is carried out and maintained by specialists, they are unlikely to survive. Inappropriate placement of tall to medium trees beneath the canopies of existing trees to be retained (T22, T114). The proposed front fence adversely impacts on an existing hedge row of Camellia's along the front boundary retained excluding the areas allocated for access. Trees T24, T33, T50, T78, T89, T108, T109, T116, T118, T123 are proposed for retention however should be removed due to poor health, structural instability or are weed species. The proposed retaining walls and associated cut and fill along the eastern, western and southern boundaries will either 	NO

	require removal of or have unacceptable impacts on 19 trees including T30, T35, T38, T39, T41, T43, T49, T54, T58, T54, T65, T80, T87, T106, T114, T117, T119, T120, T123.	
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Engineering

Council's Development Engineer commented on the proposal as follows:

KDCP COMPLIANCE TABLE		
Control	Proposed	Complies
Part 24A. Site Design for Water Management		
24A.1 Development Type 1, 2, 3, 4, 5, 6, 7, 8	Type 6 – Business, Commercial, Retail	YES
24A.2 Location A, B, C, D	Location 'A'. Site has moderate fall to street frontage (approx. 3.35m). Not within a flood-prone area and is not burdened by any easements or restrictions.	YES
Part 24B. Stormwater Disposal from Location A Properties		
24B.2 Discharge to kerb and Gutter/Table Drain	24B.2 Discharge to kerb and Gutter/Table Drain Council's Landscape officer has raised concern in relation to construction of the discharge pipe installation on the structural root zones of street trees.	NO
Part 24C On-site Stormwater Management		
Part 24C.4 Mandatory Rainwater Tank Requirements Type 6 Business, Commercial, Retail The minimum tank storage volume is that required to meet the 50% reduction in runoff days specified in control 24B.3-4, or compliance with BASIX or the Green Star	A BASIX Certificate has been submitted, with the water commitments requiring a rainwater tank of 15,000L to collect runoff from at least 500sqm of roof area for irrigation purposes. Part 24C.3-4 of the Ku-ring-gai DCP requires that the rainwater retention and re-use be provided to achieve a 50% reduction in runoff days. The stormwater plan shows a 40,000L rainwater tank storage volume with re-use to be provided for irrigation purposes only. The water balance model proposes to reduce the site runoff days by 50.5% which would satisfy Council's streamflow objectives under Part 24C.3 of the Ku-ring-gai DCP.	YES

Rating, whichever is the greater.		
Part 24C. 5 Controls for On-site Detention		
Development Types 3, 4, 5 and 6	The proposal seeks to provide a 57m ³ OSD tank prior to discharging into the kerb and gutter. The sizing of the detention system complies with Part 24C.5.	YES
OSD provided in accordance with OSD calculation sheet.	The location of the access pits to the detention and retention system can be readily accessible external to the building and within the common driveway area, which is acceptable.	YES
Deduct from the minimum storage volume up to an absolute maximum of 10% of SSR provided the tank, is at least, plumbed to toilet and garden irrigation.		
Part 24C.6 Stormwater Quality Control		
Development Types 3, 4, 5 and 6	MUSIC Modelling show the pollutant load standards set out in Part 24C.6 of the Ku-ring-gai DCP have been satisfied with 40,000L rainwater tank, 8 Ocean Protect Stormfilters within the OSD tank, 2 Oceanguards within the stormwater inlet pits prior to discharge to Council's stormwater system.	YES
The captured stormwater must be treated to the standards set out in Table 24C.6-1		
Provision of Carparking SEPP Housing 2021		
Division 7 – Non-discretionary Development Standards Section 108 - Non-discretionary development standards for independent living units	The proposed development comprises of 8 x 3 bedroom and 2 x 4 bedroom independent living units with 32 bedrooms. - at least 0.5 parking spaces for each bedroom (32 bedrooms x 0.5) = 16 spaces.	YES

Subsection (2)(k)	<i>The site is located outside the 800m from a railway station.</i>	YES
KDCP Part 22R.1	<i>Visitor Parking – $8 / 5 = (1.6)$ 2 Visitor Parking Spaces required</i>	
	<i>The proposed development provides 20 resident car spaces within 10 double garages, 2 visitors parking in which one is an accessible space shared with service vehicle. The parking provisions have been met.</i>	YES
	<i>The development provides compliant parking spaces, with each dwelling featuring a double garage of at least 6.3m in width, allowing for a 3.8m wide accessible space and a standard 2.5m wide space. The sections confirm that the required 2.5m height is achievable, with a floor-to-floor height of 3.1m.</i>	YES
SEPP 2021 - Schedule 4 requires the following: 1) If parking spaces attached to or integrated with a class 1 building under the Building Code of Australia are provided for use by occupants who are seniors or people with disability, at least 1 parking space must— a. be at least 3.2m wide, and b. be at least 2.5m high, and c. have a level surface with a maximum gradient of 1:40 in any direction, and d. be capable of being widened to 3.8m without requiring structural modifications to a building. 2) At least 5% of any visitor	<i>The access consultant relies on AS2890.6:2009 with regards to having a minimum width of 2.4m plus 2.4m shared area for the accessible visitor car parking requirements, which is shared as service vehicle, which is permitted.</i>	YES

<i>parking spaces must comply with AS 2890.6.</i>		
Part 22 General Access and Parking		
Part 22.2 General Vehicle Access		
<i>22.2 General Vehicle Access</i>	<i>Vehicular access to the site is to be provided via a new 4.0m wide two-way single lane access driveway off Carrington Road.</i>	YES
<i>Driveways within the property are to be designed in accordance with AS 2890.1 (2004) Off Street Car Parking</i>	<i>No driveway longitudinal section has been submitted however the architectural plans depicts a driveway gradient of 5% for the first 6m within the site boundary and relatively flat within the property, servicing each individual garage.</i>	YES
	<i>The minimum sight lines at the property boundary for pedestrian safety as per Figure 3.3 of AS2890.1:2004 has been demonstrated as well as satisfying the minimum driveway gradient of 5% for the first 6m within the property boundary.</i>	YES
	<i>Swept turning path diagrams within the traffic report have been submitted to confirm that a B85 will be able to manoeuvre safely in the individual garages and service bays, such that vehicles will be able to enter and exit the site in a forward direction at all times.</i>	YES
	<i>The driveway as well as the dimensions of the parking bay are compliant with Australian Standard 2890.1 (2004) "Off-Street car parking", which is acceptable.</i>	YES
<i>Traffic Generation in accordance with TfNSW Guide to Transport Impact Assessments</i>	<i>According to the Guide to Transport Impact Assessment 2024 (TS 00085 Version 1.1), the proposed seniors living development is expected to generate a maximum of 3 vehicle trips per hour (vtp), based on a rate of 0.3 vtp per dwelling. This equates to approximately one vehicle trip every 20 minutes, which is considered a minor increase and is unlikely to significantly impact existing traffic conditions or the operations of the surrounding road network.</i>	YES
Construction Traffic Management		
<i>Construction Traffic Management</i>	<i>An indicative construction traffic management plan (CTMP) has been submitted.</i>	YES
	<i>Site access to the construction site is via the existing driveways and proposed driveway (when completed) on Carrington Road.</i>	

	<p>Accesses to/from the site will be via Carrington Road. Due to site constraints, HRV will reverse in and forward out from the site, while all construction vehicles will manoeuvre in a forward direction both in and out from the site. All vehicles entering and exiting the site will be under the management of the trained on-site personnel and traffic controllers.</p> <p>It is anticipated that the demolition work will involve vehicles up to 18.1m truck and dog trailers, while up to 12.5m heavy rigid vehicles (HRV) will be used during the excavation and construction works.</p> <p>If the application was recommended for approval a condition, requiring a detailed CTMP, would be included. The CTMP would be required to be submitted prior to the issue of the construction certificate showing the construction vehicle routes for the southbound and northbound directions, largest vehicle to be used entering and exiting the site for the demolition, excavation and construction stages, and stockpiles. The requirements for a work zone during the construction stage to minimise tree impacts would be considered by Council's Landscape & Tree Assessment Officer.</p>	
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Impacts on Council Infrastructure

<p>Clause 93 of the SEPP stipulates that: "a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and the overall average gradient must be not more</p>	<p>A footpath survey plan detailing the path of travel to the nearest bus stops on Carrington Road has been submitted. The site is located approximately 250 metres to the bus stop to Wahroonga Avenue. The 576 Bus Service operates along Carrington Road, providing a loop service between Wahroonga and North Wahroonga, with stops at Wahroonga Train Station.</p> <p>The submitted footpath survey and civil plans fails to meet the SEPP requirements for pedestrian access. The site is approximately 250 meters from the bus stop on Wahroonga Avenue, which is served only by the 576 Bus Service during weekdays, whilst Clause 93(2)(b)(ii) of the SEPP requires the service to operate 7 days a week. Additionally, the civil plan lacks key public domain details such as street trees, landscape features, services, and an arborist report to support the proposed works. Council's Design Engineer has raised concerns, noting that the current plans do</p>	NO
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<p>than 1:14 and the gradients along the pathway must be not more than—</p> <p>i. 1:12 for a maximum length of 15m at a time, or</p> <p>ii. 1:10 for a maximum length of 5m at a time, or</p> <p>iii. 1:8 for a maximum length of 1.5m at a time”.</p> <p>General Requirements for s138 and s139 of the Roads Act</p>	<p>not show bus stops in accordance with Council's specifications and may require upgrades.</p> <p>The access consultant has confirmed that the average gradient of the path of travel is no greater than 1:14, in compliance with Clause 26(1) and (2) of the Seniors Living SEPP. Whilst the gradients may be acceptable, it should be noted that Clause 26 is no longer applicable and the SEPP should be referring to Clause 93.</p> <p>A Footpath Access Plan, prepared by Hydracor Consultants, has been submitted. The proposal includes the construction of a 1.2m wide concrete footpath along the site frontage of Carrington Road, with new kerb ramps leading to the bus stops at Wahroonga Avenue. The design includes a longitudinal section of the path that demonstrates an average gradient of no greater than 1:14, ensuring compliance with Clause 93 of the SEPP.</p> <p>It is expected to construct a new footpath with crossfall of not more than 2.5% in Carrington Road to the bus stop in Wahroonga Avenue. Driveway long sections of each driveway affected that the new footpath traverses have been submitted and checked to demonstrate that the proposed footpath of 2.5% along the path of travel does not require any works inside another private property given that the existing levels at the property boundaries are retained. In this instance owners' consent is not required.</p> <p>If the application were to be approved, the applicant would need to construct a new concrete footpath along the site frontage as well as a new kerb ramp and bus stops. Detailed design drawings for these works will be assessed by Council's Operations Department for approval under the Roads Act. No final certificate would be issued until the works are completed to the satisfaction of Council.</p>	YES
Part 25 Waste Management		
Part 25A.1 General Requirements	Waste bins will be stored between the villas at the rear and taken to the bin collection platform at the front of the property for collection on waste collection day by Council.	YES
Part 25A.3 Access to Collection Point	The submitted waste report describes that. General waste will be collected once a week, while other waste will be picked up fortnightly.	YES

Environmental Health

Council's Environmental Health Officer commented on the proposal as follows:

No acoustic report was provided.

The BASIX Certificate advises that 3-phase air conditioning units are to be installed to each dwelling, however no reference to their location is noted on the architectural plans. Given residential air conditioning units can be installed under exempt requirements under the SEPP (Exempt and Complying Development Codes 2008) conditions could be recommended if the application was for approval.

The proposal also identifies lifts in some of the residences, as such conditions to address with potential noise impacts from this mechanical equipment could also be included if the application were to be recommended for approval.

Building Services

Council's Senior Building Inspector commented on the proposal as follows:

There are some identified non-compliances, particularly concerning fire separation, which must be addressed to comply with the Deemed-to-Satisfy (prescriptive) provisions of the BCA or resolved through a performance solution or fire-engineered alternative.

A detailed assessment of compliance with the BCA will be carried out by the Principal Certifier during the Construction Certificate stage.

Ecology

Council's Ecological Assessment Officer commented on the proposal as follows:

Biodiversity Conservation Act 2016		
Section 7.3	Proposed	Complies
<i>The purpose of the Act is to maintain a healthy, productive and resilient environment</i>	<p><i>The native vegetation occurring within the Carrington frontage comprises of one remnant <i>Angophora costata</i> (Smooth-barked Apple) which is representative of plant community type (PCT 3136) Blue Gum High Forest.</i></p> <p><i>PCT 3136 corresponds with Blue Gum High Forest (BGHF) listed as a Critically Endangered Ecological Community (CEEC) under the Biodiversity Conservation Act 2016 (BC Act).</i></p> <p><i>The proposal does not trigger entry into the biodiversity offset Scheme (BOS) as the proposal will not result in the removal of native vegetation from the Biodiversity Land Values map.</i></p>	YES

Biodiversity Conservation Act 2016		
Section 7.3	Proposed	Complies
	<i>No biodiversity development assessment Report (BDAR) is deemed to be necessary in this instance.</i>	

LEP 2015 COMPLIANCE TABLE		
Part 6 Additional local provisions	Proposed	Complies
Clause 6.3 – Biodiversity Protection <i>The objective of this clause is to protect maintain and improve the diversity and condition of native vegetation and habitat</i>	<i>The proposed development will not result in the removal of native endemic vegetation from lands mapped as Terrestrial biodiversity.</i> <i>The proposal has been sited to avoid and minimise impacts upon terrestrial biodiversity per the requirements of this clause.</i>	YES

Control	Proposed	Complies
Part 18 Biodiversity Controls		
18.4 Category – Landscape Remnant 18.7 Category – No Net loss	<i>The proposed development is located outside of lands mapped under part 18.4.</i> <i>The proposal meets the relevant controls and objectives under this part.</i>	YES

External Referrals

No external referrals were required.

STATUTORY PROVISIONS

State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of land

The provisions of Chapter 4 require Council to consider the potential for a site to be contaminated. The subject site has a history of a residential use and, as such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

Draft State Environmental Planning Policy (Remediation of Land)

The draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. New provisions will be added in the SEPP to:

- *require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant*
- *categorise remediation work based on the scale, risk and complexity of the work*
- *require environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to Council*

The site is unlikely to contain any contamination, and further investigation is not warranted in this case.

State Environmental Planning Policy (Biodiversity & Conservation) 2021 - Chapter 6 Bushland in urban areasChapter 6 Water catchments

The provisions of Clause 6.6 'Water quality and quantity' and Clause 6.7 'Aquatic ecology' have been considered in the assessment of the proposal. The stormwater system includes design measures to address the requirements of Clause 6.6. The proposal is also found to be consistent with the requirements of Clause 6.7 as it is unlikely to impact on aquatic ecology and appropriate erosion and sediment control measures are proposed. Clause 6.8 'Flooding', 6.9 'Recreation and public access' and 6.10 'Total catchment management' are not directly relevant to the merits of the proposal.

State Environmental Planning Policy (Sustainable Buildings) 2022 – Chapter 2 Standards for residential development – BASIX

A valid BASIX certificate has been submitted, however the proposal is not consistent with commitments identified in the certificate.

State Environmental Planning Policy (Housing) 2021 - Part 5 Housing for seniors and people with a disability

Sections of Part 5 relevant to the proposed development are discussed below:

Division 1 Land to which Part applies

The proposal is permissible under this Division because the site is:

- zoned R2 Low Density Residential, which is a nominated zone under clause 79(c) 'Land to which this part applies';
- is not land to which the Part does not apply per clause 80 'Land to which Part 5 does not apply-general'; and
- the proposal is permissible per clause 81(a) 'Seniors housing permitted with consent'

SEPP SENIORS 2021 COMPLIANCE TABLE			
Section	Provision	Proposed	Complies
Division 3 Development standards			
84 Development standards —general	(1) This section applies to development for the purposes of	Noted	

seniors housing involving the erection of a building.		
(2) Development consent must not be granted for development to which this section applies unless—		
(a) the site area of the development is at least 1,000m ² , and	4046.4sqm	YES
(b) the frontage of the site area of the development is at least 20m measured at the building line, and	49.665m	YES
(c) for development on land in a residential zone where residential flat buildings are not permitted—		
(i) the development will not result in a building with a height of more than 9.5m, excluding servicing equipment on the roof of the building, and	Villa 1 – RL of bottom finished level of pool and ridge height not provided.	Unclear
	Villa 2: 8.484m	YES
	Villa 3: 7.321m	YES
	Villa 4: 6.74m	YES
	Villa 5: 6.25m	YES
	Villa 6: no ridge height provided.	Unclear
	Villa 7: unclear	Unclear
	Villa 8: Ridge height inconsistent.	Unclear
	Villa 9: 6.16m	
	Villa 10: RL of bottom finished level of pool and ridge height not provided.	YES Unclear
(4) Subsection (2)(a) and (b) do not apply to development if the development application is made		N/A

85 Development standards for hostels and independent living units	by a social housing provider or Landcom.		
	(1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the relevant standards specified in Schedule 4.	The proposal does not comply with Schedule 4, refer to comments below this table.	NO
88 - Restrictions on occupation of seniors housing	(1) Development permitted under this Part may be carried out for the accommodation of only the following— (a) seniors or people who have a disability, (b) people who live in the same household with seniors or people who have a disability, (c) staff employed to assist in the administration and provision of services to housing provided under this Part.	A condition could be included if the application was recommended for approval.	YES
	(2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in subsection (1) will occupy accommodation to which the development relates.	A condition could be included if the application were to be recommended for approval.	YES
Division 4 Site-related requirements			
93 - Location and access to facilities and services— independent living units	(1) Development consent must not be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to facilities and services— (a) by a transport service that complies with subsection (2), or (b) on-site.	On site facilities and services are not proposed. The transport service nominated by the applicant does not comply with clause 93(2). A variation request has not been provided in accordance with clause 4.6 of KLEP.	NO
	(2) The transport service must— (a) take the residents to a place that has adequate access to facilities and services, and (b) for development on land in the Eastern Harbour City, Central River City, Western Parkland City or Central Coast City—	The proposal is inconsistent with 93(2)(b)(ii) as the 576 bus service does not operate on a Saturday or Sunday. A variation request has not been	NO

	<p>(i) not be an on-demand booking service for the transport of passengers for a fare, and</p> <p>(ii) be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day, and</p> <p>(c) for development on other land—be available both to and from the site during daylight hours at least once each weekday.</p>	provided in accordance with clause 4.6 of KLEP.	
	<p>(3) For the purposes of subsections (1) and (2), access is adequate if—</p> <p>(a) the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and</p> <p>(b) the distance is accessible by means of a suitable access pathway, and</p> <p>(c) the gradient along the pathway complies with subsection (4)(c).</p> <p>(4) In subsection (3)—</p> <p>(a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and</p> <p>(b) the distance is to be measured by reference to the length of the pathway, and</p> <p>(c) the overall average gradient must be not more than 1:14 and the gradients along the pathway must be not more than—</p> <p>(i) 1:12 for a maximum length of 15m at a time, or</p> <p>(ii) 1:10 for a maximum length of 5m at a time, or</p> <p>(iii) 1:8 for a maximum length of 1.5m at a time.</p>	<p>The 576 bus stop is located 270m from the site. The proposal does not comply with clause 93(2) as the bus service does not operate on a Saturday or Sunday.</p> <p>Other buses are outside of the 400m radius.</p> <p>Inadequate information in relation to the pathway.</p>	NO
	<p>(5) In this section—facilities and services means—</p> <p>(a) shops and other retail and commercial services that residents may reasonably require, and</p>	Satisfactorily demonstrated.	YES

	<p>(b) community services and recreation facilities, and</p> <p>(c) the practice of a general medical practitioner.</p> <p>provide a booking service has the same meaning as in the <i>Point to Point Transport (Taxis and Hire Vehicles) Act 2016</i>, section 7.</p> <p>Note— Provide a booking service is defined as carrying on a business taking bookings for taxis or hire vehicles to provide passenger services, whether immediately or at a later time, and communicating the bookings to drivers for passenger services or providers of passenger services.</p>		
95 Water and sewer	<p>(1) A consent authority must not consent to development under this Part unless the consent authority is satisfied the seniors housing will—</p> <p>(a) be connected to a reticulated water system, and</p> <p>(b) have adequate facilities for the removal or disposal of sewage.</p>	Satisfactory.	YES
	<p>(2) If the water and sewerage services will be provided by a person other than the consent authority, the consent authority—</p> <p>(a) must consider the suitability of the site in relation to the availability of reticulated water and sewerage infrastructure, or</p> <p>(b) if reticulated services are not available—must satisfy the responsible authority that the provision of water and sewerage infrastructure, including environmental and operational considerations, is satisfactory for the development.</p>	Satisfactory.	YES
	<p>(3) In this section— responsible authority means the public authority responsible for water and sewerage services in the area in which the seniors housing is located.</p>	Noted.	
Division 5 Design requirements			
97 Design of in-fill self-care housing	<p>(1) In determining a development application for development for the purposes of seniors housing,</p>	The proposed development is inconsistent with	NO

	<p>a consent authority must consider schedule 8 as the <i>Seniors Housing Design Guide</i>, published by the Department in December 2023.</p> <p>(2) Development consent must not be granted to development for the purposes of seniors housing unless the consent authority is satisfied the design of the seniors housing demonstrates that adequate consideration has been given to the design principles for seniors housing set out in Schedule 8.</p>	schedule 8 as detailed in the below table.	
Division 7 Non-discretionary development standards			
106 Interrelationship of Division with design principles in Division 6	Nothing in this division affects the operation of section 97(2).	Noted	
108 Non-discretionary development standards for independent living units—the Act, s 4.15	<p>(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of independent living units that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</p> <p>Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.</p> <p>(2) The following are non-discretionary development standards in relation to development for the purposes of independent living units—</p> <p>(a) no building has a height of more than 9.5m, excluding servicing equipment on the roof of a building,</p> <p>(c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,</p> <p>(d) a minimum landscaped area that is the lesser of— (i) 35m² per dwelling, or (ii) 30% of the site area,</p>	<p>Unclear</p> <p>Approximately 2146sqm/0.53:1</p> <p>1208.4m² / 29.85%, however conflicting information as the</p>	<p>Unclear</p> <p>NO</p> <p>NO</p>

	(e) (Repealed)	landscape area calculation indicated under the development controls list is not consistent with the calculations indicated on the site plan.	
	(f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site,	DSZ of 687.80 m ² or 17% however conflicting information proposed DSZ calculation indicated under the development controls list is not consistent with the DSZ calculations indicated on the site plan.	NO
	(g) at least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces.	Unclear, solar access modelling appears incorrect.	Unclear

The specific departures from the requirements of SEPP Housing are identified in the table above, these departures are not acceptable as the objectives underlying these requirements have not been achieved.

SCHEDULE 4 STANDARDS CONCERNING ACCESSIBILITY AND USABILITY FOR HOSTELS AND INDEPENDENT LIVING UNITS - COMPLIANCE TABLE			
Section	Provision	Proposed	Complies
Part 1 Standards applying to hostels and independent living units			
1 Application of standards in this Part	The standards set out in this Part apply to any seniors housing that consists of hostels or independent living units.	Noted.	
2 Siting standards	<p>(1) Wheelchair access If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel to an adjoining public road.</p> <p>(2) If the whole of the site does not have a gradient of less than 1:10—</p>	For villas 3-10, the gradient of this pathway (including any diagonal line) may be greater than 1:20 and too steep as a ramp without handrails.	NO

	<p>(a) the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and</p> <p>(b) the wheelchair access provided must be by a continuous accessible path of travel to an adjoining public road or an internal road or a driveway that is accessible to all residents.</p> <p>Note. For example, if 70% of the site has a gradient of less than 1:10, then 70% of the dwellings must have wheelchair access as required by this subsection. If more than 50% of the site has a gradient greater than 1:10, development for the purposes of seniors housing is likely to be unable to meet these requirements.</p> <p>(3) Common areas Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.</p>		
3 Letterboxes	<p>(1) Letterboxes—</p> <p>(a) must be located on a hard standing area, and</p> <p>(b) must have wheelchair access by a continuous accessible path of travel from the letterbox to the relevant dwelling, and</p> <p>(c) must be lockable by a lock that faces a wheelchair accessible path.</p> <p>(2) If a structure contains multiple letterboxes, the structure must be in a prominent location.</p> <p>(3) At least 20% of the letterboxes on the site must be more than 600mm and less than 1,200mm above ground level (finished).</p>	For villas 3-10, the gradient of this pathway (including any diagonal line) may be greater than 1:20 and too steep as a ramp without handrails.	NO
4 Car parking	<p>(1) If parking spaces attached to or integrated with a class 1 building under the <i>Building Code of Australia</i> are provided for use by occupants who are seniors or</p>	Satisfactory	YES

	<p>people with a disability, at least 1 parking space must—</p> <ul style="list-style-type: none"> (a) be at least 3.2m wide, and (b) be at least 2.5m high, and (c) have a level surface with a maximum gradient of 1:40 in any direction, and (d) be capable of being widened to 3.8m without requiring structural modifications to a building. <p>(2) If parking spaces associated with a class 1, 2 or 3 building under the <i>Building Code of Australia</i> are provided in a common area for use by occupants who are seniors or people with a disability, the following applies—</p> <ul style="list-style-type: none"> (a) for a parking space not in a group—the parking space must comply with AS/NZS 2890.6, (b) for a group of 2–7 parking spaces— <ul style="list-style-type: none"> (i) at least 1 of the parking spaces must comply with AS/NZS 2890.6, and (ii) 50% of the parking spaces must— <ul style="list-style-type: none"> (A) comply with AS/NZS 2890.6, or (B) be at least 3.2m wide and have a level surface with a maximum gradient of 1:40 in any direction, (c) for a group of 8 or more parking spaces— <ul style="list-style-type: none"> (i) at least 15% of the parking spaces must comply with AS/NZS 2890.6, and (ii) at least 50% of the parking spaces must— <ul style="list-style-type: none"> (A) comply with AS/NZS 2890.6, or (B) be at least 3.2m wide and have a level surface with a maximum gradient of 1:40 in any direction. <p>(3) To avoid doubt, a parking space that complies with AS/NZS 2890.6 is only counted toward 1 of the requirements in subsection (2)(b)(i) or (ii) or (c)(i) or (ii).</p> <p>(4) At least 5% of any visitor parking spaces must comply with AS/NZS 2890.6.</p> <p>(5) A parking space required by this section to comply with AS/NZS 2890.6, other than a visitor parking space, is not required to include the international symbol of access.</p>		
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	<p>(6) If multiple parking spaces are accessible by a common access point, the access point must be secured by a power-operated garage door, vehicle gate, vehicle barrier or similar device.</p> <p>(7) A parking space, other than a parking space under subsection (6), must be—</p> <p>(a) secured by a power-operated door, or</p> <p>(b) capable of accommodating the installation of a power-operated door, including by having—</p> <p>(i) access to a power point, and</p> <p>(ii) an area for motor or control rods for a power-operated door.</p> <p>(8) A requirement in this section for a parking space to comply with AS/NZS 2890.6 extends to the associated shared area within the meaning of AS/NZS 2890.6.</p> <p>(9) In this section, a parking space is in a common area if it is not attached to or integrated with a hostel or independent living unit.</p>		
5 Accessible entry	<p>(1) The main entrance to a dwelling must have—</p> <p>(a) a clear opening that complies with AS 1428.1, and</p> <p>(b) a circulation space in front of the door and behind the door that complies with AS 1428.1.</p> <p>(2) This section does not apply to an entry for employees.</p>	<p>Capable of compliance.</p> <p>The access report specifies compliance subject to modification of Villa 4, noting adequate corridor width.</p>	YES
6 Interiors	<p>(1) An internal doorway must have an unobstructed opening that complies with AS 1428.1.</p> <p>(2) An internal corridor must have an unobstructed width of at least 1,000mm.</p> <p>(3) The circulation spaces in front of and behind an internal doorway in the following areas must comply with AS 1428.1—</p> <p>(a) a kitchen,</p> <p>(b) a laundry,</p> <p>(c) a bathroom,</p> <p>(d) a toilet,</p> <p>(e) a bedroom,</p> <p>(f) a living area,</p>	<p>Capable of compliance.</p>	YES

	<ul style="list-style-type: none"> (g) the main area of private open space. (4) To avoid doubt, subsection (3)(b) does not apply to laundry facilities in a cupboard. 		
7 Bedroom	<p>At least one bedroom in a dwelling must have the following—</p> <ul style="list-style-type: none"> (a) a clear area, not including a circulation space, sufficient to accommodate— <ul style="list-style-type: none"> (i) for a hostel—a wardrobe and a single-size bed, or (ii) for an independent living unit—a wardrobe and a queen-size bed, (b) a clear area around the area for the bed of at least— <ul style="list-style-type: none"> (i) 1,200mm at the foot of the bed, and (ii) 1,000mm on each side of the bed, (c) at least 2 double general power outlets on the wall where the head of the bed is likely to be, (d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be. 	Capable of compliance.	YES
8 Bathroom	<ul style="list-style-type: none"> (1) At least one bathroom in a dwelling must be located on— <ul style="list-style-type: none"> (a) the same floor as the entry to the dwelling, or (b) a floor serviced by a private passenger lift accessible only from inside the dwelling. (2) The bathroom must have the following— <ul style="list-style-type: none"> (a) a slip resistant floor surface that achieves a minimum rating of P3 in accordance with AS 4586—2013, (b) a washbasin with tap ware capable of complying with AS 1428.1, including by future adaptation if the washbasin and tap ware continue to use existing hydraulic lines, (c) a shower that— <ul style="list-style-type: none"> (i) is accessible without a shower-hob or step, and (ii) complies with the requirements of AS 1428.1 for the entry, circulation space, floor gradient to 	Capable of compliance.	YES

	<p>the wastewater outlet and location of the mixer tap, and</p> <p>(iii) is in the corner of a room, and</p> <p>(iv) has a wall capable of accommodating the installation of a grab rail, portable shower head with supporting grab rail and shower seat, in accordance with AS 1428.1,</p> <p>(d) a wall cabinet with shelving illuminated by an illumination level of at least 300 lux,</p> <p>(e) a double general power outlet in an accessible location, in accordance with AS 1428.1.</p> <p>(3) Subsection (2)(c) does not prevent the installation of a shower screen that can easily be removed to enable compliance with that paragraph.</p>		
9 Toilet	<p>(1) At least one toilet in a dwelling must be located on—</p> <p>(a) the same floor as the entry to the dwelling, or</p> <p>(b) a floor serviced by a private passenger lift accessible only from inside the dwelling.</p> <p>(2) The toilet must have the following—</p> <p>(a) a water closet pan—</p> <p>(i) in the corner of the room, and</p> <p>(ii) with a centreline set-out in accordance with AS 1428.1,</p> <p>(b) a circulation space in front of the water closet pan that is—</p> <p>(i) at least 1,200mm long and at least 900mm wide, and</p> <p>(ii) clear of door swings and fixtures, other than a toilet paper dispenser or grab rails,</p> <p>(c) a circulation space around the water closet pan that complies with AS 1428.1,</p> <p>(d) a slip resistant floor surface that achieves a minimum rating of P3 in accordance with AS 4586—2013,</p> <p>(e) a wall capable of accommodating the installation of a back rest and grab rail that will comply with AS 1428.1.</p> <p>(3) A removable shower screen may be located in the circulation space specified in subsection (2)(c).</p>	Capable of compliance.	YES

10 Surfaces of balconies and external paved areas	Balconies and external paved areas must have surfaces that are slip resistant and comply with— (a) the <i>Building Code of Australia</i> , or (b) the Standards Australia Handbook SA HB 198:2014, <i>Guide to the specification and testing of slip resistance of pedestrian surfaces</i> , published on 16 June 2014.	Capable of compliance.	YES
11 Door hardware	(1) Door handles and hardware for all doors, including entry doors and external doors, must comply with AS 1428.1. (2) To avoid doubt, subsection (1) does not apply to cabinetry.	Capable of compliance.	YES
12 Switches and power points	(1) Switches and power points must— (a) comply with AS 1428.1, or (b) be capable of complying with AS 1428.1 through future adaptation. (2) Subsection (1) does not apply to— (a) remote controls, or (b) power points likely to serve appliances that are not regularly moved or turned off.	Capable of compliance.	YES
13 Private passenger lifts	(1) This section applies to a private passenger lift that is required by this schedule to be accessible only from inside a particular dwelling. (2) The private passenger lift must— (a) be at least 1,100mm wide and at least 1,400mm long, measured from the lift car floor, and (b) have a clear indoor landing on all floors serviced by the lift, other than the floor on which the main area of private open space is located, at least 1,540mm long and at least 2,070mm wide, and (c) have controls that comply with— (i) AS 1735.12:2020, <i>Lifts, escalators and moving walks, Part 12: Facilities for persons with disabilities</i> , published on 26 June 2020, or (ii) AS 1735.15:2021, <i>Lifts, escalators and moving walks, Part 15: Safety rules for the construction and installation of lifts — Special lifts</i>	All proposed private passenger lift shafts (villa 01, 02, 07 and 08) appear to be 1,450mm long which may not allow for the required 1,400mm length clear within the lift car.	NO

	<p><i>for the transport of persons and goods — Vertical lifting platforms intended for use by persons with impaired mobility, published on 23 July 2021.</i></p> <p>(3) The width of the door opening of the private passenger lift must be at least 900mm.</p> <p>(4) The private passenger lift must not be a stairway platform lift.</p>		
Part 2 Additional standards for independent living units			
14 Application of standards in this Part	The standards set out in this Part apply in addition to the standards set out in Part 1 to any seniors housing consisting of independent living units.	Noted.	
15 Bedroom	At least one bedroom in an independent living unit that complies with this schedule, section 7 must be located on— (a) the same floor as the entry to the unit, or (b) a floor serviced by a private passenger lift accessible only from inside the unit.	Compliant.	YES
16 Living room	<p>(1) A living room in an independent living unit must be located on—</p> <p>(a) the same floor as the entry to the dwelling, or</p> <p>(b) a floor serviced by a private passenger lift accessible only from inside the dwelling.</p> <p>(2) The living room must have—</p> <p>(a) a circulation space that—</p> <p>(i) is clear of all fixtures, and</p> <p>(ii) has a diameter of at least 2,250mm, and</p> <p>(b) a telecommunications or data outlet adjacent to a general power outlet.</p>	Compliant subject to implementation of Access Report recommendations.	YES
17 Main area of private open space	The main area of private open space for an independent living unit must be located on— (a) the same floor as the entry to the dwelling, or (b) a floor serviced by a private passenger lift accessible only from inside the dwelling.	The private open space adjoins the living area within each of the villas.	YES
18 Kitchen	(1) A kitchen in an independent living unit must be located on—	Schedule 4(18)(4)(a) and (c) requires that a work surface that is	NO

	<ul style="list-style-type: none"> (a) the same floor as the entry to the dwelling, or (b) a floor serviced by a private passenger lift accessible only from inside the dwelling. (2) The kitchen must have a circulation space with a diameter of at least 1,200mm between each bench top, cupboard or large appliance and each other bench top, cupboard or large appliance. (3) Each circulation space specified in subsection (2) must be capable of being increased to a diameter of 1,550mm without— <ul style="list-style-type: none"> (a) relocating the sink, or (b) moving a load-bearing wall, or (c) breaching another circulation requirement. (4) The kitchen must have the following fittings— <ul style="list-style-type: none"> (a) a bench that includes at least one work surface that is— <ul style="list-style-type: none"> (i) at least 800mm long, and (ii) clear of obstructions, and (iii) not in the corner of the room, (b) a lever tap set with the lever and water source that is within 300mm of the front of the bench, (c) a cooktop next to the work surface, (d) an isolating switch for the cooktop, (e) an oven that— <ul style="list-style-type: none"> (i) has operative elements between 450mm and 1,250mm above the finished floor level, and (ii) is next to the work surface, (f) at least one double general power outlet located within 300mm of the front of a work surface. (5) The cupboards must— <ul style="list-style-type: none"> (a) not be entirely located in the corner of the bench or the corner of the room, and (b) face where the user of the fixture is likely to be. (6) An overhead cupboard in the kitchen must be capable of being fitted with “D” pull cupboard handles towards the bottom of the cupboard. (7) A below-bench cupboard in the kitchen must be capable of being fitted with “D” pull cupboard handles towards the top of the cupboard. 	<p>at least 800mm long, clear of obstructions and not in the corner of the room, be located next to the cooktop. Villas 07 and 08 do not provide this arrangement.</p> <p>Schedule 4(18)(4)(e) requires that each kitchen must have an oven that has operative elements between 450mm and 1,250mm above the finished floor level and is next to a work surface. No proposed kitchens appear to have an oven to meet this requirement.</p>	
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	<p>(8) The lever tap set, cooktop, isolating switch, oven and double general power outlet must—</p> <p>(a) not be in the corner of the bench or the corner of the room, and</p> <p>(b) face where the user of the fixture is likely to be.</p> <p>(9) Cabinetry below a work surface must be able to be easily removed to allow wheelchair access to the work surface.</p>		
19 Laundry	<p>(1) A laundry in an independent living unit must be located on—</p> <p>(a) the same floor as the entry to the dwelling, or</p> <p>(b) a floor serviced by a private passenger lift accessible only from inside the dwelling.</p> <p>(2) The laundry must have the following—</p> <p>(a) a circulation space that complies with AS 1428.1 at the approach to any external doors,</p> <p>(b) an appropriate space for an automatic washing machine and a clothes dryer,</p> <p>(c) a clear space in front of each appliance of at least 1,550mm,</p> <p>(d) a slip resistant floor surface that achieves a minimum rating of P3 in accordance with AS 4586—2013,</p> <p>(e) a continuous accessible path of travel to the main area of private open space or any clothes line provided for the dwelling.</p> <p>(3) The space specified in subsection (2)(c) may overlap with a door swing or the circulation space for a door.</p> <p>(4) For laundry facilities in a cupboard, the cupboard must be capable of being fitted with “D” pull cupboard handles in the following locations—</p> <p>(a) for below-bench cupboards—towards the top,</p> <p>(b) for overhead cupboards—towards the bottom,</p> <p>(c) for floor-to-ceiling doors—between 900mm and 1,100mm above the finished floor level.</p> <p>(5) In this section—</p>	Clothes drying facilities have not been identified.	NO

	laundry includes laundry facilities in a cupboard.		
20 Linen storage	An independent living unit must have a floor-to-ceiling linen storage cupboard that— (a) is at least 600mm wide, and (b) has adjustable shelving.	Villas 03, 04, 05, 06, 09 and 10 do not appear to have a linen cupboard.	NO
22 Garbage and recycling	A garbage storage area and a recycling storage area provided for an independent living unit must be accessible by a continuous accessible path of travel from the dwelling entrance.	For villas 1-10, the gradient of this pathway (including any diagonal line) may be greater than 1:20 and too steep as a ramp without handrails. The access report states that bin storage areas are provided at individual villas in an accessible location. It is unclear if the bin storage areas for Villas 3 and 5, 4 and 6 and 9 and 10 are shared. It appears that the area in front of the private bin areas would be insufficient to accommodate a wheelchair.	NO

The specific departures from the requirements of SEPP Housing are identified in the table above, these departures are acceptable as the objectives have not been achieved.

SCHEDULE 8 Design Principles for Seniors Housing - COMPLIANCE TABLE			
Section	Provision	Proposed	Complies
1 Neighbourhood amenity and streetscape	Seniors housing should be designed as follows— (a) to recognise the operational, functional and economic requirements of residential care facilities, which typically require a different building shape from other residential accommodation, (b) to recognise the desirable elements of— (i) the location's current character, or (ii) for precincts undergoing a transition—the future character of the location so	The proposal does not have an adequate site layout, is inconsistent with the character of the area, does not complement the adjoining heritage item, impacts on trees, has unacceptable privacy impacts to adjoining properties and does not ensure	NO

	<p>new buildings contribute to the quality and identity of the area,</p> <p>(c) to complement heritage conservation areas and heritage items in the area,</p> <p>(d) to maintain reasonable neighbourhood amenity and appropriate residential character by—</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and</p> <p>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours,</p> <p>(e) to set back the front building on the site generally in line with the existing building line,</p> <p>(f) to include plants reasonably similar to other plants in the street,</p> <p>(g) to retain, wherever reasonable, significant trees,</p> <p>(h) to prevent the construction of a building in a riparian zone.</p>	acceptable noise levels in bedrooms.	
2 Visual and acoustic privacy	<p>Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and all residents of the seniors housing by—</p> <p>(a) using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and</p> <p>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	The proposal has not been designed to maintain amenity to adjoining sites and does not ensure acceptable noise levels of some proposed bedrooms.	NO
3 Solar access and design for climate	The design of seniors housing should—	Unclear.	Unclear

	<p>(a) for development involving the erection of a new building—provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and</p> <p>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p>		
4 Stormwater	<p>The design of seniors housing should aim to—</p> <p>(a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and</p> <p>(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</p>	Satisfactory.	YES
5 Crime prevention	<p>Seniors housing should—</p> <p>(a) be designed in accordance with environmental design principles relating to crime prevention, and</p> <p>(b) provide personal property security for residents and visitors, and</p> <p>(c) encourage crime prevention by—</p> <p>(i) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and</p> <p>(ii) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and</p> <p>(iii) providing dwellings designed to allow residents to see who approaches their dwellings</p>	Satisfactory.	YES

	without the need to open the front door.		
6 Accessibility	Seniors housing should— (a) have obvious and safe pedestrian links from the site that provide access to transport services or local facilities, and (b) provide safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	Refer to Schedule 4.	NO
7 Waste management	Seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.	It is unclear whether access to the waste storage containers is acceptable.	NO

The specific departures from the requirements of SEPP Housing are identified in the table above, these departures are not acceptable as the objectives have not been achieved.

Seniors Housing Design Guide

Part 2 Care for the planet			
Objective	Design Guide	Proposal	Compliance
2.1.1 To demonstrate initiatives for implementing sustainable design and construction practices. 2.1.2 To take responsibility for minimising harmful outcomes on the natural environment and its resources. 2.1.3 To reduce long term running costs. 2.1.4 To reduce carbon emissions	2.1.5 Implement technologies and systems that reduce the demand and costs of energy	The proposed render finish is not low maintenance.	NO
2.2.1 To implement actions for sustainable construction practices that reduce environmental degradation, and depletion of essential natural resources of energy, water, land, air and raw materials. 2.2.2 To reduce environmental pollution and to minimise waste.	2.2.3 Apply construction processes to cut down on waste during construction and manage the use of building materials and resources economically. 2.2.4 Choose sustainably manufactured building materials. 2.2.5 Source locally manufactured building materials over imported products. 2.2.6 Reduce plastic use during construction. 2.2.7 Protect existing on-site vegetation.	Satisfactory.	YES

	2.2.8 Recycle demolition and construction waste.		
2.3.1 To create buildings that have longevity and are comfortable, liveable and safe throughout their life cycle. 2.3.2 To extend the natural life cycle of buildings. 2.3.3 To provide safe access for regular maintenance and upkeep. 2.3.4 To preserve the integrity of the building and prevent deterioration.	2.3.5 Use pre-finished and low maintenance robust materials. 2.3.6 Use quality and sustainable products such as door hardware for continued ease of use. 2.3.7 Use quality materials that endure to reduce landfill, replacement costs and wastage. 2.3.8 Design for end of life; disassembly, recycling and minimising waste from demolition	The proposed render finish is not low maintenance and does not extend the life cycle of the building or prevent deterioration.	NO
2.4.1 To make building environments that are healthily connected to the outdoors, and that use natural passive principles to reduce the demand on energy by applying sustainable design features. 2.4.2 To manage water usage and avoid depletion of fresh water resources for maintenance and services. 2.4.3 To reduce the impact on the environment, by recycling materials and/or reusing existing buildings that may be suitable for adaptation or reuse.	2.4.4 Design buildings that have operable windows, other measures may include high performance insulation, double glazing and generous shading to glazed windows and doors. 2.4.5 Design for natural cross ventilation and provide ceiling fans. 2.4.6 Design systems that capture and recycle rainwater for use in landscape irrigation as well as for building services. 2.4.7 Where possible adapt or reuse existing buildings, in particular those with heritage values to lower the impact on the environment.	The proposal is designed for cross ventilation and rainwater reuse. The proposed roofs of Villas 01, 02, 03, 04, 07 and 08 are dark in colour which does not reduce heat absorbance.	YES NO
Part 3 Site analysis – environmental response			
Objective	Design Guide	Proposal	Compliance
3.1.1 To fully understand the natural physical characteristics of a site in order to formulate an appropriate built response for the development of the land. 3.1.2 To provide increased protection from extreme	3.1.6 Engage expert consultants for specific advice (bushfire, flooding, riparian, arborist, heritage and traditional knowledge holders etc), reports and actions affecting and	An adequate site analysis has not been undertaken and results in a deficient and unsatisfactory site layout.	NO

<p>climatic or environmental events in buildings occupied by people who are particularly vulnerable because of age, illness and acute disability.</p> <p>3.1.3 To manage and preserve existing natural features such as trees, overland flow paths, riparian corridors, and sensitive environments.</p> <p>3.1.4 To identify the historical character of the site and preserve the heritage significance of the area.</p> <p>3.1.5 To deliver seniors housing that acknowledges and respects Aboriginal cultural heritage.</p>	<p>informing the initial design as part of the primary site analysis.</p> <p>3.1.7 Identify and map the size and required protection zone for flood and bushfire safety.</p> <p>3.1.8 Identify and map the size and required protection zone of all mature and valuable trees, with the intent to keep as many mature trees as possible. Aim to achieve a generous, mature tree canopy cover over the site for the completed development.</p> <p>3.1.9 Provide opportunity for regeneration of natural environments by allowing suitably sized setbacks to accommodate restorative planting to a scale that reflects the original treescape.</p> <p>3.1.10 Consider existing stormwater systems and overland flow paths and provide robust stormwater management strategies to protect ecosystems, manage run-off and pollutants, and to protect vulnerable residents from flooding.</p>	<p>The proposed development does not fully consider the environmental sensitivities of the site and adjoining sites and is inconsistent with the character of the area.</p> <p>The development has not been designed to respect the site layout with excessive amounts of fill within the eastern setback, with minimal planting resulting in unacceptable privacy impacts on sensitive areas of adjoining properties.</p>	
Part 3 Site analysis – urban response			
Objective	Design Guide	Proposal	Compliance
<p>4.1.1 To take cues from the surrounding neighbourhood to introduce a materiality and articulated built form that is complimentary but provides a building with it's own unique character and identity.</p> <p>4.1.2 To acknowledge any heritage values in the surrounding environment, and respond with a considered design solution.</p>	<p>4.1.3 Provide design excellence that inspires and is proudly integrated with the local neighbourhood.</p> <p>4.1.4 Design to uplift existing and future qualities and character of the neighbourhood.</p> <p>4.1.5 The design response should create a relationship between the existing context, heritage</p>	<p>The proposal does not respond to the heritage values of the adjoining heritage item and does not create a relationship between the site and the heritage item.</p> <p>The proposal does not uplift existing or future qualities of the streetscape.</p>	NO

	and the proposed new work.		
<p>4.2.1 To compliment the existing surrounding built character.</p> <p>4.2.2 To sensitively integrate a new development into its surrounding area and to ensure the building scale and form supports the local context and future character of the area.</p> <p>4.2.3 To determine the significance of land surrounding a heritage item or place, and the extent of curtilage that is essential to retain for the interpretation of its heritage significance.</p>	<p>4.2.4 Map the pattern of existing adjacent development and key features surrounding the site and determine their influence on the articulation of the built form.</p> <p>4.2.5 Reference front setbacks of neighbouring development and acknowledge the established street pattern.</p> <p>4.2.6 Manage the scale of large building floorplates with pragmatic internal planning that sensibly informs the façade and external articulation.</p> <p>4.2.7 With expert guidance, identify any heritage significant sites or buildings and consider how heritage significant view corridors or curtilages can be preserved.</p>	<p>An adequate site analysis has not been undertaken and results in a deficient and unsatisfactory site layout.</p> <p>The proposed development has a front setback of approximately 9.5 – 10.8 metres and is inconsistent with neighbouring development.</p> <p>The proposed services / visitor carparking and waste storage collection areas are set back a minimum of 2.6m from the front boundary and is inconsistent with the pattern of development.</p>	NO
<p>4.3.1 To maximise the landscape curtilage around the site for quality planting, establishment of tree canopies and creation of useful outdoor spaces in addition to boundary screen planting.</p> <p>4.3.2 To develop new buildings in an established historic context, within a heritage conservation area, adjacent to a heritage item, or on a heritage site, that complements the existing urban character and adds value.</p>	<p>4.3.3 Determine setbacks from the location of neighbouring properties, their private outside open space and primary views to and from the development.</p> <p>4.3.4 Provide setbacks to respect neighbours privacy, overshadowing and existing amenity.</p> <p>4.3.5 Investigate and respond to any heritage context or values, and provide considered setbacks that are complimentary to significant buildings, views or natural features, and that preserve curtilages needed for heritage interpretation</p>	<p>The filled areas of private open space are up to 2.1 to 2.8 metres above existing grades, negatively affecting the amenity of adjoining properties.</p> <p>Potential loss of trees as a result of level changes within the rear setback adjoining the heritage item.</p>	NO

<p>4.4.1 To provide variance of roof forms and screened service areas to provide articulation and modulation of the building envelope.</p> <p>4.4.2 To conceal services located on the roof and the exposure of plant machinery to the street.</p> <p>4.4.3 To provide acoustic screening to soften the impact of plant noise and vibration.</p>	<p>4.4.4 Design articulated roofs that add visual interest to the building outline.</p> <p>4.4.5 Define screened service enclosures for plant equipment that can also be safely accessed for maintenance.</p> <p>4.4.6 Take into consideration any adjacencies to heritage significant items and their relationship to building envelope, roof articulation and character</p>	<p>Generally satisfactory. Further clarification is required in relation to the maximum building heights.</p>	Unclear
<p>4.5.1 To prevent overlooking, and to preserve the privacy of neighbouring properties.</p> <p>4.5.2 To provide a generous side and rear setback for landscaping and creation of meaningful outdoor space.</p> <p>4.5.3 To avoid overshadowing to neighbouring properties.</p>	<p>4.5.4 A third storey must be set back within a 45 degree plane measured from the ground line on the side and rear boundaries.</p> <p>4.5.5 All storeys can align with the setback of the third to provide a generous landscaped space.</p>	<p>The built form is located within the 45 degree height plane.</p>	YES
<p>4.6.1 To provide development that is acceptable to neighbours and the local community, considers existing and desired future character.</p>	<p>4.6.2 Research and obtain informed feedback regarding local traffic patterns, community expectations and insights.</p> <p>4.6.3 Be informed about and integrate new development with future developments and local community projects.</p> <p>4.6.4 Understand the social context and consult the local community.</p>	<p>It is unclear whether the applicant undertook community research.</p> <p>8 submissions have been received during the notification period which suggests that the local community is concerned with the proposed development.</p>	NO
<p>4.7.1 To deliver new facilities within established suburbs and to provide a diversity of retirement living and aged care options for senior residents.</p> <p>4.7.2 To support Culturally and Linguistically Diverse and Indigenous people.</p>	<p>4.7.6 Ensure that the development has a point of difference and individual identity.</p> <p>4.7.7 Avoid the 'cookie cutter' or 'one size fits all' generalist type of seniors housing.</p> <p>4.7.8 The design should respond to any heritage</p>	<p>Concern has been raised in relation to the impacts to the setting of the heritage item through tree loss and the altered view of the item by the proposed development.</p>	NO

4.7.3 To make it possible for older people to remain living in their familiar neighbourhood near known health and community services, friends and family. 4.7.4 To give older people a variety of choice in where they live. 4.7.5 Observe and understand the uniqueness of the character, identity, and heritage values of the surrounding built environment.	values whether natural, built, or cultural		
Part 5 Heritage			
Objective	Design Guide	Proposal	Compliance
5.1 To identify and protect items with heritage significance and value that are listed on the State Heritage Register or in a local environmental plan. 5.2 To investigate and understand what is important about a place, by undertaking an analysis of a place, building, archaeological site, garden, landscape, or place of heritage or Aboriginal cultural significance, and to identify significant fabric. 5.3 To determine the significance of land surrounding a heritage item or place, and the extent of curtilage that is essential to retain for the interpretation of its heritage significance. 5.4 To develop new buildings in an established historic context, within a heritage conservation area, adjacent to a heritage item, or on a heritage site with heritage values, that complement the existing urban character and adds value. 5.5 To preserve the integrity, character and fine detail of heritage significant buildings. Adaptation or adaptive reuse offers new uses for heritage or culturally significant places. The new use needs to be	5.8 Identify and protect the heritage values of identified heritage significant items. 5.9 Research and understand the heritage significance, era and importance of maintaining detailing and materiality. 5.10 Identify and map the heritage curtilage and sightline view corridors to and from heritage items, and develop a strategy to retain significant views and landscape buffers between the existing and proposed. 5.11 Design with expert guidance to establish an appropriate strategy for the preservation of heritage significant items or places and the appropriate design response for new developments. 5.12 Refer to The Burra Charter – the Australia ICOMOS charter for the conservation of places of cultural significance for appropriate conservation strategies that aim to retain relationships that contribute or are sympathetic to the	The proposed development will be partially visible from the rear of the heritage item through deciduous trees on the site and will alter its view and setting. The outbuilding located at the north-east corner of the heritage item has significance as an early 1960s preschool built to compliment the main building on the site. The potential loss of trees along the rear boundary close to the outbuilding will have an adverse impact on it.	NO

<p>compatible with the heritage values, retain its heritage character and conserve significant fabric, while still being able to introduce new services, as well as modifications and additions.</p> <p>5.6 To refurbish heritage buildings to extend their useful life, and reduce the environmental impact of new construction.</p> <p>5.7 To repurpose heritage buildings and places to be accessible, safe and to meet required compliance standards without compromising the existing built character</p>	<p>heritage or cultural significance of the site, place or building.</p> <p>5.13 New developments in a heritage conservation area, adjacent to or on a heritage significant site should address the predominant scale (height, bulk, density, grain) of the setting and then respond sympathetically. Consider reducing scale by breaking long stretches of wall with openings, or indentation that reflects the general surrounding typology. Understanding existing street setbacks, and in particular setbacks on upper levels could help reduce bulk and create a transitional link between different building scales.</p> <p>5.14 The design response needs to take into consideration the identified heritage values, context, character, setting, form, scale, bulk, massing etc and cross reference the design guidance provided in the relevant chapters and parts of this document.</p> <p>5.15 The design response should seek to adapt a heritage place or item to a new use while conserving the heritage values and significance.</p> <p>5.16 With expert guidance, appropriately and sensitively overlay new work, so as to differentiate between old and new. Consider the connection between the heritage significant fabric and the new development and provide a clear and sympathetic</p>		
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	transition that allows for the interpretation of where the heritage component begins and ends		
Part 6 Care, wellbeing and community			
Objective	Design Guide	Proposal	Compliance
6.1.1 To realise the purpose of the building and the development. 6.1.2 To provide contemporary buildings for residential care or independent living units that support ageing in place. 6.1.3 To understand and translate the care model into spatial and organisational maps to optimise utilisation of the site. 6.1.4 To meet regulatory compliance for safety and accessibility as well as to provide high quality design and building character. 6.1.5 To provide culturally appropriate accommodation for care and supportive services	6.1.6 Design buildings that promote health and have good cross ventilation, access to sunlight and fresh air. 6.1.7 Integrate landscape planting with the building to capture the positive health benefits of nature. 6.1.8 Design for social connection and opportunities for people to meet and interact easily. 6.1.9 Design to exceed minimum standards to achieve optimal living and working environments. 6.1.10 Acknowledge the specific identity of the organisation	Further clarification is required as to whether the proposal is compliant with the access requirements.	Unclear
6.2.1 To design buildings that reduce stress and promote wellbeing to support physical and mental health. 6.2.2 To provide opportunities and places for residents to be socially connected, to reduce loneliness and isolation.	6.2.3 Design generous spaces that offer comfort, can adapt to flexible furnishing layouts and ease of movement and have abundant daylight and views out. 6.2.4 Create buildings that balance proportion and scale with enduring materiality and performance.	Insufficient accessible, equitable and useable areas of common areas to be utilised by residents of the site to create community and socialisation.	NO
6.3.1 To encourage mobility of residents outside of their immediate private space. 6.3.2 To design for all levels of ability focusing on what people can do and not what they cannot.	6.3.3 Design to maintain positive connections between resident communities and the outdoor environment. 6.3.4 Design for safe and barrier free access to encourage residents to get outside. 6.3.5 Circulation paths and corridors are also places for social interaction and should	The proposed development does not define and separate the footpath from the driveway. There is limited common landscaped area providing limited opportunities for sitting in communal areas throughout the development.	NO

	include places to sit and gather in small groups.		
6.4.1 To provide healthy interior environments that provide good daylight, natural ventilation and that support connections with the outside environment	6.4.2 Design for optimal connection to the outside environment for views, daylight and for residents to be able to experience atmospheric and sensory changes in the outdoor world. 6.4.3 Design for good solar orientation, openable windows and access to terraces, balconies and roof gardens	Insufficient information to undertake accurate assessment.	Unclear
6.5.1 To provide buildings that promote dignity, respect and pride of place. 6.5.2 To provide equitable design for all. 6.5.3 To de-institutionalise the character of the building with good design. 6.5.4 To provide a place that inspires joy and offers moments of delight.	6.5.5 Provide frequent rest points in corridors, lift lobbies and on outside walking paths. 6.5.6 Public and shared communal areas should have toilets that are easy to identify and reach. 6.5.7 Promote quality interior design using a variety of materials, colours and textures. 6.5.8 Provide clearly legible and identifiable signage. 6.5.9 Provide level thresholds between inside and outside. 6.5.10 Provide good lighting and luminance of signage and graphics.	The proposed development does not define and separate the footpath from the driveway. There is limited common landscaped area providing limited opportunities for sitting in communal areas throughout the development.	NO
Part 13 Design principles for independent living			
Objective	Design Guide	Proposal	Compliance
13.1 To provide housing to accommodate for a mix of older people who may be active and independent and others who may be frail and in need of 'at home' care. 13.2 To create environments where owner/occupants of the units can get together for activities, socialising, events and celebrations. 13.3 To provide a place of safety, wellbeing and connection. 13.4 Provide a wide variance of character and densities of	13.5 Places where 'like-minded people' can live together will help build social cohesion and strong connections.	The proposal provides insufficient accessible, equitable and useable areas of common areas to be utilised by residents of the site to create community and socialisation.	NO

developments for seniors communities to find a suitable place to choose to belong to.			
Part 14 Independent living for low density - design principles			
Objective	Design Guide	Proposal	Compliance
14.1.1 To provide single storey villa style accommodation with on grade carparking in a generous landscaped setting. 14.1.2 To integrate with the surrounding built form context and local character.	14.1.3 Introduce a high standard of design quality to the neighbourhood.	The proposal does not maintain the landscape setting with unnecessary tree removal and is dominated by hard surface area.	NO
14.2.1 To provide separation between communal open space and private open space.	14.2.2 Provide generous landscape buffers for screening and acoustic privacy.	The proposal includes bedrooms facing directly onto the driveway and common area (villas 03, 04, 05, 06, 09 and 10) with minimal setback and low hedge planting.	NO
14.3.1 To design dwellings that reduce the demand on energy.	14.3.2 The design and location of windows and shading should respond to the building orientation, site constraints or opportunities in order to maximise good solar access and meaningful cross ventilation. 14.3.3 Provide natural, passive ventilation, well insulated building envelope, and avoid using dark roof colours to reduce heat absorbance. 14.3.4 Consider the use of overhangs, eaves, awnings, pergolas or verandahs to provide shading to reduce heat gain in summer.	The proposed roofs of villas 01, 02, 03, 04, 07 and 08 are dark in colour.	NO
14.4.1 To safely manage stormwater run off and drainage systems without compromising pedestrian safety. 14.4.2 To minimise erosion and the potentially damaging effects from stormwater run-	14.4.6 Provide grates and drainage pits away from pedestrian pathways. 14.4.7 Manage stormwater with landscape design and	Satisfactory	YES

off on landscape and stability of pathways. 14.4.3 To provide effective filtration of stormwater to remove some sediment and pollutants. 14.4.4 To prevent flooding. 14.4.5 To slow the flow of fast moving water and debris.	gentle gradients of hard surfaces.		
14.5.1 To observe and implement the design standards for accessibility in new building design. 14.5.2 To understand the specific needs of older people and people with a disability. 14.5.3 To de-stigmatise environments that cater for disabilities and that need considered design features to support mobility, wayfinding and safety.	14.5.4 Meet the required accessibility standards with compliant but non-institutional design solutions. 14.5.5 Integrate accessible design requirements with public access and pedestrian pathways for all, and not create the duality of 'us and them' access routes.	Further clarification is required as to whether the proposal is compliant with the accessibility requirements.	Unclear
14.6.1 To provide waste management systems that manage health, safety and environmental issues. 14.6.2 To provide easy to access waste disposal points for independent residents to use. 14.6.3 To facilitate recycling of waste.	14.6.4 Provide appropriately sized disposal points that can accommodate bins for the various waste types including recyclables. 14.6.5 Ensure that waste collection points are safely located away from resident areas, should be screened, easy to access and preferably covered	Details of the proposed individual waste storage area enclosures have not been provided. It is also unclear if the bin storage areas for Villas 3 and 5, 4 and 6 and 9 and 10 are shared. It appears that the area in front of the private bin areas would be insufficient to accommodate a wheelchair.	NO

The specific departures from the requirements of SEPP Housing are identified in the table above, these departures are not acceptable as the underlying objectives have not been achieved.

Ku-ring-gai Local Environmental Plan 2015

Clause 1.2 Aims of the Plan

The proposal has been assessed against the relevant aims of the plan. The proposal is inconsistent with the aims for the reasons given within the assessment report.

Zoning and permissibility

The site is zoned R2 Low Density Residential. The proposed development is defined as seniors housing which is not permissible under the LEP but is permissible under Part 5 'Housing for seniors and people with a disability' of SEPP (Housing) 2021.

Zone objectives

The objectives of this zone are:

- ☐ *To provide for the housing needs of the community within a low density residential environment.*
- ☐ *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- ☐ *To provide for housing that is compatible with the existing environmental and built character of Ku-ring-gai.*

The development is not consistent with the zone objectives as the proposed development is not compatible with the existing environmental and built character of Ku-ring-gai.

Development standards**Clause 4.6 Exceptions to development standards**

The proposal does not provide transport services in accordance with Clause 93(2) of SEPP Housing and requires services are not provided on site. A variation request has not been provided in accordance with Clause 4.6 of KLEP. In this regard, the application may not be approved.

Part 5 Miscellaneous provisions**Clause 5.10 – Heritage conservation**

The subject site does not contain a heritage item and is not within a heritage conservation area. The site does adjoin a heritage item.

The proposed works do not affect any known archaeological or Aboriginal objects or Aboriginal places of heritage significance.

Concerns are raised by Council's Heritage Advisor as detailed within the referral comments earlier in the report.

Part 6 Additional local provisions**Clause 6.1 – Acid sulphate soils**

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The land is mapped as Class 5 Acid sulfate soils. Development consent is required for works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. The proposal is not subject to this clause as the works are more than 500m of adjacent Class 1, 2, 3 or 4 land.

Clause 6.2 - Earthworks

Clause 6.2 requires the consent authority to consider the following matters:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The proposed development does not satisfy Clause 6.2 (d) as the proposed earthworks result in significant adverse impact on neighbouring amenity due to tree impacts, proposed retaining wall structures, extent of fill and inability to provide meaningful screen planting.

Clause 6.3 - Biodiversity protection

The site is mapped as land comprising biodiversity significance.

Council's Ecological Assessment Officer has considered the proposed development and is satisfied it has been designed to minimise impacts on the diversity and condition of native vegetation, fauna and habitat as per the requirements of the LEP.

Clause 6.5- Stormwater and water sensitive urban design

Council's Development Engineer has given consideration to the objective of this clause which seeks to minimise the adverse impacts of urban water on the site and within the catchment. The stormwater design adequately manages water quality and control discharge volumes and frequency.

Ku-ring-gai Development Control Plan

Part A

Part 1A.5 General aims of the DCP

The proposed development has been assessed against the general aims of this DCP and is not found to be acceptable in all relevant respects for the reasons given throughout this report.

Part 2 Site analysis

An adequate site analysis has not been provided in accordance with Part 2.1, control 2.1.5 and objective 1 of DCP as it does not indicate the prevailing street setback, the easement located at No. 89 Carrington Road, landscaping and topography of adjoining sites and the

adjoining heritage item at No. 98 Junction Road. This results in a deficient and unsatisfactory site layout inconsistent with Schedule 8 (1)(b)(i) of SEPP Housing.

Part 3 Land consolidation and subdivision

The proposed development requires the consolidation of the existing allotments. This consolidation will not result in any irregular lot configurations, result in any isolated sites or result in the creation of remaining allotments that cannot be reasonably developed due to constraints (such as heritage, riparian or bio-diversity). Therefore, the application is assessed as consistent with this Part of the DCP.

Part 15 – Land Contamination

The site is not mapped as being contaminated and has a history of residential use and as such, it is unlikely to contain contamination and further investigation is not warranted in this case.

Part 18 – Biodiversity

The site is mapped as land comprising biodiversity significance.

Council's Ecological Assessment Officer is satisfied that the proposed development will not result in a significant detrimental impact contrary to the objectives of these provisions in relation to the diversity and condition of native vegetation, fauna and habitat. Refer to the referral comments earlier in the report for further details in this regard.

Part 19 – Heritage and Conservation Areas

The subject site does not contain a heritage item, is located adjoining a Heritage Item, and is not in within a heritage conservation area.

The proposed works do not affect any known archaeological or Aboriginal objects or Aboriginal places of heritage significance.

Concerns are raised by Council's Heritage Advisor as detailed within the referral comments earlier in the report.

Part 20 – Development near Road or Rail noise

Not applicable. The development site is not in, or immediately adjacent to, the North Shore rail corridor, the Parramatta Rail Link or a busy road.

Section C

Development Control	Proposed	Complies
Part 21 General Site Design		
21.1 – Earthworks and slope		
Development consider site topography, drainage, soli landscapes, flora, fauna and bushfire hazard by: <ul style="list-style-type: none"> Stepping buildings down the site Locate finished ground level as close to the natural ground level as practicable 	-The proposed development does not adequately consider the site topography.	NO

<ul style="list-style-type: none"> • Level changes to occur primarily within building footprint • Minimum 0.6 metres width between retaining walls • Maintain existing ground level within 2m from any boundary • Limit slope for embankments to 1:6 (grassed) and 1:3 (soil stabilising vegetation) • No fill and excavation within sensitive environments • Minimise altered groundwater flows 	<p>-The buildings do not step down the site and are not accommodated within the natural slope of the land.</p> <p>-The terraced retaining walls and fill along the eastern boundary range from 0.6 to 1.9 metres above existing ground level.</p> <p>-Retaining walls at the eastern, western, and southern boundaries with no setback.</p>	
21.2 – Landscape Design		
<p>Appropriate and sensitive site planning and design</p> <p>Existing appropriate screen planting is retained</p>	The submitted landscape plan is not sufficient.	NO
Part 22 - General access and parking		
22.1 – Equitable Access		
<p>Compliance with DDA demonstrated</p> <p>Entry access ramps located within the site and does not dominate the front façade</p> <p>Access ways for pedestrians and for vehicles are separated</p>	<p>Accessibility has been addressed in accordance with SEPP Housing and is unacceptable.</p>	NO
22.2 – General vehicle access		
<ul style="list-style-type: none"> • Minimise width and number of vehicle access points • Access driveways set back at least 10m from street intersections and 3m from pedestrian entrances • Vehicle and pedestrian access to buildings clearly distinguished and separated at I • Vehicle crossing width is acceptable for intensity of use proposed • Vehicles must exit in a forward direction • Vehicle entries are integrated into the external façade and are finished in a high quality material 	Vehicular access is satisfactory	YES

<ul style="list-style-type: none"> Retaining walls associated with driveways maximum height of 1.2m No driveways are longer than 30m unless a passing bay is provided 		
22.4 – Visitor parking		
<p>Visitor parking located behind a security grille with an intercom system to gain entry</p> <p>At least one visitor space is accessible and designed in accordance with AS2890.6</p>	<p>Visitor spaces are provided within the front setback. One visitor space is accessible.</p>	YES
22.5 – Parking for people with a disability		
<p>Accessible spaces are signposted and have a continuous path of travel to the principal entrance or a lift</p>	<p>Garages are attached to each dwelling and are acceptable</p>	YES
Part 23 – Building Design and Sustainability		
23.3 – Sustainability of Building Materials and		
23.4 – Materials and Finishes		
<p>External walls constructed of high quality and durable materials</p>	<p>The proposed render finish is not low maintenance.</p>	NO
<p>Use of materials and colours creates well-proportioned facades and minimises visual bulk</p>	<p>Satisfactory</p>	YES
23.6 – Building Services		
<p>Services and related structures are appropriately located to minimise streetscape impact</p>	<p>Underground electricity services could be conditioned were the application to be recommended for approval.</p>	YES
<p>Air-conditioning units are well screened and do not create adverse noise impacts</p>	<p>Air conditioning condensers are not shown on the plans.</p>	Unclear
23.7 – Acoustic Privacy		
<p>Design minimises impact of internal and external noise sources</p>	<p>Bedrooms have not been sited away from the internal driveway.</p>	NO
<p>Noise levels associated with air conditioning, kitchen, bathroom, laundry ventilation, or other mechanical ventilation systems and plant either as an individual piece of</p>	<p>An acoustic design report has not been provided.</p>	Unclear

equipment or in combination shall not be audible within any habitable room in any residential premises before 7am and after 10pm. Outside of these restricted hours noise levels associated with air conditioning, kitchen, bathroom, laundry ventilation, or other mechanical ventilation systems and plant either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the boundary of the nearest potentially affected neighbouring properties. The background (LA90, 15 min) level is to be determined without the source noise present.		
23.8 – Visual Privacy		
Visual privacy maintained for occupants and for neighbouring dwellings	Villas 1, 3, 5, 7 and 9 and their associated outdoor patios and garden areas are filled up to 1.9 metres in height allowing overlooking of adjoining dwellings and their principal areas of private open space, in close proximity to the boundary fence.	NO
23.9 – Construction, Demolition and Disposal		
Satisfactory Environmental Site Management Plan	Satisfactory.	YES

The specific departures from the requirements of Parts 21, 22 and 23 of KDCP are identified in the table above, these departures are not acceptable as the underlying objectives have not been achieved.

Part 24 – Water management

Council's Development Engineer is satisfied that the proposed development has been designed to manage urban stormwater as per the requirements of the DCP.

Ku-ring-gai Contributions Plan 2010

A condition requiring payment of a contribution would be required, were the application to be recommended for approval.

REGULATION

Owners consent

Section 23(1) of the Environmental Planning and Assessment Regulation 2021 requires the written consent of the owner of the land to which the development application relates.

The proposed development includes:

- Retaining wall structures (and associated boundary fences) are proposed on or over the common boundary in relation to No. 95 Carrington Road (side eastern boundary), No. 98A Junction Road (side eastern boundary), No. 98 Junction Road (rear northern boundary), No. 89A Carrington Road (side eastern boundary) and No. 89 Carrington Road (side eastern boundary).
- Dividing courtyard walls are shown on or over the common boundary of adjoining properties Nos. 89A and 95 Carrington Road and Nos. 98 and 98A Junction Road in relation to Villas 1, 3, 5, 7, 8, 9 and 10.

Therefore, in accordance with Section 23(1) of the Environmental Planning and Assessment Regulation 2021, the development application also relates to:

- i. No. 95 Carrington Road
- ii. No. 98A Junction Road
- iii. No. 98 Junction Road
- iv. No. 89A Carrington Road
- v. No. 89 Carrington Road

Owners consent for works to these properties has not been provided. In the absence of the required owners consent, development consent may not be granted to the development application.

Demolition

Section 61(1) of the Environmental Planning & Assessment Regulation 2021 requires the consent authority to consider the provisions of *Australian Standard AS 2601-2001: The demolition of structures*. A condition to this effect would be included were the application to be approved.

LIKELY IMPACTS

The likely impacts of the development have been considered within this report and are deemed not acceptable.

SUITABILITY OF THE SITE

The site is not suitable for the proposed development.

PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by the Panel ensuring that any adverse effects on the surrounding area and the environment are minimised. The proposal has been assessed against the relevant environmental planning instruments and is deemed to be unacceptable. On this basis, the proposal is contrary to the public interest.

CONCLUSION

Having regard to the provisions of section 4.15 of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be unsatisfactory.

RECOMMENDATION**PURSUANT TO SECTION 4.16(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

THAT the Ku-ring-gai Local Planning Panel, exercising the functions of Ku-ring-gai Council, as the consent authority, pursuant to Section 4.16 of the Environment Planning and Assessment Act 1979, refuse development consent to eDA0586/24 for demolition of existing structures, lot consolidation, construction of 10 independent living- multi dwellings houses, engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021 on land at 93 Carrington Road Wahroonga, for the following reasons:

1. **The site is identified as being 91 and 93 Carrington Road but the application lacks clarity and proposes work external to the site.**

Particulars:

- The application identifies the land to be developed as 91 and 93 Carrington Road, Wahroonga.
- Retaining wall structures (and associated boundary fences) are proposed on or over the common boundary in relation to 95 Carrington Road (side eastern boundary), 98A Junction Road (side eastern boundary), 98 Junction Road (rear northern boundary), 89A Carrington Road (side eastern boundary) and 89 Carrington Road (side eastern boundary).
- Dividing courtyard walls are shown on or over the common boundary in relation to Villas 1, 3, 5, 7, 8, 9 and 10.
- Owners' consent has not been provided as required by Section 23(1)(a) of the EP and A Regulation.

2. **The proposal is inconsistent with Part 5 Housing for seniors and people with a disability of SEPP Housing.**

Particulars:

- a) Clause 85(1) requires *'Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the relevant standards specified in Schedule 4'*. The proposal is non compliant with the following aspects of Schedule 4:
 - i) Villas 03 to 10 are connected to Carrington Road by the proposed central driveway which also serves as the pedestrian path of travel. Villas 1 and 10 also utilise this pedestrian path for access to the waste storage collection area.
 - ii) Schedule 4(2)(1) requires that if the whole of the site has a gradient of less than 1:10 that 100% of dwellings must have wheelchair access by a continuous accessible path of travel to an adjoining public road. For villas 3-10, the gradient of this pathway (including any diagonal line) may be

- greater than 1:20 and too steep as a ramp without handrails being inconsistent with schedule 4(2)(1) of SEPP Housing.
- iii) Schedule 4(3)(b) requires letter boxes must have wheelchair access by a continuous accessible path of travel from the letterbox to the relevant dwelling. For villas 3-10, the gradient of this pathway (including any diagonal line) may be greater than 1:20 and too steep as a ramp without handrails being inconsistent with schedule 4(3)(b) of SEPP Housing.
 - iv) Schedule 4(22) requires a garbage storage area and a recycling storage area provided for an independent living unit must be accessible by a continuous accessible path of travel from the dwelling entrance. For villas 1-10, the gradient of this pathway (including any diagonal line) may be greater than 1:20 and too steep as a ramp without handrails inconsistent with schedule 4(2)(1) of SEPP Housing. In addition, the access reports states that bin storage areas are provided at individual villas in an accessible location. It is unclear if the bin storage areas for Villas 3 and 5, 4 and 6 and 9 and 10 are shared. It appears that the area in front of the private bin areas would be insufficient to accommodate a wheelchair. .
 - v) Schedule 4(18)(4)(a) and (c) requires that a work surface that is at least 800mm long, clear of obstructions and not in the corner of the room, be located next to the cooktop. Villas 07 and 08 do not provide this arrangement.
 - vi) Schedule 4(18)(4)(e) requires that each kitchen must have an oven that has operative elements between 450mm and 1,250mm above the finished floor level and is next to a work surface. No proposed kitchens appear to have an oven to meet this requirement.
 - vii) Schedule 4(20)(a) requires that each independent living unit have a floor-to-ceiling linen storage cupboard that is at least 600mm wide. Villas 03, 04, 05, 06, 09 and 10 do not appear to have a linen cupboard.
- b) Clause 93 requires consideration of the location and access to facilities and services for independent living units, specifically:
- i) Clause 93(2)(b)(ii) requires there to be a public transport service available to the residents who will occupy the proposed development that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive). The 576 Bus Service operates along Carrington Road to Wahroonga Train Station. The service operates Monday to Friday. The proposal is inconsistent with 93(2)(b)(ii) as the 576 bus service does not operate on a Saturday or Sunday.
 - ii) The Footpath Access Plan prepared by Hydracor Consultants has not demonstrated the following:
 - I. The existing bus stops have not shown to be upgraded in accordance with Council Drawing No.2013-008.
 - II. The location of all underground services and any adjustments to existing underground services have not been shown for setting out purposes.
 - III. Potential landscaping/tree impacts have not been depicted on the civil plans.
 - IV. Endorsement of the civil plans by the access consultant to ensure compliance with Council standards and access standards has not been provided.

- iii) The project arborist has not provided a construction methodology for the construction of any new footpath, bus stop and/or driveway works.
 - iv) The access consultant has not addressed in their report any works (removal of trip points, vegetation trimmed back etc.) required to achieve compliance with Clause 93 of the SEPP.
 - v) The proposal is inconsistent with clause 93. A variation request has not been provided in accordance with clause 4.6 of KLEP.
- c) Clause 97(2) requires that development consent must not be granted unless the consent authority is satisfied the design of the seniors housing demonstrates that adequate consideration has been given to the design principles for seniors housing set out in Schedule 8.
 - i) Relevant controls of Schedule 8 include:
 - (1)(b)(i) requires that the seniors housing should be designed to recognise desirable elements of the locations current character
 - (1)(c) to complement heritage conservation and heritage items in the area
 - (1)(e) requires to set back the front building on the site generally in line with the existing building line
 - (2)(a) and (b) requires seniors housing to be designed to consider the visual and acoustic privacy of adjacent neighbours and all residents of the seniors housing by using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.
 - ii) An adequate site analysis has not been provided in accordance with Part 2.1, Control 2.1.5 and objective 1 of DCP as it does not indicate the prevailing street setback, the easement located at 89 Carrington Road, landscaping and topography of adjoining sites and the adjoining heritage item at 98 Junction Road. This results in a deficient and unsatisfactory site layout inconsistent with schedule 8 (1)(b)(i).
 - iii) The proposed development is sited forward of the adjoining properties and the predominant pattern of development on the high side of Carrington Road inconsistent with the character of the area inconsistent with schedule 8(1)(e).
 - iv) The proposed development impacts on 98 Junction Road, a listed heritage item, as detailed in Contention 7 inconsistent with schedule 8(1)(c).
 - v) The proposal has not undertaken appropriate site planning and has not adequately considered the proposed ground levels, location and design of windows and the use of screening devices and landscaping to ensure an acceptable privacy impact to adjoining properties inconsistent with schedule 8 (1)(b)(i) and (2)(a) and (b) as detailed in Contentions 3, 4, 5 and 9.
 - vi) The proposal does not ensure acceptable noise levels in bedrooms of new dwellings as they are not located away from driveways inconsistent with schedule (8)(2)(a) and (b).

- d) The proposal does not comply with the following non discretionary development standards in Clause 108:
 - i) Clause 2(c) requires that the density and scale of the building when is expressed as a floor space ratio is 0.5:1 or less.
 - ii) The applicant has calculated the FSR as 0.476:1.
 - iii) The floor space ratio is 0.53:1, or an exceedance of 122.5m² (3.0%) as calculated by Council.
 - iv) A Clause 4.6 variation request has not been provided in accordance with section 4.15(3)(b) of the EP and A Act.

3. The proposal is inconsistent with the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and Seniors Housing Design Guide (SHDG).

Particulars:

- a) Design quality Object (g) of section 1.3 of the EP&A Act, seeks:

(g) to promote good design and amenity of the building environment.

- b) The proposal is inconsistent Clause 1.3(g) as the proposal is of poor design being inconsistent with the character of the area and results in an adverse amenity impact on adjoining properties.
- c) Section 97 of the SHDG - Design of in-fill self-care housing requires that in determining a development application for development for the purposes of seniors housing, a consent authority must consider the SHDG.
- d) SHDG states that the purpose of these guidelines 'is to expand on the intent outlined in SEPP Housing in the provision and delivery of this sector specific housing typology providing 'design guidance' on how the objectives can be achieved through particular design approaches and illustrates 'design criteria' of measurable ways to achieve the objectives for seniors housing development.
- e) The SHDG states that the 'information provided in Parts 2 and 3 set the framework for how a new development needs to demonstrate that it meets the objectives. The proposal is inconsistent with Parts 2 and 3 for the following reasons:
 - a. Building maintenance
 - i) Objectives 2.1.1, 2.3.2 and 2.3.4 requires a selection of robust and durable materials which will reduce ongoing maintenance costs.
 - ii) Design guide 2.3.5 requires that pre finished and low maintenance robust materials are used.
 - iii) The proposed render finish is not low maintenance inconsistent with Design Guide 2.3.5 and Objectives 2.3.1, 2.3.2 and 2.3.4.
 - b. Site planning, character and built form.
 - i) The proposed development does not fully consider the environmental sensitivities of the site and adjoining sites and is inconsistent with the character of the area.
 - ii) Design Guide 4.2.4 requires the mapping of the pattern of existing adjacent development and key features surrounding the site and determine their influence on the articulation of the built form.

- iii) An adequate site analysis has not been undertaken in accordance with Part 2.1, Control 2.1.5 and Objective 1 of DCP and Objectives 3.1.1, 3.1.3 and 3.1.5 and Design Guide 4.2.4 of the SHDG and results in a deficient and unsatisfactory site layout.
 - iv) Design Guide 4.2.5 requires reference to front setbacks of neighbouring development and acknowledge the established street pattern.
 - v) The adjoining properties have front setbacks of approximately 16.75m (95 Carrington Road) and 14.75m (89 Carrington Road). The prevailing front setback pattern within Carrington Road is consistent with the desired future character established by Part 4A.2(3) of DCP which seeks a minimum setback of 12m and an average setback of 14m.
 - vi) The proposed development has a front setback of approximately 9.5m – 10.8 metres and is inconsistent with Objectives 4.2.1 and 4.2.2, and Design Guide 4.2.5 of SHDG.
 - vii) The proposed services / visitor carparking and waste storage collection areas are setback a minimum of 2.6m from the front boundary. The high side of Carrington Road is largely characterised by parking structures behind the building line and is inconsistent with objectives 4.2.1 and 4.2.2, and design guide 4.2.5 of SHDG.
 - viii) The development has not been designed to respect the site layout with excessive amounts of fill within the eastern setback, with minimal planting resulting in unacceptable privacy impacts on sensitive areas of adjoining properties inconsistent with Part 2.1, Control 2.1.5 and Objective 1 of DCP and Objectives 3.1.1, 3.1.3 and 3.1.5 of the SHDG.
 - ix) The proposed development is inconsistent with the existing built character, has not sensitively integrated the new development into the surrounding area and is inconsistent with the desired future character of the R2 Low Density Zone.
- c. Access and mobility
- i) Design Guide 6.3.3 seeks to maintain positive connections between resident communities and the outdoor environment.
 - ii) Design Guide 6.3.5 requires circulation paths and corridors are also places for social interaction and should include places to sit and gather in small groups.
 - iii) Design Guide 6.5.5 requires frequent rest points in corridors, lift lobbies and on outside walking paths to enable equitable design and promote dignity, respect and pride of place consistent with objectives 6.5.1 and 6.5.2.
 - iv) Objective 13.2 promotes the creation of environments where owner/occupants of the units can get together for activities, socialising, events and celebrations.
 - v) Villas 03 to 10 are connected to Carrington Road by the proposed central driveway which also serves as the pedestrian path of travel.
 - vi) The proposed development does not define and separate the footpath from the driveway. There is limited common landscaped area providing limited opportunities for sitting in communal areas throughout the development inconsistent with Objective 13.2, 6.3.1 and 6.3.2 and Design Guides 6.3.3, 6.3.5 and 6.5.5 of SHDG.
 - vii) The proposal provides insufficient accessible, equitable and useable areas of common areas to be utilised by residents of the site to create community and socialisation inconsistent with Objectives 6.3.1, 6.3.2, 6.5.1, 6.5.2 and 13.2, and Controls 6.3.3, 6.3.5 and 6.5.5 of SHDG.

d. Visual and acoustic privacy

- i) Objective 14.2.1 seeks to provide separation between communal open space and private open space.
- i) Design Guide 14.2.2 requires the provision of generous landscape buffers for screening and acoustic privacy.
- ii) The proposal includes bedrooms facing directly onto the driveway and common area (villas 03, 04, 05, 06, 09 and 10) with minimal setback and low hedge planting. This is inconsistent with Design Guide 14.2.2 of SHDG to 'provide generous landscape buffers for screening'.

e. Chapter 14.3 Solar access and design for climate

- i) Objective 14.3.1 seeks to design dwellings that reduce the demand on energy.
- ii) Design Guide 14.3.3 requires that dark roof colours be avoided to reduce heat absorbance.
- iii) The proposed roofs of Villas 01, 02, 03, 04, 07 and 08 are dark in colour.
- iv) This is inconsistent with Design Guide 14.3.3 of SHDG.

4. The proposal would have unacceptable impacts on the privacy and amenity of adjoining properties.

Particulars:

- a) Control 1 of Part 23.8 of DCP requires that private open spaces and principal living spaces of the proposed dwelling(s) and adjacent dwellings are protected from direct and unreasonable overlooking from all new residential developments.
- b) Control 1 of Part 21.1 of DCP requires buildings to be stepped down the site, and development to be accommodated within the natural slope of the land.
- c) Control's 3 and 5 requires that landscape cut and fill is to be a maximum of 600mm above or below existing levels and set back 2 metres from the boundaries, respectively.
- d) Nos 95 and 98A Junction Road adjoin the sites eastern boundary and are on the low side of the Site. Areas of principal private open space are located aligning the eastern boundary.
- e) Villas 1, 3, 5, 7 and 9 and their associated outdoor patios and garden areas are filled up to 1.9 metres in height allowing overlooking of adjoining dwellings and their principal areas of private open space, in close proximity to the boundary fence, inconsistent with Part 23.8C control 1, 3 and 5 and Objectives 1 and 2 of DCP.
- f) The proposed development has not been accommodated within the natural slope of the land resulting in unreasonable amenity impacts to adjoining properties inconsistent with Objectives 1 and 9 and Controls 1, 3 and 5 of Part 21.1 of DCP.

5. Landscape amenity Impacts on adjoining properties

The proposed development will negatively impact on the amenity of the adjoining properties (89 Carrington Road, 89A Carrington Road, 95 Carrington Road, and 98A Junction Road). As such, it fails to comply with the relevant provisions under SEPP Housing, SHDG, the objectives and controls of KLEP and Part 21.1 of the KDCP.

Particulars:

- a) The retaining walls and associated cut and fill (see details below at (c)) will negatively impact on the amenity of the adjoining properties, particularly within the eastern side setback, where terraced retaining walls create narrow landscape areas that cannot support planting at a scale reflective of the original treescape.
- b) The cumulative effect of these earthworks fails to satisfy Clause 1(d)(iv) of Schedule 8 of SEPP, “to maintain reasonable neighbourhood amenity and appropriate residential character by considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours”.
- c) The earthworks fail to satisfy Objective 3.1.9 of the SHDG, which aims to, “provide opportunity for regeneration of natural environments by allowing suitably sized setbacks to accommodate restorative planting to a scale that reflects the original treescape”.
- d) The earthworks within the eastern, western and southern setbacks will negatively impact on adjoining properties and, as such, fail to satisfy Clause 6.2 Earthworks of the LEP, Clause 3(d) & (h), which requires the consent authority to consider “the effect of the development on the existing and likely amenity of adjoining properties”, and to ensure “any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.”
- e) Excessive Retaining Wall Heights – The terraced retaining walls and fill along the eastern boundary range from 0.6 to 2 metres above existing ground levels, exceeding Control 3, which limits cut or fill to 600mm above or below natural ground.
- f) Lack of Setback – Retaining walls are positioned at the eastern, western, and southern boundaries with no setback to the boundaries, breaching Control 5, which requires maintaining existing ground level for 2 metres from any boundary.
- g) Adverse Amenity Impacts – The retaining walls, combined with a 1.8-metre fence along the eastern boundary, will result in a total height of 2.1 to 2.8 metres above existing grades, negatively affecting the amenity of adjoining properties and being contrary to Clause 4.3.4 of the SHDG which aims to “provide setbacks to respect neighbours privacy, overshadowing and existing amenity”.

6. Impacts on trees nominated for retention

The proposal fails to demonstrate that trees designated for retention will not be adversely affected, thereby failing to comply with the relevant provisions under SEPP Housing and contravening the objectives under the SHDG. Additionally, it does not meet the objectives and controls of Part 13.1 of the KDCP or the standards set out in AS 4970-2009 – *Protection of Trees on Development Sites*.

Particulars:

- a) The proposed works will have unacceptable impacts on trees nominated for retention, failing to comply with the following relevant objectives, standards and controls:
 - SEPP Housing- Schedule 8 Clause 1(g): Aims “to retain, wherever reasonable, significant trees.
 - SHDG – Clause 3.1.3: Seeks “to manage and preserve existing natural features such as trees, overland flow paths, riparian corridors, and sensitive environments”.
 - SHDG – Clause 3.1.6: Requires engagement of expert consultants (e.g., arborists), to inform initial design through site analysis.

- DCP Part 13.1 - Control 2 prohibits “the injury of any tree(s) or other vegetation protected under this DCP is prohibited without the written consent of Council.”
 - DCP Part 13.1 - Control 3 defines actions that cause tree injury, including:
 - i. removing including cut down, take away, clearing or transplant a tree(s) or other vegetation from its place of origin;
 - ii. pruning, damaging / tearing live branches and roots; lopping (height reduction) a tree;
 - viii. changing of ground levels within the root zone of a tree or other vegetation by way of excavation, trenching, filling or stockpiling;
 - ix. severing tree or other vegetation roots with a diameter of 50mm
 - DCP Part 21.1 – Control 8(iii): Requires “retaining walls, excavated and filled areas to be located and constructed to have no adverse impact on trees and vegetation to be retained on site or on adjoining sites.
 - AS4970-2009 – Clause 3.3.3: States that “if the proposed encroachment is greater than 10% of the TPZ or inside the SRZ the project arborist must demonstrate that the trees would remain viable”.
- b) In accordance with the above provisions, the proposal fails to adequately consider and implement design solutions to minimise impacts on the following trees to an acceptable level:
- i. T1, T5, T8, T14, T17, T22 - The proposed masonry front fence will encroach within the tree protection zone (TPZ) and structural root zone (SRZ) constituting a major encroachment under AS4970-2009.
 - ii. T22 – Villa 1, including the patio, fill and retaining walls within the eastern side setback, encroaches 19% into the TPZ constituting a major encroachment. The proposed masonry fence along the eastern boundary also encroaches within the TPZ and SRZ.
 - iii. T114 – Villas 9 & 10 along with retaining walls and associated cut within the southern rear setback, encroaches 29% into the TPZ and into the SRZ (major encroachment). The arborist has recommended removal of T114 due to the high level of impact however the plans indicate retention of the tree. Removal of T114 would not be supported as it is a mature specimen in good health and does not unreasonably constrain development on the site. T114 also contributes to the landscape amenity of the adjoining heritage item.
 - iv. T117 & T119 – The retaining wall along the southern boundary encroaches into the SRZ constituting a major encroachment under AS4970-2009.
 - v. T120 – Villa 9, including the patio, fill and retaining walls within the eastern side setback, encroaches 19% into the TPZ constituting a major encroachment. The proximity of the tree to Villa 9 may also require future pruning of branches overhanging the roofline, which are exempt under Part 13.2 of the DCP. The combination of root disturbance and canopy pruning will compromise the ongoing health, structural integrity and appearance of the tree.

- vi. T121 - Villa 9, including the patio, fill and retaining walls within the eastern side setback, encroaches 18% into the TPZ and SRZ constituting a major encroachment under AS4970-2009.
- vii. T30, T35, T38, T39, T41, T43, T49, T54, T58, T54, T80, T87, T106 – Retention of the trees is unviable due to proposed cut, fill, and retaining walls within the eastern and western side setbacks. The trees and mature shrubs currently provide amenity for the adjoining properties and their subsequent removal will have adverse amenity impacts on neighbouring properties.

7. Unacceptable Impacts on the adjoining heritage item

Particulars:

- a) The proposed retaining walls and cut within the southern (rear) setback will negatively affect trees T114, T117, T119, T120, T121, as well as mature shrubs and trees within the heritage item at 98 Junction Road. The subsequent potential loss of the trees fails to satisfy Clause 4.3.5 of the Senior Housing Design Guide, which is to *“investigate and respond to any heritage context or values and provide considered setbacks that are complimentary to significant buildings, views or natural features, and that preserve curtilages needed for heritage interpretation”*.
- b) The proposed potential large loss of trees and shrubs throughout the whole of the adjacent SEPP Seniors development will have an adverse impact on the setting of the heritage item contrary to Part 19F.1.2(vi) of DCP which requires development on sites that directly adjoin a heritage item to have regard to the setting and context of the item.
- c) The potential loss of trees along the rear boundary close to the outbuilding will have an adverse impact on it and is contrary to Part 19F.1.2(vi) of DCP which requires development on sites that directly adjoin a Heritage Item to have regard to the setting and context of the heritage item.
- d) The proposed development will be partially visible from the rear of the heritage item through deciduous trees on the site and will alter its view and setting contrary to Part 19F.1.4 of DCP which require new development in the vicinity of a heritage item to demonstrate that it will not reduce or impair important views to and from the heritage item.
- e) The proposed potential loss of trees and shrubs on either side of the northern boundary of the heritage item is contrary to Part 19F.3(i), (ii) and (iii) of DCP which requires development in the vicinity of a heritage item to retain original or significant landscape features associated with the heritage item or which contribute to its setting.

8. Unacceptable landscape proposal

The proposed landscaping fails to provide sustainable, high-quality landscaped areas with adequate amenity and does not offer sufficient screening for neighbouring properties. As a result, it does not comply with the relevant provisions under SEPP Housing, the SHDG, and Parts 19F.3, 21.1 and 21.2 of the KDCP.

Particulars:

- a) The proposed retaining walls and associated fill along the eastern boundary will increase the potential for overlooking into adjoining properties and create a visually intrusive structure when combined with the 1.8 metres fence above the retaining walls. Furthermore, the proposed retaining walls and associated cut

along the western and southern boundaries will require the removal of trees designated for retention and negatively impact trees on adjoining properties.

- b) These works will have an adverse effect on neighbouring properties and therefore fail to comply with Clause 1(d)(iv) of SEPP Housing (Schedule 8) which aims “to maintain reasonable neighbourhood amenity and appropriate residential character by considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours”.
- c) Additionally, the proposal fails to comply with Control 5 of Part 21.1 of the DCP which requires “Existing ground level is to be maintained for a distance of 2 metres from any boundary.”
- d) The existing trees and mature shrubs (T30, T35, T38, T39, T41, T43, T49, T54, T58, T54, T80, T87, T106) located on the eastern, western and southern boundaries, along with a Murraya hedge on the eastern and southern boundaries, currently provide amenity for the adjoining properties. However, based on the current plans, retaining these trees is not viable due to proposed excavation, filling, and retaining walls within the eastern and western side setbacks. As a result, their removal does not comply with Control 8(iii) of Part 21.1 of the DCP, which states that:

“retaining walls, excavated and filled areas to be located and constructed to have no adverse impact on trees and vegetation to be retained on site or on adjoining sites”.

- e) Additionally, Part 21.2 - Control 3 of Part 21.2 of the DCP requires the retention of existing appropriate screen planting.
- f) The proposed transplanting of 15 Camellia plants for screening is not considered viable and without specialist handling and ongoing maintenance, their survival is unlikely. Priority should be given to retaining the existing screen planting. If retention is not possible, it should be replaced with super-advanced screen planting to ensure long-term success and effective screening.
- g) Inappropriate placement of tall to medium trees beneath the canopies of existing trees to be retained (T22, T114).
- h) To minimise impacts on the streetscape and existing trees the proposed front fence is to be deleted and the existing hedge row of Camellia's along the front boundary is to be retained where possible.
- i) Trees T33, T50, T65, T78, T89, T108, T109, T116, T118, T123 are proposed for retention, however should be removed due to poor health, structure or are a nominated weed species.

9. Public interest

The development proposal is not in the public interest, having regard to the contentions raised by Council and the matters raised in submissions.

Particulars:

- (a) The Development Application is not in the public interest, contrary to sections 4.15(1)(d) and (e) of the EP&A Act.
- (b) The Development Application was notified in the circumstances set out in Part A above. Council contends that the Development Application should be refused as potential adverse environmental impacts from the development are not minimised or mitigated, contrary to the public interest. Having regard to the matters raised in the submissions received by Council insofar as those matters

coincide with the contentions raised in this Statement of Facts and Contentions and/or the Court finds them determinative of the Development Application.

10. Trees recommended for removal

The proposal fails to provide effective management solutions for the site's future landscape outcomes, as some trees nominated for retention are either in poor health, have structural deficiencies, or are classified as weed species.

Particulars:

- a) Trees T33, T50, T78, T89, T108, T109, T116, T118, T123 are recommended for removal.

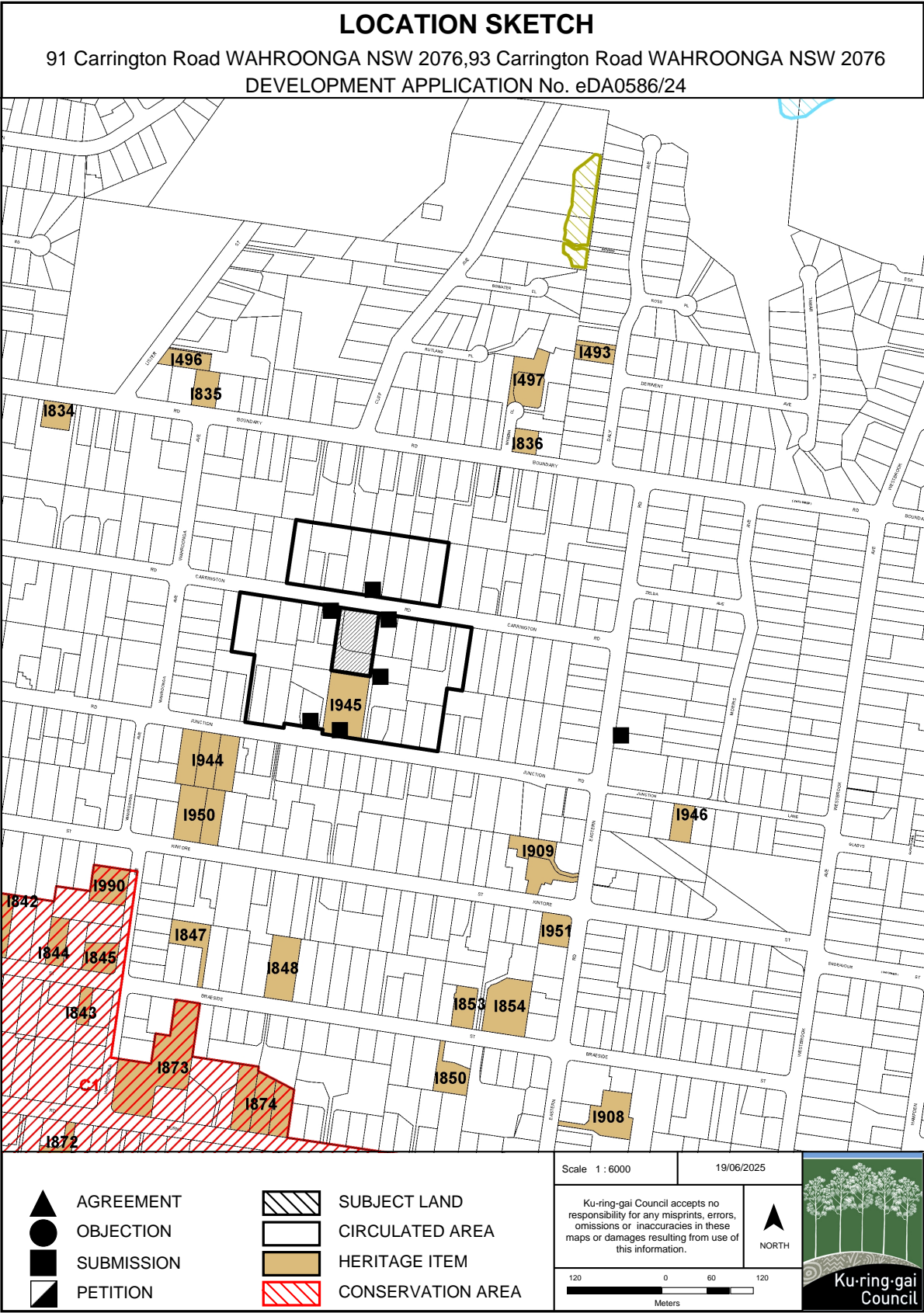
11. The submitted documents and plans lack consistency and sufficient detail, to enable a comprehensive and accurate assessment of the proposal against the relevant planning provisions.

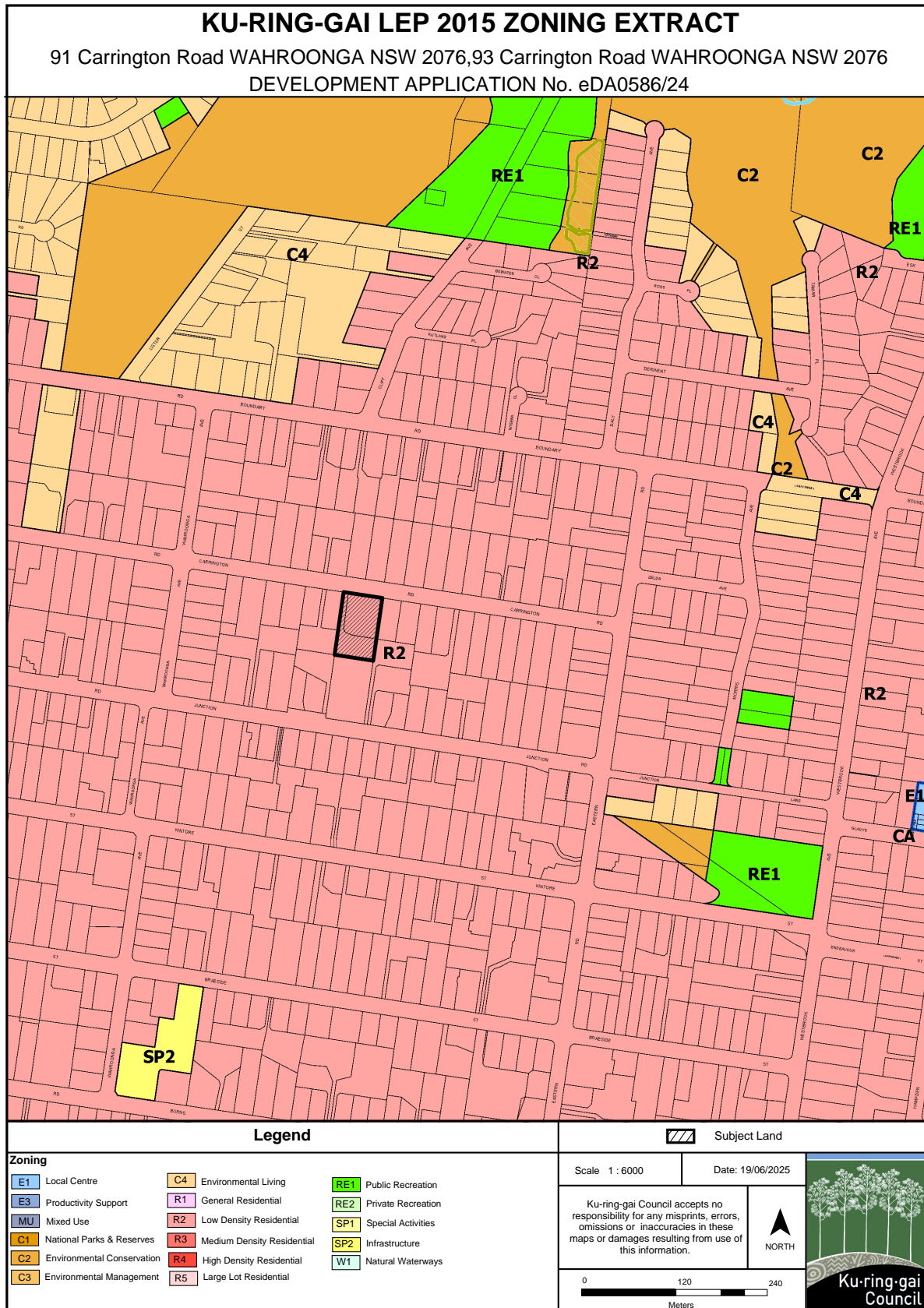
Particulars

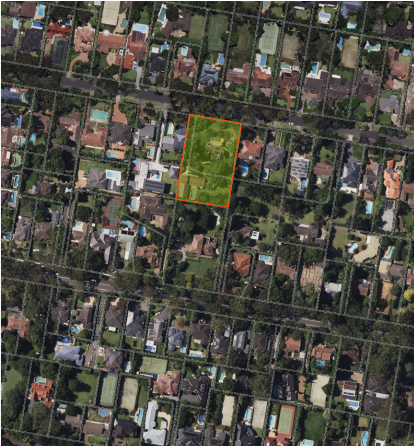
- a) Inaccurate GFA diagrams and FSR calculations have been submitted.
 - i) The maximum permissible FSR for the Site is 0.5:1 under Section 108 (c) of SEPP Housing. The proposal has an approximate GFA of 2,146m² which is equivalent to a floor space ratio of 0.530:1, or an exceedance of 122.5m² (3.0%).
 - ii) Amended architectural plans with supporting GFA diagrams and FSR calculations are required, to demonstrate compliance with the FSR development standard.
 - iii) A Clause 4.6 variation request has not been provided in accordance with Clause 4.15(3)(b).
- b) Inaccurate information in relation to trees
 - i) The Survey Plan does not include trees located in close proximity to the site within neighbouring properties. The properties affected are known as 89 Carrington Rd, 95 Carrington Rd, 98 Junction Rd and 98A Junction Rd.
 - ii) An updated Arboricultural Impact Assessment (AIA) should be provided by the arborist to assess the impact of the proposed footpath, as detailed in the Hydracor Consulting Engineers suite of plans (Drawings FP1 to 13, Issue B dated 19/12/24), on:
 - I. Trees located on the nature strip
 - II. Trees on adjoining private properties where the footpath encroaches within the designated tree protection zones.
 - iii) An updated AIA is also required to assess the impact of the proposed new driveway crossing on trees T3 and T4. The AIA should detail any required pruning works necessary to provide vehicular egress.
 - iv) All plans must be consistent in relation to tree retention and removal.
- c) BASIX certificate.
 - i) The BASIX Certificate is not consistent with the landscape plan:

- i. The common areas of lawn and garden on page 2 are not consistent with the landscape plan.
 - ii. The private areas of garden and lawn indicated on page 3 are not consistent with the architectural plan DA08.
 - iii. A BASIX landscape compliance plan is to be submitted.
- d) Solar access
 - i) The proposed solar access is stated as being 100% which meets the non-discretionary development standard of HSEPP 108(2)(g) which requires at least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces.
 - ii) Shadow diagrams have not been prepared using the surveyed true north point, do not indicate neighbouring windows or identify neighbouring swimming pools.
 - iii) An accurate assessment of the solar access impacts cannot be undertaken.
- e) Plan inconsistencies and insufficient information
 - i) The plans do not include heights or dimensions for the proposed front fence, mailbox or screen structures.
 - ii) The front boundary width shown on the architectural plans is inconsistent with the survey.
 - iii) The roof plan and elevations do not show all ridge heights. The full survey is to be overlayed onto the roof plan to confirm maximum building heights.
 - iv) The plans do not indicate the finished level of the base of the existing swimming pools. Villas 1 and 10 are located over the existing swimming pools. The roof plan and sections do not demonstrate the maximum height of these villas.
 - v) All elevations of all dwellings have not been provided.
 - vi) Details of the proposed individual waste storage area enclosures have not been provided.
 - vii) Clothes drying facilities have not been identified.
 - viii) Trees are shown over the elevations which remove architectural detail from the plans.
 - ix) Photovoltaic cells and air conditioning condensers are not shown on the architectural plans inconsistent with the BASIX certificate.
 - x) An acoustic design report identifying all mechanical ventilation equipment and other noise generating plant including, but not limited to air conditioners, lifts and pumps associated with rain water reuse systems and recommendations to address any potential noise impacts has not been provided.
 - xi) The architectural plans are inconsistent, for example:
 - I. Balustrading is not identified to first floor balconies of Villas 1 and 2.
 - II. The floor levels on the elevation plans do not clearly identify which villa they relate to.
 - III. The eastern and western elevations identify screens within the front setback area running north to south. These screens are not shown on the ground floor plan/site plan.
 - IV. All plans must be consistent.
 - xii) The landscape plan and architectural plans are inconsistent.

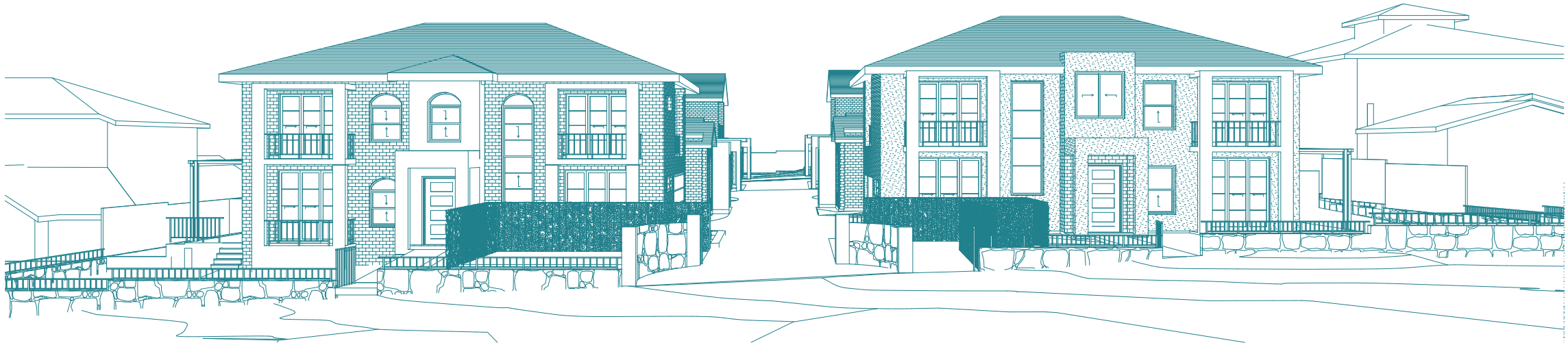
- I. For example the proposed screen structures behind the garbage collection point and visitor parking is not shown on the landscape plans.
 - II. The retaining wall locations on the landscape plan and architectural plans are inconsistent.
 - III. The location of retaining wall structures along the eastern boundary of Villas 8 and 9 are inconsistent.
 - IV. Level differences of the garages (Villas 09, 02, 04, 06, 08, 10, ramp in front of Villa 3) are inconsistent
- xiii) The plans are not consistent in relation to the retention and removal of existing trees.
- xiv) Several instances of doorway circulation spaces, corridor widths and passenger lift dimensions do not appear to comply. Dimensioned drawings with accessibility clearance templates and room dimensions demonstrating all clearances and required accommodation for all dwellings are satisfied consistent with the requirements of 85(1) and Schedule 4 of SEPP Housing have not been provided.







LOCATION PLAN
NOT TO SCALE
SOURCE : SIXMAPS.NSW.GOV.AU



C	GA ISSUE	12/12/2024
B	CONSULTANT ISSUE	25/11/2024
A	PRELIMINARY CONSULTANT ISSUE	15/11/2024
Issue	Amendment	Date

Proposed Seniors Living
at
91-93 Carrington Rd,
Wahroonga
for
MSV Ultima PTY LTD



Level 2 19-23 Bridge Street PYMBLE NSW 2073 AUSTRALIA
t: (02) 9440 2455 e: info@gelder.com.au w: gelder.com.au
ABN 48 090 878 827 NSW ARB REG ARCHITECT: GELDER # 6126

COVER SHEET

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Project No:	2143	Date:	Nov 2024	Issue:	C
Drawing No:	DA 01	Scale:	1:14.01, 1:1.25		
		Date Printed:	18/12/2024		

A1 ORIGINAL SIZE

PROPOSED SENIORS LIVING
AT
91 - 93 CARRINGTON ROAD, WAHROONGA NSW 2076



C	QA ISSUE	12/12/2024
B	CONSULTANT ISSUE	25/11/2024
A	PRELIMINARY CONSULTANT ISSUE	15/11/2024
Issue	Amendment	Date

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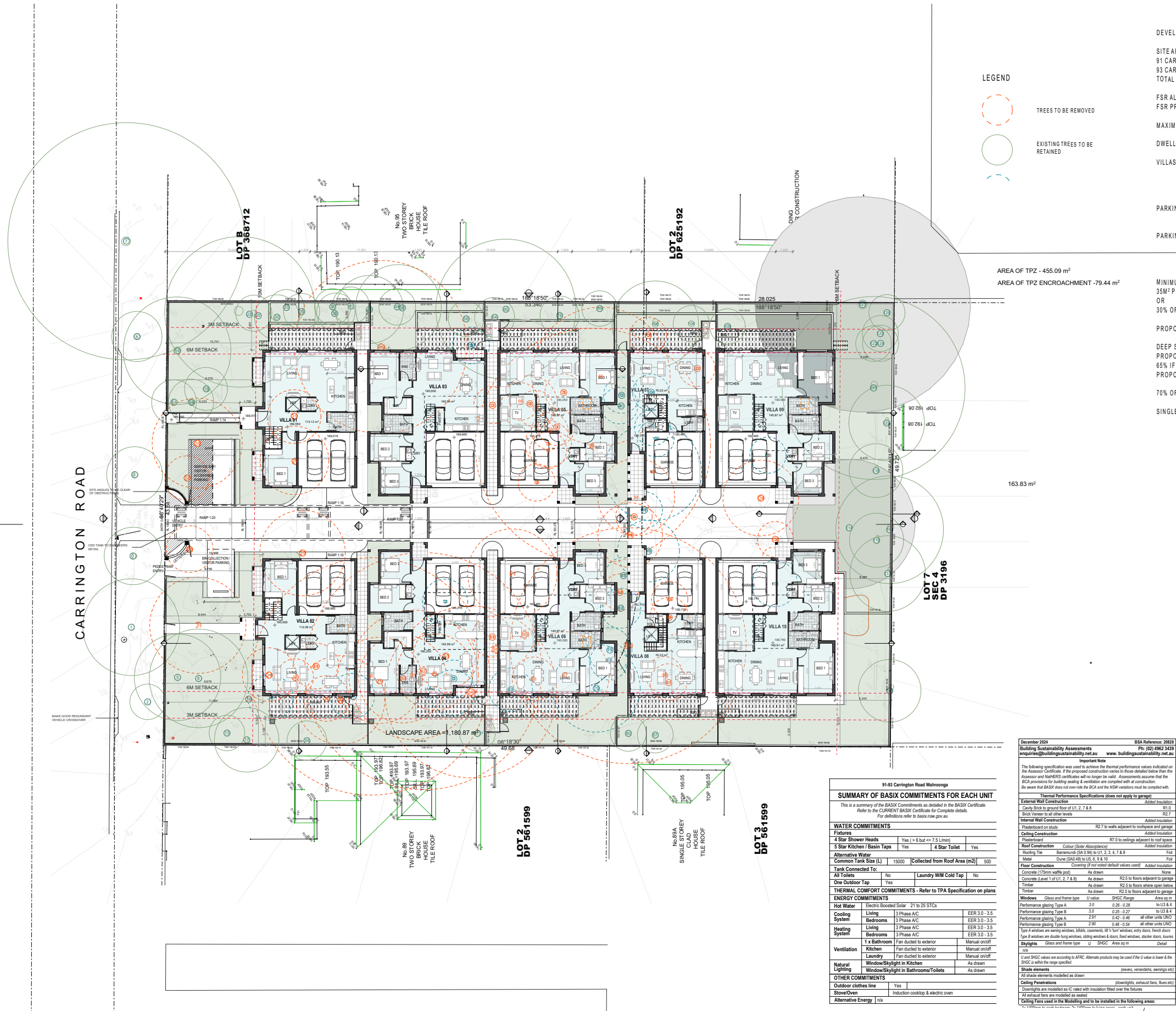
SITE ANALYSIS PLAN

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Project No:	2143	Date:	Nov 2024	Issue
Drawing No:	DA 02	Scale:	1:500	C
		Date Plotted:	18/12/2024	

A1 ORIGINAL SIZE art. 21.61.91-93 Carington Rd. www.ROO.com.au/01_Plane/02_D&A/31.61-93-D&A-ROO-11 V22 pin



DEVELOPMENT CONTROLS:

SITE AREA
91 CARRINGTON ROAD = 1,752M²
93 CARRINGTON ROAD = 2,295M²
TOTAL = 4,047M²

FSR ALLOWABLE = 0.5:1 (2,023.5M²)
FSR PROPOSED = 0.48:1 (1,926.30M²)

MAXIMUM HEIGHT: 9.5M

DWELLING MIX:

VILLAS: 2 X TWO STOREY - 4 BED
2 X SINGLE STOREY - 3 BED
6 X SINGLE STOREY - 3 BED
TOTAL = 10 VILLAS - 32 BED

PARKING: ALL VILLAS REQUIRE 2 X CARSPACES
VISITOR - 1 PER 5 = 3 SPACES

PARKING PROPOSED - 2 VISITOR SPACES INCLUDING ONE SHARED / SERVICE
7 CAR SPACES AT 3.2M WIDTH
3 CAR SPACES AT 2.4M WIDTH
22 TOTAL

MINIMUM LANDSCAPE AREA THE LESSER OF
35M² PER DWELLING = 350M²
OR
30% OF SITE AREA = 1,214.1M²

PROPOSED = 1,208.4M²

DEEP SOIL (MIN. 3M) = 15% OF SITE 607.05M²
PROPOSED = 17% (687.80M²)
65% IF PRACTICAL TO THE REAR = 394.58M²
PROPOSED = 68% (412.8M²)

70% OF DWELLINGS RECEIVE 2HRS TO LIVING + POS

SINGLE STOREY DWELLINGS - 15M² POS (MIN. 3M)

Issue	Amendment	Date
C	GA ISSUE	12/12/2024
B	CONSULTANT ISSUE	25/11/2024
A	PRELIMINARY CONSULTANT ISSUE	15/11/2024

Proposed Seniors Living
at
91-93 Carrington Rd,
Wahroonga
for
MSV Ultima PTY LTD



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GROUND FLOOR PLAN

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Project No:	2143	Date:	Nov 2024	Issue:	C
Drawing No:	DA 03	Scale:	1:200, 1:100	Date Printed:	18/12/2024

A1 ORIGINAL SIZE



C	GA ISSUE	12/12/2024
B	CONSULTANT ISSUE	25/11/2024
A	PRELIMINARY CONSULTANT ISSUE	15/11/2024
Issue	Amendment	Date

Proposed Seniors Living
at
91-93 Carrington Rd,
Wahroonga
for
MSV Ultima PTY LTD



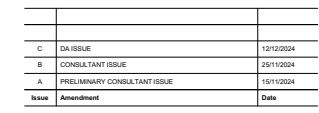
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ABN 48 090 878 827 NSW ARB REG ARCHITECT: GELDER # 6126

FIRST FLOOR PLAN

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Project No:	2143	Date:	Nov 2024	Issue:	C
Drawing No:	DA 04	Scale:	1:200	Date Printed:	18/12/2024

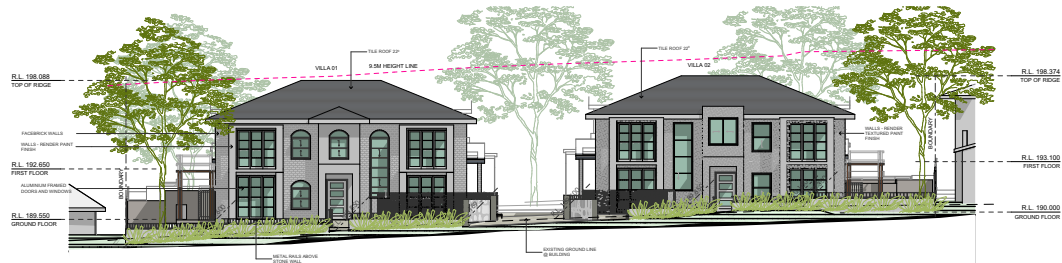
A1 ORIGINAL SIZE



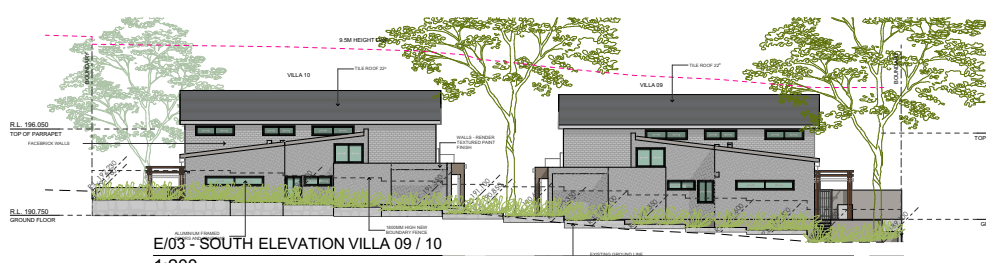
GGA
G E L D E R G R O U P
A R C H I T E C T S

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A1 ORIGINAL SIZE 2143 2143 91-93 Carlington Rd, Wixom, MI 48396-1501 Phone (248) 314-6344 ARCHA V22 pin



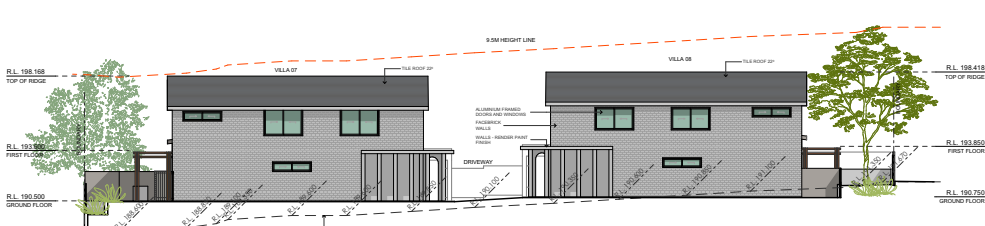
E/01 - NORTH ELEVATION VILLA 01/02
1:200



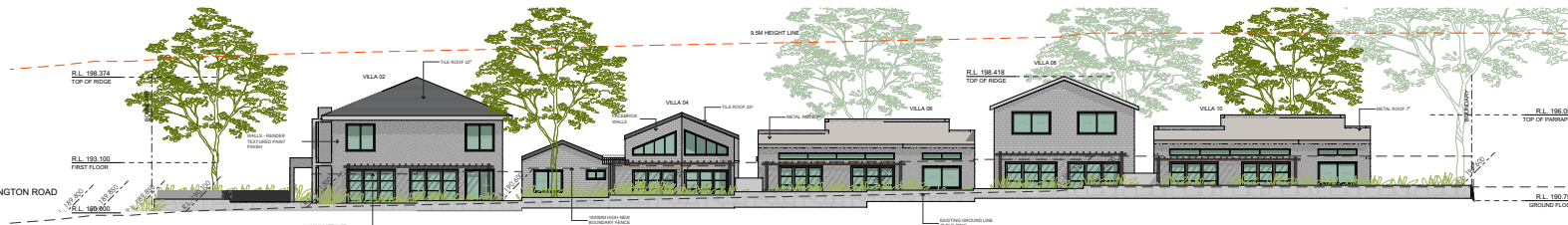
E/03 - SOUTH ELEVATION VILLA 09 / 10
1:200



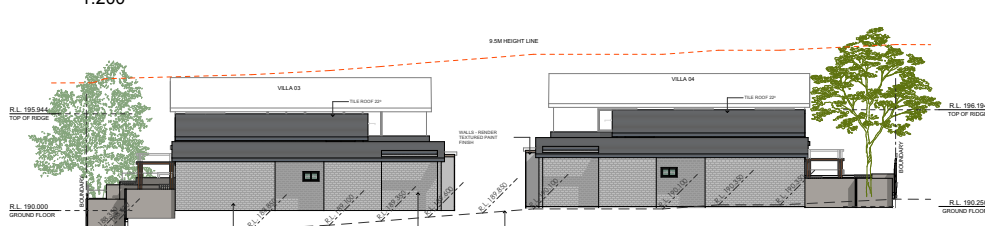
E/02 - EAST ELEVATION VILLA 01, 03, 05, 07 & 09
1:200



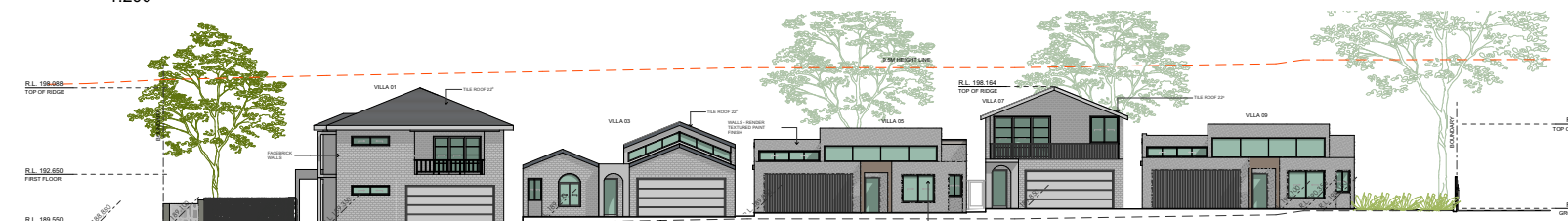
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1:200



E/04 - WEST ELEVATION VILLA 02, 04, 06, 08 & 10
1:200



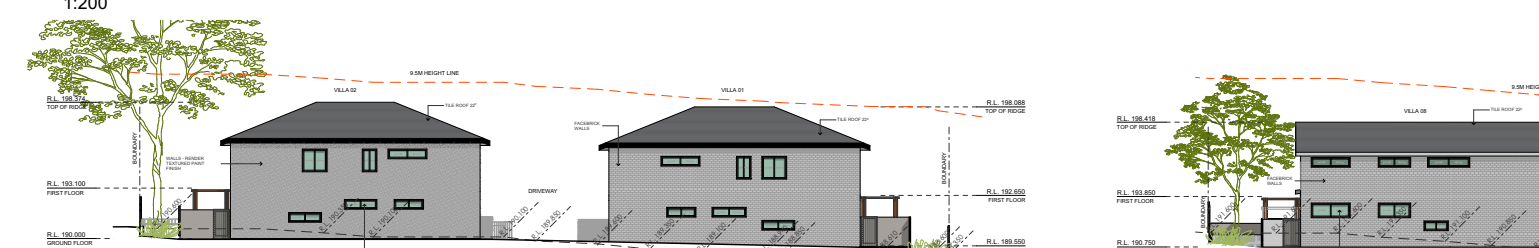
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1:200



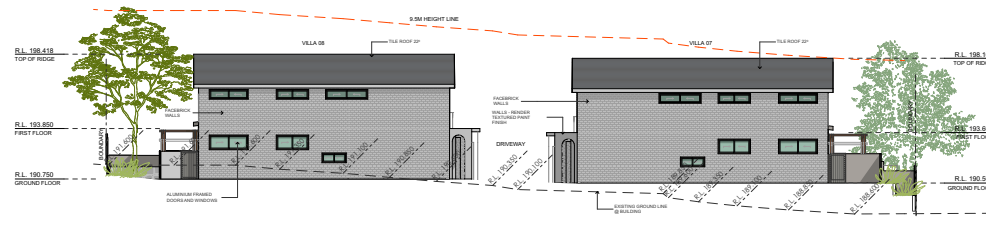
E/05 - INTERNAL WEST ELEVATION VILLA 01, 03, 05, 07 & 09
1:200



E/06 - INTERNAL EAST ELEVATION VILLA 02, 04, 06, 08 & 10
1:200



E/07 - INTERNAL SOUTH ELEVATION VILLA 01 & 02
1:200



E/08 - INTERNAL SOUTH ELEVATION VILLA 07 & 08
1:200

EXTERNAL FINISHES -

- ROOF - TILE (ALL VILLAS EXCEPT 05, 06, 09 & 10)
- 'MONIER ATURA'BARRAMUNDI'
- GUTTERS - COLORBOND 'IRONSTONE'
- DOWNPIPES TO MATCH WALL COLOUR
- ROOF - METAL (VILLAS 05, 06, 09 & 10)
- COLORBOND 'TUNE'
- GUTTERS - COLORBOND 'TUNE'
- DOWNPIPES TO MATCH WALL COLOUR
- WALLS - FACEBRICK 'AUSTRAL CRICKS'
- SAN SELMO SMOKED GREY CASHMERE
- WALLS - RENDER PAINT FINISH
- DULUX 'SEIGE ANTIQUITY SNAF2'
- WALLS - RENDER TEXTURED PAINT FINISH
- DULUX 'FLOODED GUM SNAH3'
- WALLS - ENTRY VILLAS 05, 06, 09 & 10
- DULUX 'MOCHA GREY SNA48'
- WINDOW FRAMES -
- DURALLOY - 'BAYSALT SATIN 27278655'
- WINDOW SASHES AND TRIMS
- DURALLOY - 'SHOUJI WHITE SATIN 27284682'
- RETAINING WALLS -
- 'YARRABEE STONE DUNOLLY RANDOM'
- FRONT FENCE / GATES
- COLORBOND 'BASALT'
- FENCING / PERGOLA - COLORBOND
- 'GULLY'

C	GA ISSUE	12/12/2024
B	CONSULTANT ISSUE	25/12/2024
A	PRELIMINARY CONSULTANT ISSUE	15/12/2024
Issue	Amendment	Date

Proposed Seniors Living
at
91-93 Carrington Rd,
Wahroonga
for
MSV Ultima PTY LTD



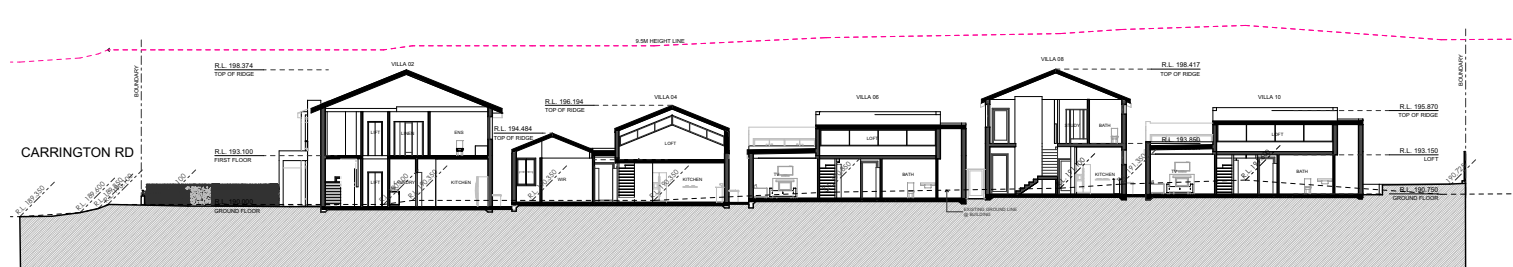
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ABN 48 089 878 827 NSW ARB REG ARCHITECT: GELDER # 6126

ELEVATIONS

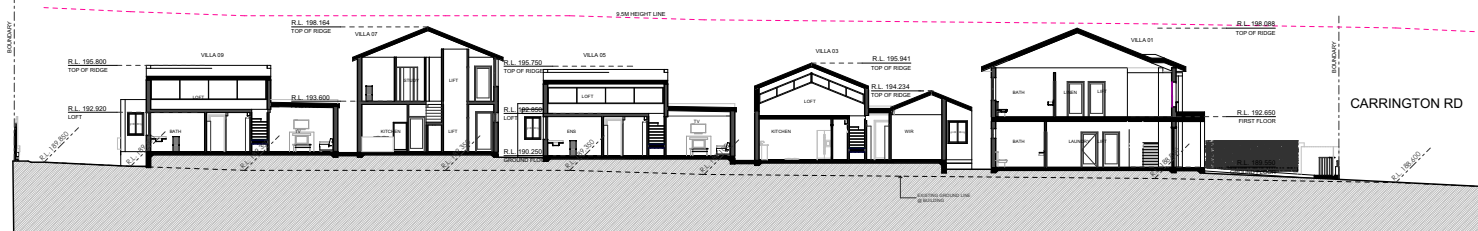
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Project No:	2143	Date:	Nov 2024	Sheet:	
Drawing No:	DA 06	Scale:	1:200		
		Date Printed:	18/12/2024		

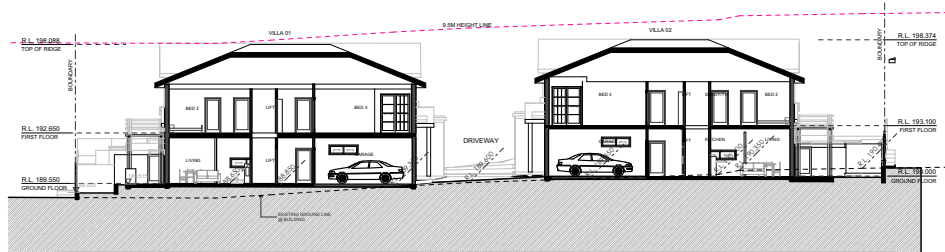
A1 ORIGINAL SIZE



SECTION A - A VILLA 01, 03, 05 07 & 09
1:200



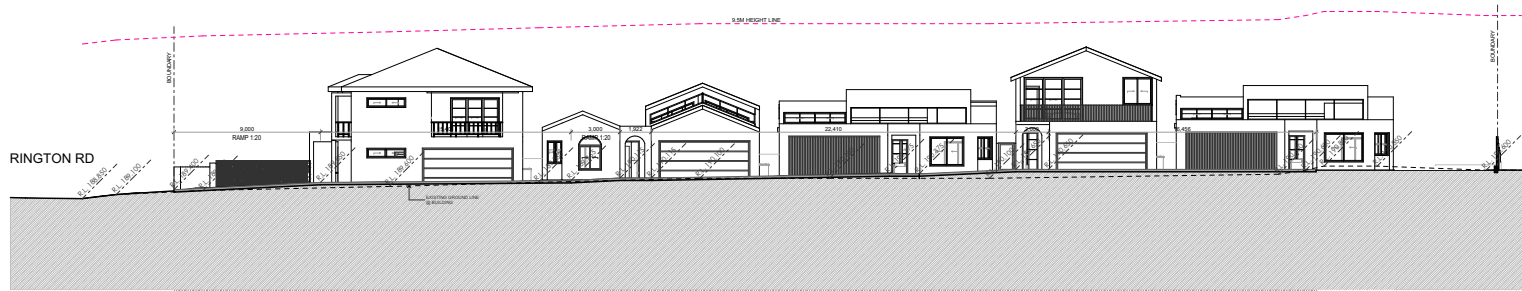
SECTION B - B VILLA 02, 04, 06 08 & 10
1:200



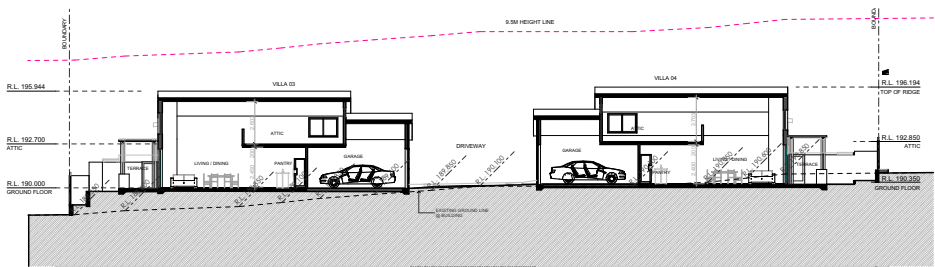
SECTION C - C VILLA 01 & 02
1:200



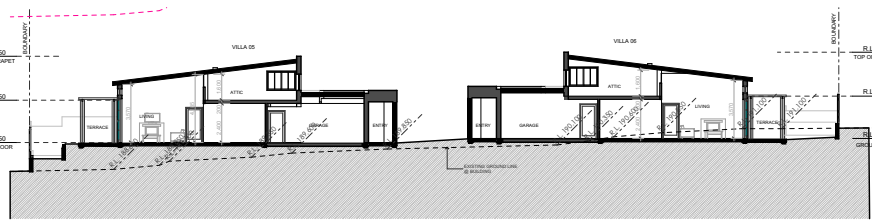
SECTION D - D VILLA 07 & 08
1:200



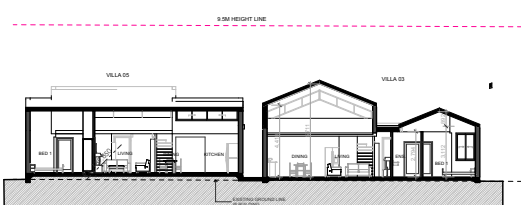
SECTION E - E DRIVEWAY LONG SECTION
1:200



SECTION F - F VILLA 03 & 04
1:200



SECTION G - G VILLA 05 & 06
1:200



SECTION H - H VILLA 03 & 05
1:200

Issue	Amendment	Date
C	GA ISSUE	12/12/2024
B	CONSULTANT ISSUE	25/11/2024
A	PRELIMINARY CONSULTANT ISSUE	15/11/2024

Proposed Seniors Living
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SECTIONS

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Project No:	2143	Date:	Nov 2024	Issue:	C
Drawing No:	DA 07	Scale:	1:200	Date Printed:	18/12/2024

A1 ORIGINAL SIZE

CARRINGTON ROAD



AREA SCHEDULE - LANDSCAPE	
Element ID	Area
LANDSCAPE 01	1,180.87
LANDSCAPE 02	13.80
LANDSCAPE 03	13.80
	1,208.47 m ²

AREA SCHEDULE - DEEP SOIL	
Element ID	Area
DEEP SOIL	41.40
DEEP SOIL	121.95
DEEP SOIL	153.02
DEEP SOIL	252.64

AREA SCHEDULE - POS	
Element ID	Area
VILLA 01 POS	55.78
VILLA 02 POS	58.32
VILLA 03 POS	71.39
VILLA 04 POS	74.73
VILLA 05 POS	71.22
VILLA 06 POS	77.46
VILLA 07 POS	71.04
VILLA 08 POS	54.82
VILLA 09 POS	68.90
VILLA 10 POS	167.96

LEGEND

- LANDSCAPE AREA
- INDIVIDUAL PRIVATE OPEN AREAS
- DEEP SOIL AREA

DEVELOPMENT CONTROLS:

SITE AREA
91 CARRINGTON ROAD = 1,752M²
93 CARRINGTON ROAD = 2,295M²
TOTAL = 4,047M²

FSR ALLOWABLE = 0.5:1 (2,023.5M²)
FSR PROPOSED = 0.48:1 (1,926.30M²)

MAXIMUM HEIGHT: 9.5M

DWELLING MIX:

VILLAS: 2 X TWO STOREY - 4 BED
2 X SINGLE STOREY - 3 BED
6 X SINGLE STOREY - 3 BED
TOTAL = 10 VILLAS - 32 BED

PARKING: ALL VILLAS REQUIRE 2 X CARSPACES
VISITOR - 1 PER 5 = 3 SPACES

PARKING PROPOSED - 2 VISITOR SPACES INCLUDING ONE SHARED / SERVICE
7 CAR SPACES AT 3.2M WIDTH
3 CAR SPACES AT 2.4M WIDTH
22 TOTAL

MINIMUM LANDSCAPE AREA THE LESSER OF
35M² PER DWELLING = 350M²
OR
30% OF SITE AREA = 1,214.1M²

PROPOSED = 1,208.4M²

DEEP SOIL (MIN. 3M) = 15% OF SITE 607.05M²
PROPOSED = 17% (687.80M²)
65% IF PRACTICAL TO THE REAR = 394.58M²
PROPOSED = 68% (412.8M²)

70% OF DWELLINGS RECEIVE 2HRS TO LIVING + POS

SINGLE STOREY DWELLINGS - 15M² POS (MIN. 3M)

Issue	Amendment	Date
C	GA ISSUE	12/12/2024
B	CONSULTANT ISSUE	25/11/2024
A	PRELIMINARY CONSULTANT ISSUE	15/11/2024

Proposed Seniors Living
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AREA CALCULATIONS
LANDSCAPING + DEEP
+ POS

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Project No:	2143	Date:	Nov 2024	Issue:	
Drawing No:	DA 08	Scale:	1:100, 1:200, 1:400		
		Date Plotted:	18/12/2024		

A1 ORIGINAL SIZE

CARRINGTON ROAD



GROSS FLOOR AREA - FIRST FLOOR
1:200

CARRINGTON ROAD



GROSS FLOOR AREA - GROUND FLOOR
1:200

AREA SCHEDULE - FSR	
Element ID	Area
VILLA 01	113.12
VILLA 01	129.90
VILLA 02	112.06
VILLA 02	128.74
VILLA 03	37.27
VILLA 03	142.94
VILLA 04	37.22
VILLA 04	142.99
VILLA 05	38.06
VILLA 05	145.87
VILLA 06	38.06
VILLA 06	145.87
VILLA 07	76.23
VILLA 07	97.01
VILLA 08	76.23
VILLA 08	97.01
VILLA 09	38.06
VILLA 09	145.87
VILLA 10	37.88
VILLA 10	145.91
	1,926.30 m²

DEVELOPMENT CONTROLS:

SITE AREA
91 CARRINGTON ROAD = 1,752M²
93 CARRINGTON ROAD = 2,295M²
TOTAL = 4,047M²

FSR ALLOWABLE = 0.5:1 (2,023.5M²)
FSR PROPOSED = 0.48:1 (1,926.30M²)

MAXIMUM HEIGHT: 9.5M

DWELLING MIX:

VILLAS: 2 X TWO STOREY - 4 BED
2 X SINGLE STOREY - 3 BED
6 X SINGLE STOREY - 3 BED
TOTAL = 10 VILLAS - 32 BED

PARKING: ALL VILLAS REQUIRE 2 X CARSPACES
VISITOR - 1 PER 5 = 3 SPACES

PARKING PROPOSED - 2 VISITOR SPACES INCLUDING ONE SHARED / SERVICE
7 CAR SPACES AT 3.2M WIDTH
3 CAR SPACES AT 2.4M WIDTH
22 TOTAL

MINIMUM LANDSCAPE AREA THE LESSER OF
35M² PER DWELLING = 350M²
OR
30% OF SITE AREA = 1,214.1M²

PROPOSED = 1,208.4M²

DEEP SOIL (MIN. 3M) = 15% OF SITE 607.05M²
PROPOSED = 17% (687.80M²)
65% IF PRACTICAL TO THE REAR = 394.58M²
PROPOSED = 68% (412.8M²)

70% OF DWELLINGS RECEIVE 2HRS TO LIVING + POS

SINGLE STOREY DWELLINGS - 15M² POS (MIN. 3M)

Issue	Amendment	Date
C	GA ISSUE	12/12/2024
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A	PRELIMINARY CONSULTANT ISSUE	15/11/2024

Proposed Seniors Living
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Wahroonga**
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MSV Ultima PTY LTD



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AREA CALCULATIONS -
FSR

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Project No:	2143	Date:	Nov 2024	Issue:	C
Drawing No:	DA 09	Scale:	1:100, 1:200	Date Printed:	18/12/2024

A1 ORIGINAL SIZE



SOLAR ACCESS - JUNE 21 9AM



SOLAR ACCESS - JUNE 21 10AM



SOLAR ACCESS - JUNE 21 11AM



SOLAR ACCESS - JUNE 21 12NOON



SOLAR ACCESS - JUNE 21 1PM



SOLAR ACCESS - JUNE 21 2PM



SOLAR ACCESS - JUNE 21 3PM

APPENDIX: VIEWS FROM THE SUN

The table references above hourly views of solar access projections on June 21st. The projections were prepared by Gelder architects office from a 3d digital model in ArchiCAD v22 software.

Villas - Internal Living Area								
Villa Number	9am	10am	11am	12pm	1pm	2pm	3pm	Minimum 2 hours
1	✓	✓	✓	X	X	X	X	✓
2	X	X	X	✓	✓	✓	✓	✓
3	✓	✓	✓	X	X	X	X	✓
4	X	X	X	✓	✓	✓	✓	✓
5	✓	✓	✓	X	X	X	X	✓
6	X	X	X	✓	✓	✓	✓	✓
7	✓	✓	✓	X	X	X	X	✓
8	X	X	X	✓	✓	✓	✓	✓
9	✓	✓	✓	X	X	X	X	✓
10	X	X	X	✓	✓	✓	✓	✓

2hours solar access: 10/10 = 100%
Conclusion

Housing Code - Seniors living requires 70% of apartments receive a minimum of 2 hours solar access between 9am - 3pm at mid-winter for internal living areas. The development complies for the internal living areas solar access requirement.

Villas - Private open Spaces								
Villa Number	9am	10am	11am	12pm	1pm	2pm	3pm	Minimum 2 hours
1	✓	✓	✓	✓	✓	X	X	✓
2	X	✓	✓	✓	✓	✓	✓	✓
3	✓	✓	✓	✓	✓	X	X	✓
4	X	✓	✓	✓	✓	✓	✓	✓
5	✓	✓	✓	✓	✓	X	X	✓
6	X	✓	✓	✓	✓	✓	✓	✓
7	✓	✓	✓	✓	✓	X	X	✓
8	X	✓	✓	✓	✓	✓	✓	✓
9	✓	✓	✓	✓	✓	X	X	✓
10	X	✓	✓	✓	✓	✓	✓	✓

2hours solar access: 10/10 = 100%
Conclusion

Housing Code - Seniors living requires 70% of apartments receive a minimum of 2 hours solar access between 9am - 3pm at mid-winter for private open spaces. The development complies for the external private open space solar access requirement.

Issue	Amendment	Date
C	GA ISSUE	19/12/2024
B	CONSULTANT ISSUE	25/11/2024
A	PRELIMINARY CONSULTANT ISSUE	15/11/2024

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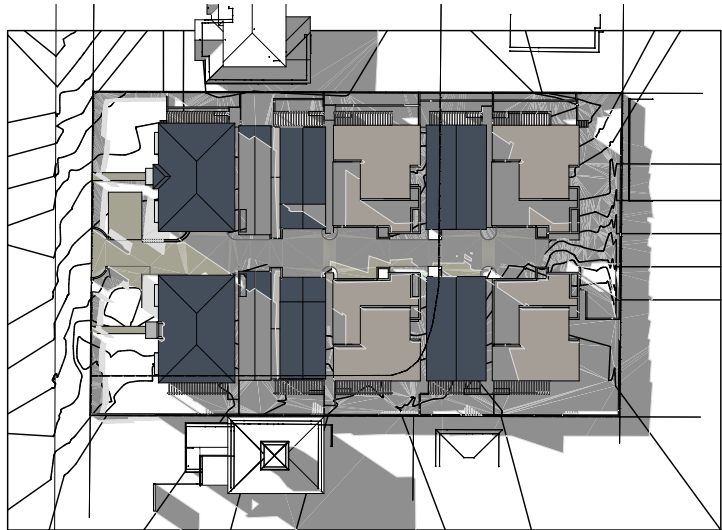
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SOLAR ACCESS
DIAGRAMS

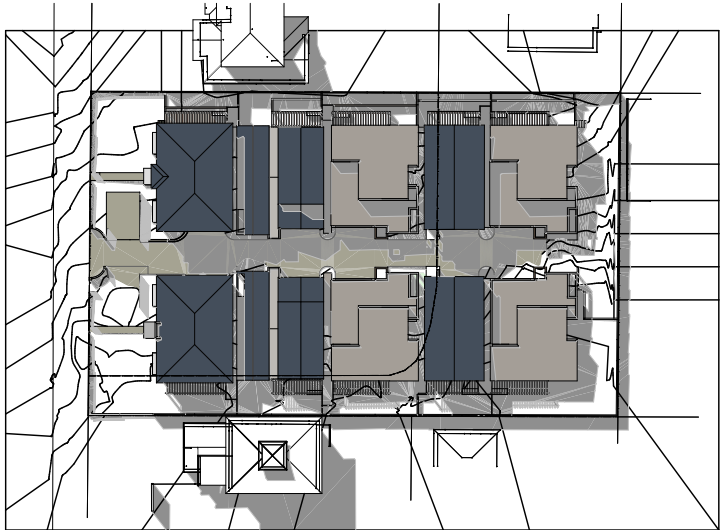
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Drawing No:	DA 10	Scale:			
Date Plotted:	18/12/2024				

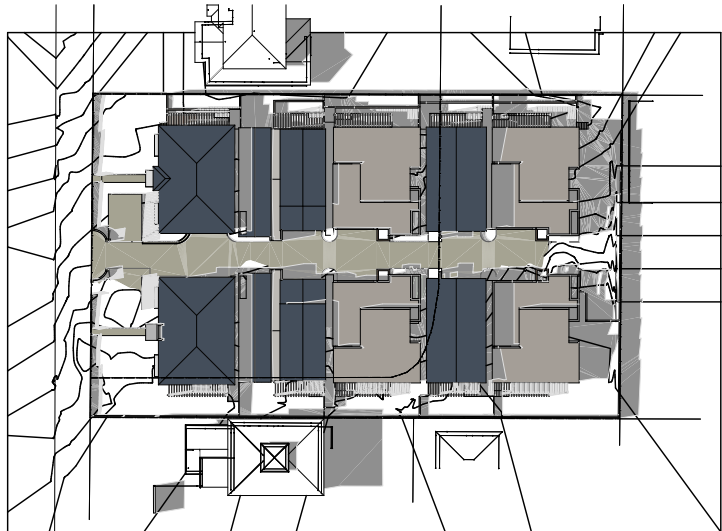
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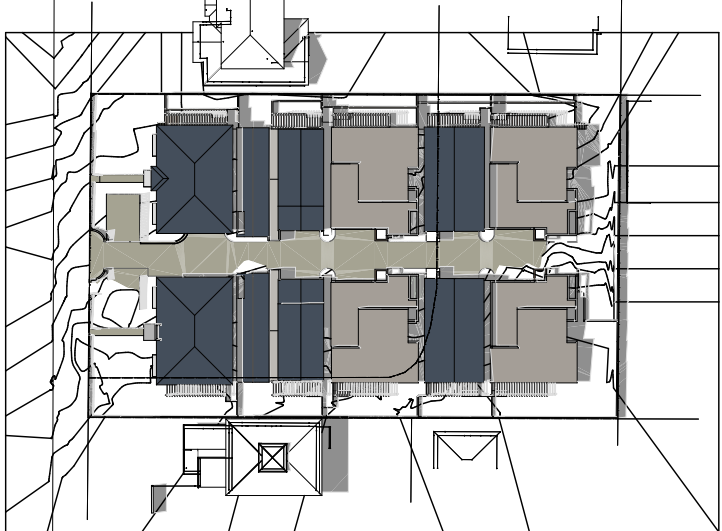
SHADOW DIAGRAM - JUNE 21 9AM
1:500



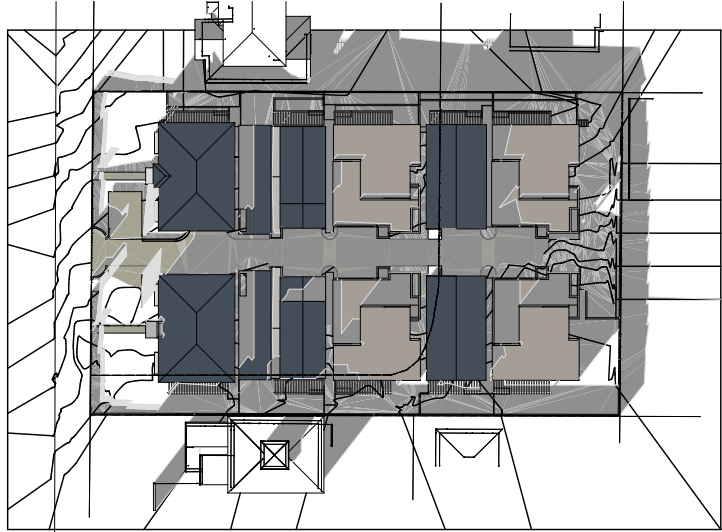
SHADOW DIAGRAM - MARCH / SEPTEMBER 22 9AM
1:500



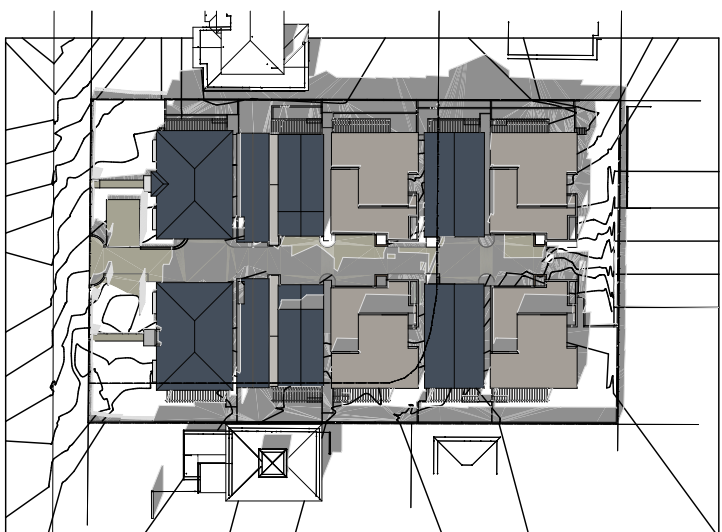
SHADOW DIAGRAM - JUNE 21 12NOON
1:500



SHADOW DIAGRAM - MARCH / SEPTEMBER 22 12NOON
1:500



SHADOW DIAGRAM - JUNE 21 3PM
1:500



SHADOW DIAGRAM - MARCH / SEPTEMBER 22 3PM
1:500

Issue	Amendment	Date
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SHADOW DIAGRAMS

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Drawing No:	DA 11	Scale:	1:500	Date Printed:	18/12/2024

A1 ORIGINAL SIZE



STREET VIEW - 91 CARRINGTON ROAD



STREET VIEW - 93 CARRINGTON ROAD



STREET VIEW - 93 CARRINGTON ROAD



REAR VIEW - 91 CARRINGTON ROAD



REAR VIEW - 91 CARRINGTON ROAD



REAR VIEW - 91 CARRINGTON ROAD



REAR VIEW - 91 CARRINGTON ROAD



REAR VIEW - 91 CARRINGTON ROAD



FRONT YARD - 93 CARRINGTON ROAD - SOURCE REALESTATE.COM.AU



POOL IN FRONT YARD - 93 CARRINGTON ROAD - SOURCE REALESTATE.COM.AU



REAR YARD - 93 CARRINGTON ROAD - SOURCE REALESTATE.COM.AU

C	GA ISSUE	19/12/2024
B	CONSULTANT ISSUE	25/11/2024
A	PRELIMINARY CONSULTANT ISSUE	15/11/2024
Issue	Amendment	Date

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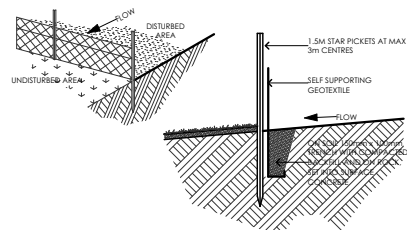
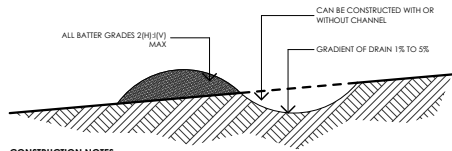
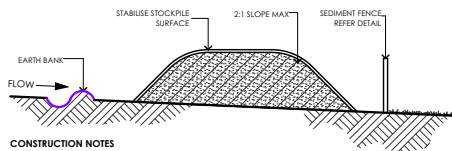
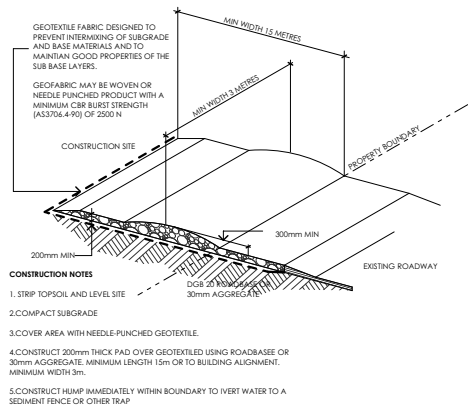


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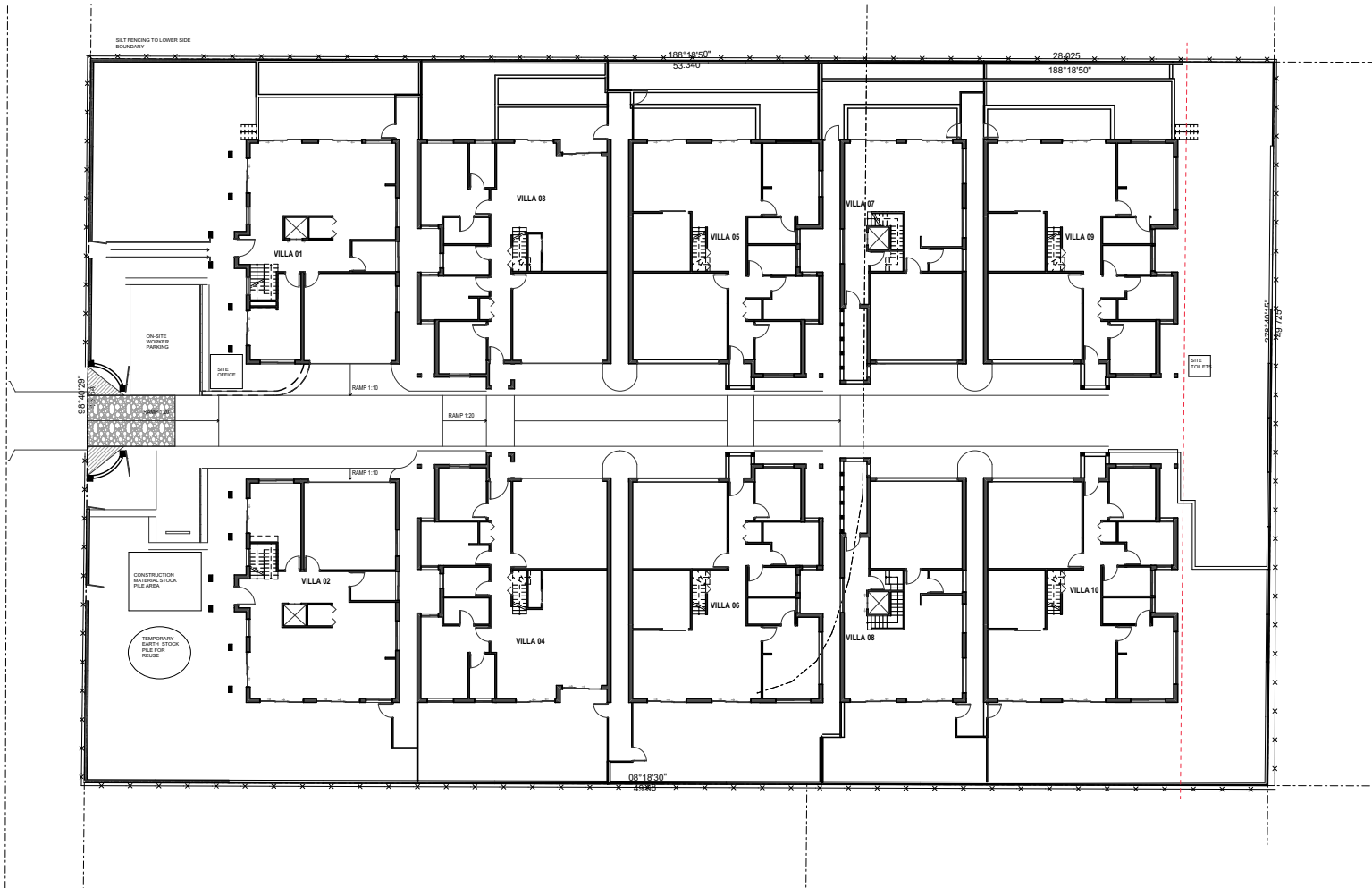
SITE PHOTOS

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Drawing No:	DA 12	Scale:
Date Printed:	18/12/2024	Issue: C

A1 ORIGINAL SIZE



CARRINGTON ROAD



C	GA ISSUE	12/12/2024
B	CONSULTANT ISSUE	25/11/2024
A	PRELIMINARY CONSULTANT ISSUE	15/11/2024
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ENVIRONMENTAL SITE MANAGEMENT PLAN

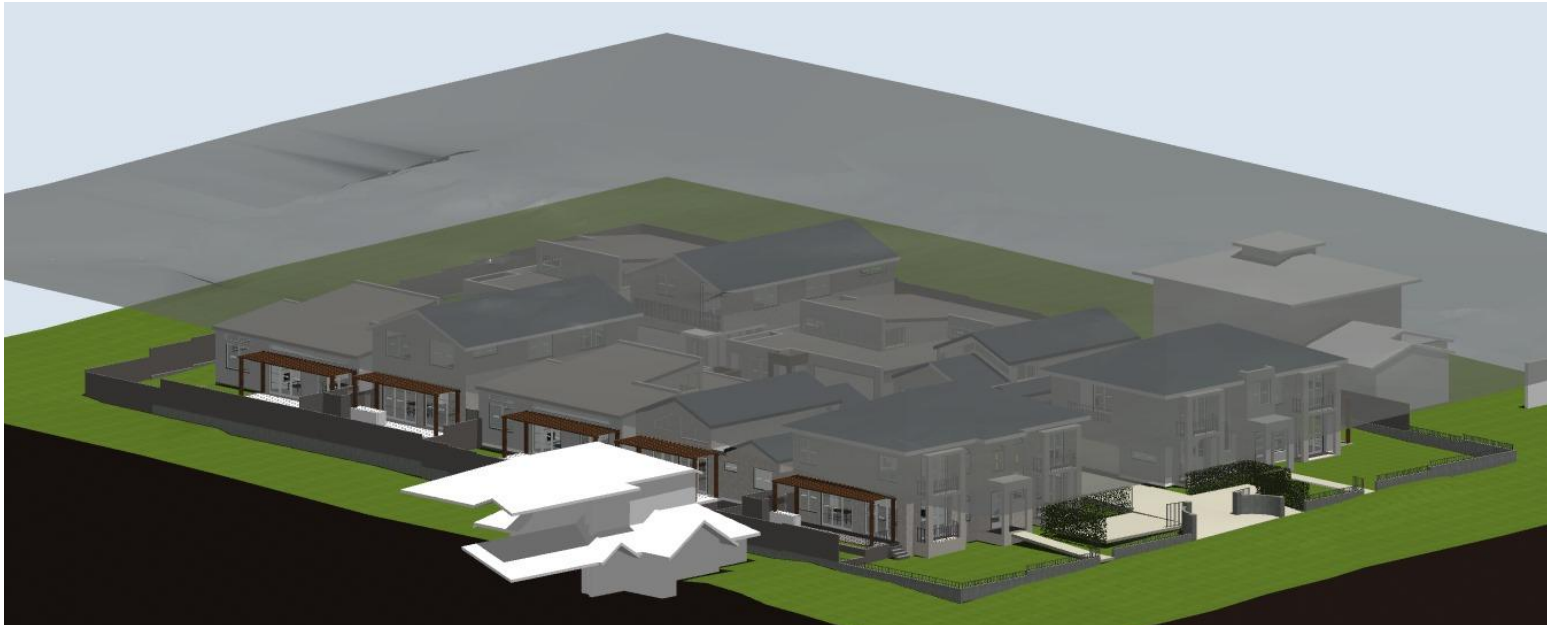
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Project No:	2143	Date:	Nov 2024	Issue:	
Drawing No:	DA 13	Scale:	1:200		
		Date Printed:	18/12/2024		



A1 ORIGINAL SIZE



9.5M HEIGHT PLANE DIAGRAM
1:100



9.5M HEIGHT PLANE DIAGRAM
1:81.00



9.5M HEIGHT PLANE DIAGRAM
1:104.76

C	GA ISSUE	12/12/2024
B	CONSULTANT ISSUE	25/11/2024
A	PRELIMINARY CONSULTANT ISSUE	15/11/2024
Issue	Amendment	Date

Proposed Seniors Living
at
91-93 Carrington Rd,
Wahroonga
for
MSV Ultima PTY LTD



Level 2 19-23 Bridge Street PYMBLE NSW 2073 AUSTRALIA
t: (02) 9440 2455 e: info@gelder.com.au w: gelder.com.au
ABN 48 090 878 827 NSW ARB REG ARCHITECT: GELDER # 6126

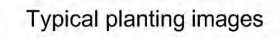
HEIGHT PLANE
DIAGRAMS

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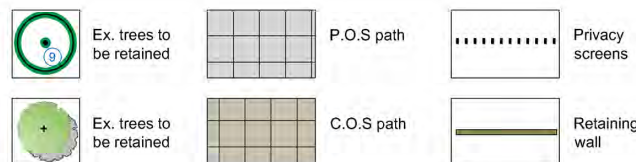
Project No:	2143	Date:	Nov 2024	Issue:	
Drawing No:	DA 14	Scale:	1:100, 1:211.00, 1:104.76 18/12/2024		C

A1 ORIGINAL SIZE



Drawing Schedule:

- Sheet 1: Landscape site plan
- Sheet 2: Details set out
- Sheet 3: Planting plan
- Sheet 4: Tree retention / removal
- Sheet 5: Details & notes



Architect: Gelder Architect
Stormwater: Hydracor
Survey: Tree survey

C	17.12.24	For DA issue
B	16.12.24	
A	10.12.24	Review

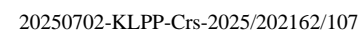


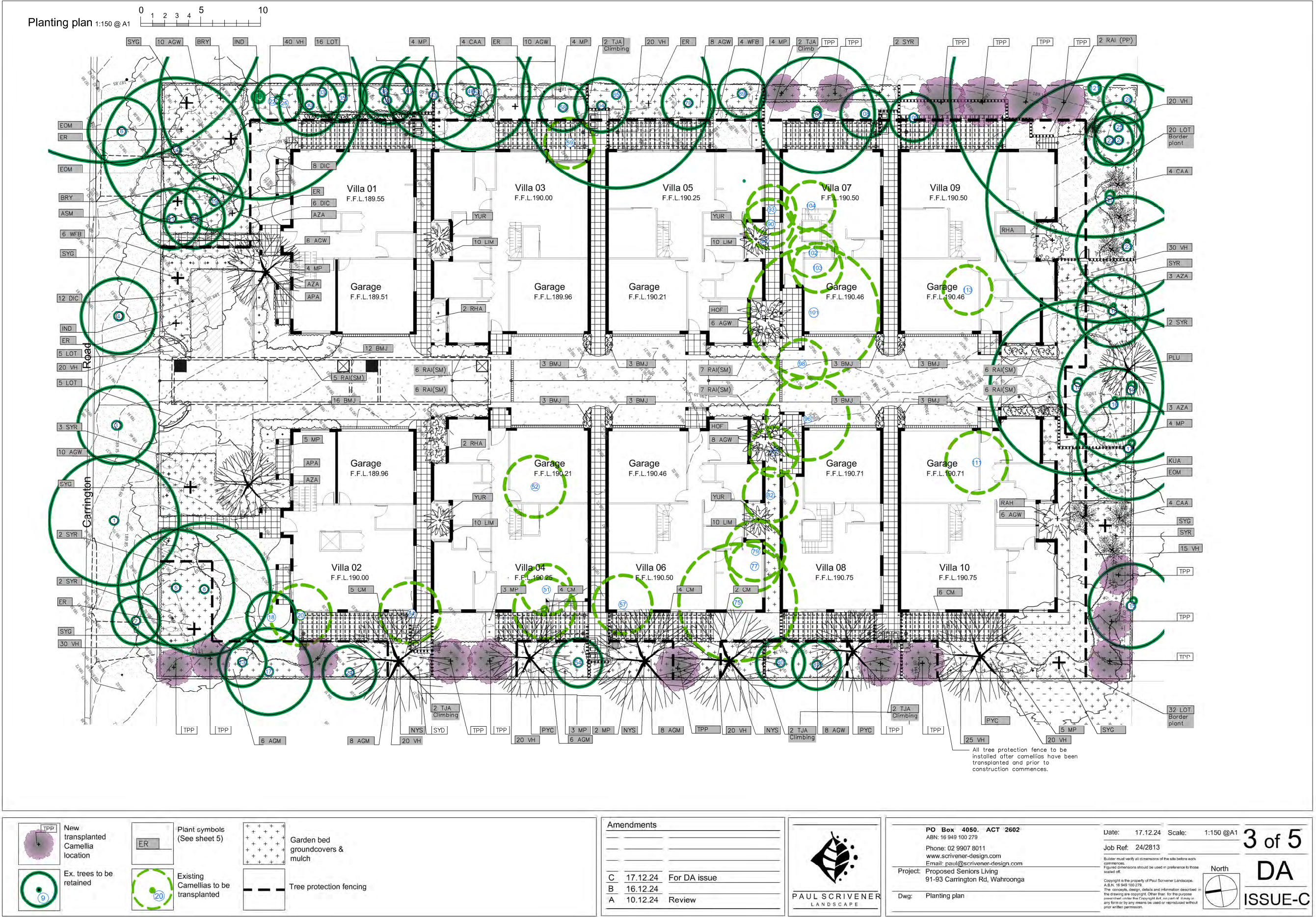
Dwg: Landscape Site Plan

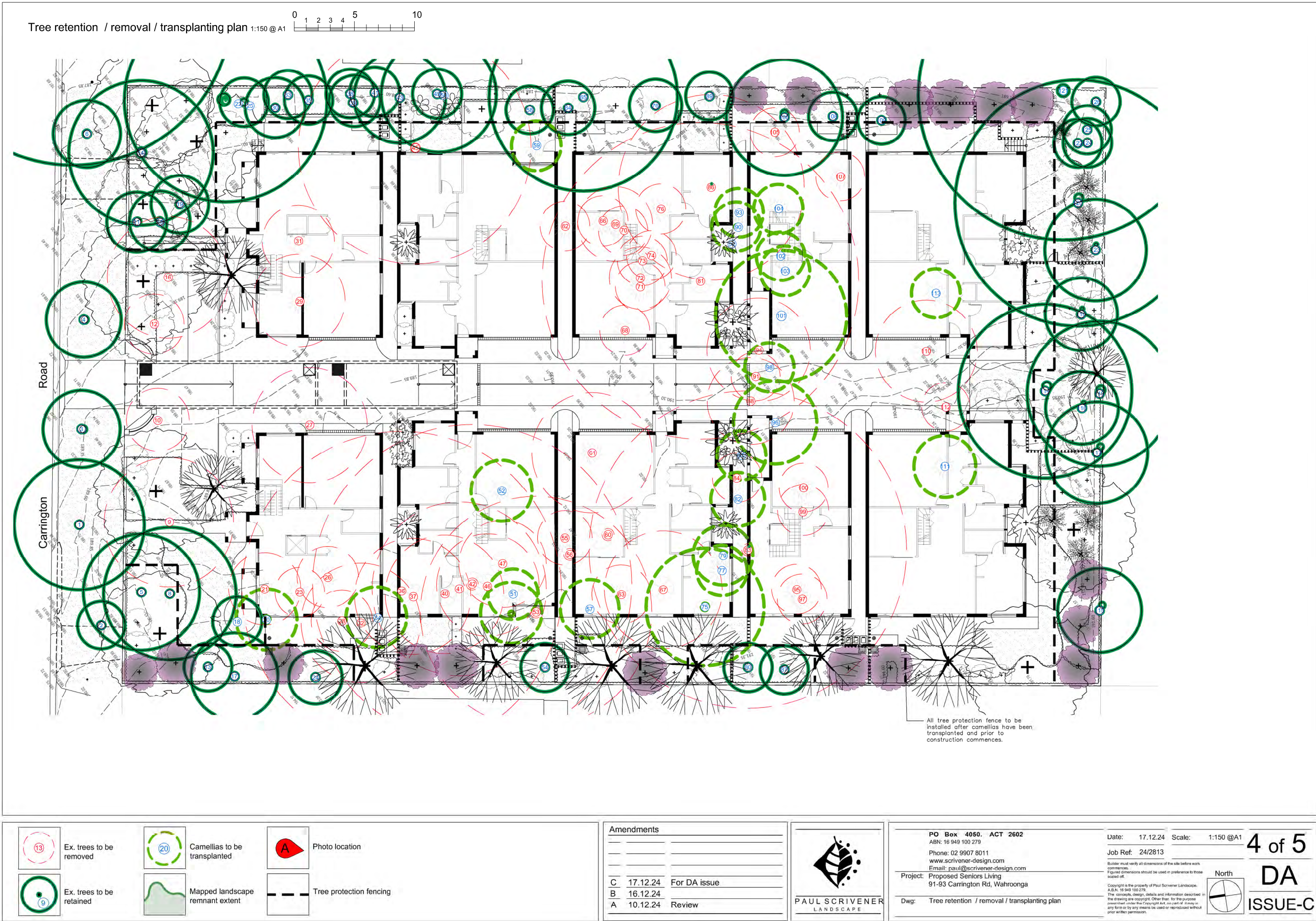
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1 of 5
DA
ISSUE-C







Maintenance schedule

The Landscape Contractor shall maintain the contract areas by accepted horticultural practices as well as rectifying any defects that become apparent in the works under normal use. The Landscape Contractor shall maintain the works and make good all defects for a period of twenty six (26) weeks after the date of practical completion. Practical completion of the landscape works shall include but not be limited to the replacement of plants which have failed or been damaged or stolen during work under the contract. Landscape maintenance shall include but not be limited to the following: watering, rubbish removal, spraying and wiping leaf surfaces, replacing failed plants, maintaining mulch, pruning, insect and disease control, cleaning of surrounding areas. Mow the turf when it is established at regular intervals to maintain an average height of 50mm.

The owners of the residence are responsible for the ongoing maintenance and viability of the gardens and ongoing maintenance shall include the following:

- Regular hand watering of gardens if installed drip line irrigation system is turned off. Irrigation to be installed and maintained as per manufacturers specifications including regular checks for function of system, to check for leaks and to ensure general good working operation.
- Mulch is to be regularly topped up every 6 months to ensure an even 75mm coverage in all garden beds
- Regular pruning of plants is to be undertaken to ensure continued uniform growth of canopy and foliage of trees and shrubs.
- Regular assessment of plants for evidence of insect attack or disease. Appropriate pest oil, white oil or Yates pest spray or equivalent is to be employed if required
- Garden/lawn edging to be inspected regularly after practical completion to ensure it is maintained in good order. Replace where required if defective sections are discovered
- All garden refuse, rubbish and associated items that arise from the regular garden maintenance procedures are to be collected and stored in appropriate general waste or green waste containers as is appropriate. Excess waste unable to be stored in Council waste containers is to be removed from the site is a timely manner.

Planting schedule

Symbol	Botanical name	Common name	Cont. size	Staking	Mature height	No. req.
Transplanted Camellias						
TPP	Transplanted Camellias	15 minimum selected from 20 available mature species to be located as per sheet 3				15
Trees						
APA	Acer palmatum 'Red Emperor 1'	Red Emperor 1 Maple (small maple tree. Red foliage)	45Lt	3x50x50x1800	3-4.0	2
ER	Eleocharis reticulatus	Blueberry Ash (indigenous small tree)	45Lt	3x50x50x1800	6-8.0M	4
SYG	Syncarpia glomulifera	Turpentine (indigenous canopy tree)	200Lt	3x50x50x1800	18-25.0M	4
PYC	Pyrus Bradford	Bradford Pear (deciduous narrow tree)	100Lt	2x50x50x1800	10-13.0M	3
NYS	Nyssa sylvatica	Tupelo (Bright red autumn foliage)	100Lt	3x50x50x1800	12-15.0M	3
Shrubs / standards / small feature trees						
AZA	Azalea spp.	Selected Azalea species (flowering low shrubs)	200mm	nil	1-1.5M	11
BMJ	Buxus microphylla 'Japonica'	Japanese Box Hedge (formal low hedging plant)	200mm	nil	0.4-1.2M	52
BRY	Breytia oblongifolia	Coffee Bush (native shrub)	200mm	nil	2.5-3.0M	2
EOM	Plattheca (Eucosmion) australasius	Pink Wax Flower (flowering native shrub)	200mm	nil	1.50M	3
IND	Indigofera australis	Australian Indigo (small flowering native shrub)	200mm	nil	1.5-2.0M	2
KUA	Kunzea ambigua	Tick Bush (flowering native shrub)	250mm	nil	2-3.0M	1
MP	Murraya paniculata	Orange Jessamine (flowering screening plant)	300mm	hedged	2.5-3.0M	38
PLU	Plumeria acutifolia	Frangipani (small flowering deciduous tree)	45Lt	2x50x50x1800	3-4.0M	1
RAI(PP)	Raphiolepis indica PP	Pink Pearl (hedging dense flowering plant)	300mm	nil	1.0M	2
RAI(SM)	Raphiolepis indica SM	Snow Maiden (hedging dense flowering plant)	300mm	nil	1.0M	43
SYR	Syzygium 'Resilience'	Resilience Lilly Pilly (native screen plant. Can be hedged)	300mm	hedged	2.8-3.5M	14
WFB	Westringia fruticosa 'Blue Gem'	Dwarf Blue Westringia (hardy low growing plant)	150mm	hedged	1.2-1.5M	0
Ferns / Palms / Succulents / shade tolerant understorey						
CAA	Cyathea australis	Tree Fern (Native tree ferns)	300mm	nil	2-4.0M	12
HOF	Howea forsteriana	Kentia Palm (tall palm)	semi-adv	wire guys	7-10.0M	2
RHA	Raphis excelsior	Lady Finger Palm	300mm	nil	2-2.5M	5
YUR	Yucca rostrata	Blue Beaked Yucca (silver blue spiky ball)	200mm	nil	1.8-2.5M	4
Groundcovers/Climbers						
DIC	Dianella caerulea	Blue Flax Lily (blue foliage native grass like plant)	140mm	nil	0.4M	26
TJA	Trachelospermum asiaticum	Flatmat Star Jasmine (TTC) (Climbing hybrid groundcover)	200mm	nil	0.2M	16
VH	Viola hederacea	Native Violets (native low groundcover)	tubes	nil	0.1M	255
Ornamental grasses/strappy leaved plants						
AGW	Agapanthus orientalis 'Blue'	Blue Lily of the Nile (hardy strappy leaved groundcover)	200mm	nil	0.5M	94
CM	Clivia miniata	Red Clivia (shade tolerant groundcover)	200mm	nil	0.5M	21
LIM	Liriope Evergreen Giant	Turf Lily (shade tolerant groundcover)	140mm	nil	0.4M	40
LOT	Lomandra Tanika	Dwarf Lomandra (ornamental grass)	140mm	nil	0.4M	78

All trees to be provided with written confirmation from the supplier for compliance to Natspec guidelines in compliance with A.S. 2003:2018. Planting schedule species to be sourced from local nurseries supplying plants of local provenance wherever possible.

Landscape contractor is to check plant numbers on plan against the schedule prior to submitting tender price. Contact landscape architect if any number discrepancies are found.

Council compliance controls require that any substitution of species, variety or container size MUST be confirmed with landscape architect to ensure a compliance certificate can be issued that meets the specific development consent conditions of the approved development.

Underlined bold text tree symbols indicate species capable of attaining 13metres in addition to existing canopy trees to be retained

General construction notes

1. Site preparation

Any existing trees and vegetation to be retained shall be preserved and protected from damage of any sort during the execution of landscape work. In particular, root systems of existing plants must not be disturbed if possible. Any nearby site works should be carried carefully using hand tools.

To ensure the survival and growth of existing trees during landscaping works, protect by fencing or armoring where necessary. Trees shall not be removed or topped unless specific written approval to do so is given or is indicated on plan. Storage of materials, mixing of materials, vehicle parking, disposal of liquids, machinery repairs and refueling, site office and sheds, and the lighting of fires shall not occur within the dripline of any existing trees to be retained on or adjacent to the site. Do not stockpile soil, rubble or other debris cleared from the site, or building materials, within the drip line of existing trees. Vehicular access shall not be permitted within three (4) metres of any tree.

2. Soil preparation

All proposed planting areas to be ripped (by hand in tree protection zones) to 200mm and clay soils to be treated with clay breaker. Harvested existing top soil from site and store on site and mix with 25% A.N.L. Greenlife compost or approved equivalent. Apply at least 150mm soil depth to planting areas. All additional soil to be 100mm depth of good quality planting mix to be imported and combined with 50mm A.N.L. Greenlife compost or approved equivalent. To be worked in with rotary hoe or by hand in tree protection zones. In general all care to be taken to hand cultivate in any area where existing tree roots exist to preserve health of trees.

3. New plantings

Newly planted trees and large shrubs should be secured to stakes with hessian ties to prevent rocking by wind. Planting holes for plant material should be large enough in size to take root ball with additional space to take back filling of good quality planting mix. Mature heights of planting as shown on planting schedule show the greatest height possible in ideal conditions. These heights are subject to particular site conditions, possible container environments and intended hedging or pruning for functional requirements such as available planting width, intended access under branches and solar access.

4. Planter boxes & waterproofing.

All slab areas to be waterproofed and 'Atlantis' drainage cell installed with geotextile fabric. Refer Engineer's details for structural details for planter box drainage & construction. All internal planter slab levels to fall to drainage outlets as detailed by Hydraulic Engineer. Ensure minimum 50mm cavity between planter box and building wherever planter joins building. Keep cavity clear of debris by providing capping row butted against building. Exterior finishes as per Architect's detail. Ensure base of cavity is able to drain via weep holes in event water seeps into cavity so as to not build up against building wall. Containers to be at height as indicated on Architect's drawing. All planting containers or over slab planting to have the following:

- Water proofing as specified by Architects. To extend along base and up to top of soil level of containers
- 'Atlantis' drainage cell at base to be connected to drainage system of development (see typical detail sheet 2)
- A.N.L. planter box soil mix or equivalent to be installed in all containers and over slab planting situation
- Contractor to install all planter box finishes after other site works are completed to ensure no deterioration of waterproof membrane. Contractor to be responsible for the integrity of the waterproofing of the planter boxes
- All planter boxes are to have automatic dripline irrigation system. Connecting pipes to be installed in slab structures prior to slab pour. Irrigation supply lines to be installed by building contractor prior to waterproofing and internal planter box finishes

5. Mulching

All planting areas to be mulched with a minimum 100mm thick cover of woodchip mulch and then all plant areas to be thoroughly soaked with water. All mulch shall be free of vegetative reproductive parts of all weed species

6. Irrigation

Automatic dripline system supplied by harvested rainwater to be incorporated. To extend to all common area landscaped areas included in works (excluding turfed areas and street trees that are to be hand watered as part of ongoing maintenance program). Include all over slab planting areas and all planter boxes where applicable. Hose cocks supplied to all private garden as well as common garden areas. Full irrigation scope to future Construction Certificate details

7. Fertiliser

All planting areas to be fertilised with 9 month NPK slow release fertiliser.

Mass planted areas: allow one slow release Agriform pellet per 5-25 litre plant. All fertilisers to be applied in accordance with the manufacturers instructions.

Turfed areas: Supply and install Agriform slow release fertiliser or approved equivalent lawn start fertiliser applied at the rate recommended by the manufacturer

8. Staking

10 those plants indicated on the planting schedules provide: hardwood stakes as nominated and driven into ground to a depth able to achieve rigid support and to finish a minimum of 600-1000mm above finished levels

9. Engineering

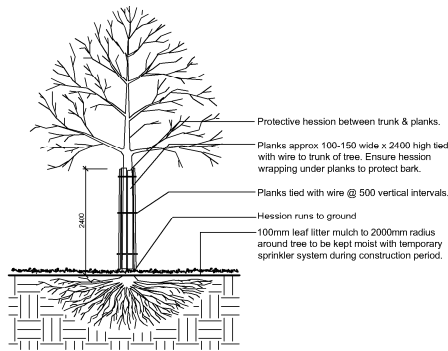
All structural and hydraulic details whatsoever to Engineer's details.

10. Maintenance

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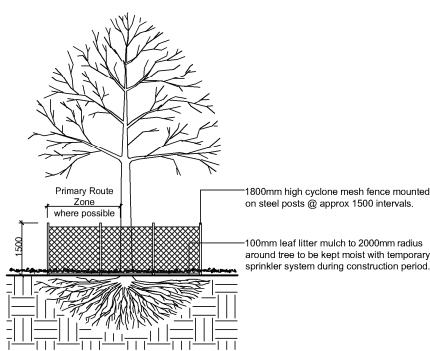
Detail 1

Tree protection measure Type 1 n.t.s.



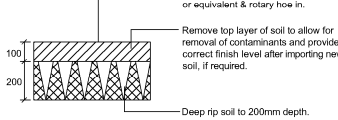
Detail 2

Tree protection measure Type 2 n.t.s.



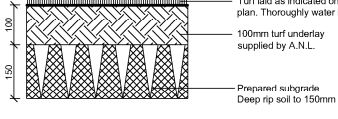
Detail 7

Soil preparation detail n.t.s.



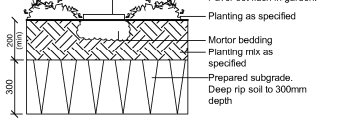
Detail 8

Turf over soil n.t.s.



Detail 9

Stepping stones in garden n.t.s.



Detail 10 Stacked stone garden wall



Detail 11 Timber & gravel steps



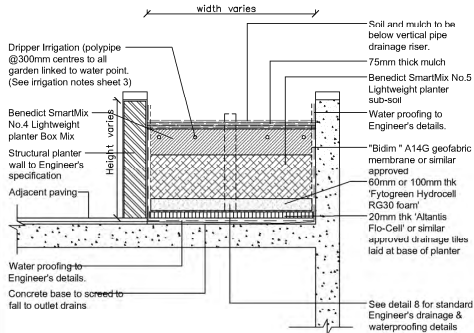
Detail 12 Stacked harvestsandstone around garden wall



Detail 3

On structure planter typical soil installation detail n.t.s.

For soil & irrigation methodology only Structural & drainage to relevant Engineers details



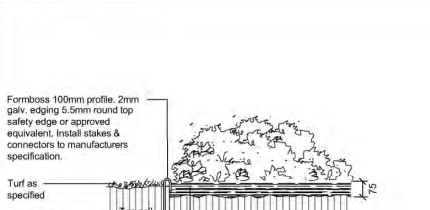
Detail 4

Metal seating



Detail 6

Metal edging typical detail n.t.s.



Amendments

C	17.12.24	For DA issue
B	16.12.24	For DA issue
A	10.12.24	Review



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Email: paul@scrivener-design.com

Project: Proposed Seniors Living
91-93 Carrington Rd, Wahroonga

Dwg: Details plan

Date: 17.12.24

Scale:

Job Ref: 24/2813

Builder must verify all dimensions of the site before work commences. Figure dimensions should be used in preference to those scaled off.

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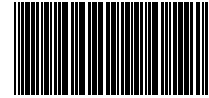
5 of 5

DA

ISSUE-C



Filed: 10 April 2025 9:38 AM



D00024SK1T

Statement of Facts and Contentions

COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 1
Registry	Land and Environment Court Sydney
Case number	2025/00080395

TITLE OF PROCEEDINGS

First Applicant	MSV ULTIMA PTY LTD ACN 677675544
First Respondent	KU-RING-GAI COUNCIL ABN 86408856411

FILING DETAILS

Filed for	KU-RING-GAI COUNCIL, Respondent 1
Legal representative	CECILIA ROSE
Legal representative reference	
Telephone	0292993311
Your reference	660441

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Statement of Facts and Contentions (Statement of Facts and Contentions KMC v MSV Ultima.pdf)

[attach.]

Filed: 10/04/2025 09:38 AM

STATEMENT OF FACTS AND CONTENTIONS**COURT DETAILS**

Court	Land and Environment Court of New South Wales
Class	1
Case number	2025/00080395

TITLE OF PROCEEDINGS

Applicant	MSV ULTIMA PTY LTD
Respondent	KU-RING-GAI COUNCIL

FILING DETAILS

Filed for	Ku-ring-gai Council , respondent
Legal representative	Cecilia Rose
Legal representative reference	CR: 660441
Contact name and telephone	Cecilia Rose, 02 9299 3311

PART A – FACTS

The Respondent says that the facts relevant to the determination of Development Application No. 0586/24 (**Development Application**) are as follows:

THE APPLICATION

1. This appeal has been lodged pursuant of Section 8.7 of *the Environmental Planning and Assessment Act 1979 (EP&A Act)* against the deemed refusal of Development Application No. 0586/24.

THE PROPOSAL

2. Under Development Application No. 0586/24, the applicant seeks development consent for the demolition of existing structures, lot consolidation, construction of 10 independent living units, engineering, landscaping and associated works pursuant to Part 5 of SEPP (Housing) 2021, at No. 91-93 Carrington Road, Wahroonga (**Site**).
3. The proposed development comprises ten independent living units identified as Villa's 1-10. Details of the proposed development include:
 - The proposed development comprises of 8 x 3 bedroom and 2 x 4 bedroom independent living units on the eastern and western sides of a centrally located shared driveway.
 - The proposed development provides 20 resident car spaces within 10 double attached garages.
 - 2 visitors parking are provided within the front setback. One is an accessible space shared with a service vehicle the other is shared with a waste collection area.
 - Each dwelling has an independent private open space, comprising a secure terrace area and garden which extends to the property boundaries. The private open space areas have direct access from the internal living areas.
 - Vehicle access to the site is to be provided via a new 3.5m wide two-way single lane access driveway off Carrington Road.

4. Pedestrian access is provided to Villas 3-10 and rear common areas via the central driveway. Separate pedestrian pathways are proposed to Villas 1 and 2 directly from Carrington Road. Villas 1 and 2 would also be required to utilise the driveway to access the individual waste storage area and the communal collection point.
5. A detailed landscape proposal has been provided which includes earthworks, retaining walls and some planting.
6. The stormwater proposal includes an on-site detention tank of 57m³ and a detention tank of 40m³ located within the common driveway. These tanks discharge to the gutter in Carrington Road.
7. The waste bins will be stored between the villas at the rear and taken to the bin collection platform at the front of the property for collection on waste collection days by Council.
8. The proposal includes details for the construction of a 1.2m wide concrete footpath along the site frontage of Carrington Road, with new kerb ramps leading to the bus stops at Wahroonga Avenue that would be subject of an approval under the Roads Act.

THE SITE

9. The Site comprises Lot J in DP 410441 and Lot E in DP 381680 and are known as No. 91 and 93 Carrington Road, Wahroonga. The development site is rectangular in shape and located on the southern side of Carrington Road.
10. The Site has a total area of 4046.4 sqm. The Site has an average fall from the rear to the street of approximately 1.87m (2.2%), and an average cross fall from west to east of approximately 2.35m (4.7%).
11. No. 91 Carrington Road accommodates a part single, part 2-storey brick and tiled dwelling house. The dwelling is an L shaped dwelling with an inground swimming pool located adjoining the dwelling. The allotment is rectangular in shape with a battle axe handle to Carrington Road.
12. No. 93 Carrington Road is a two storey brick rendered and tiled dwelling house, which is located centrally on the site. To the east of the dwelling is a detached double carport which is accessed via a driveway aligning the eastern boundary. An existing outbuilding is located behind the carport.
13. Existing vegetation across the Site comprises mature gardens with a range of shrubs, trees and lawn areas. The vegetation includes a combination of semi-mature and mature plantings.
14. The Site is zoned R2 Low Density Residential under the Ku-ring-gai Local Environmental Plan 2015 (LEP).
15. The Site is mapped under the LEP as containing biodiversity significant land.



Figure 1: aerial photograph of the site and surrounds.

THE LOCALITY

16. The Site is surrounded by properties which are primarily zoned R2 Low Density Residential, comprising single and 2-storey residential dwellings, sited on varied allotment sizes. Generally, the allotments in the vicinity of the site are well landscaped. Development immediately adjoining the Site comprises detached dwelling houses.
17. The site is adjoined to the east by 95 Carrington Road and 98A Junction Road, to the south by 98 Junction Road, and to the west by 89 and 89A Carrington Road, all of which are zoned similarly to the subject site. No. 98 Junction Road is mapped as heritage item I945 "Bayllara", dwelling house'. No. 95 Carrington Road and 98A Junction Road are located lower than the subject site.
18. The existing subdivision pattern in the vicinity of the Site is inconsistent and includes a variety of allotments of different sizes and configurations, including battle-axe lots.

THE STATUTORY CONTROLS

20. The statutory instruments applicable to the Development Application are as follows:
 - (a) *Environmental Planning and Assessment Act 1979 ("EPA Act")*
 - (b) *Environmental Planning and Assessment Regulations 2021*
 - (c) *State Environmental Planning Policy (Resilience and Hazards) 2021*
 - (d) *State Environmental Planning Policy (Sustainable Buildings) 2022*
 - (e) *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
 - (f) *State Environmental Planning Policy (Housing) 2021 (SEPP Housing)*
 - (g) *Seniors Housing Design Guide 2023 ("SHDG")*
 - (h) *Ku-ring-gai Local Environmental Plan 2015 ("LEP")*
 - (i) *Ku-ring-gai Development Control Plan ("DCP")*
 - (j) *Ku-ring-gai Contributions Plan 2010*

ACTIONS OF THE RESPONDENT CONSENT AUTHORITY

19. The Development Application was lodged with Council on 14 January 2025.
20. The Development Application was notified to the owners and occupiers of surrounding properties between 24 January 2025 and 25 February 2025. Eight submissions were received. The submissions received opposing the proposed development include the following:
 - Inadequate, inconsistent and insufficient documentation.
 - Adverse impacts to the heritage item, 98 Junction Road.
 - Stormwater impacts.
 - Concern regarding tree impacts and removal.
 - Biodiversity impacts.
 - Privacy and amenity impacts to adjoining properties.
 - Inadequate tree and vegetation replenishment.
 - Concerns in relation to sediment and erosion control and flooding.
 - Concerns regarding earthworks, retaining walls, soil stability, planting and associated impacts.
 - Non compliance with Part 5, division 7 Non Discretionary standards SEPP Housing.
 - Inconsistent with Part 18 of the DCP.
 - Consultation with neighbouring properties has not been undertaken.
 - The proposal is not compliant with the R2 zone.
 - The proposal is inconsistent with the separation requirements in part 6A.4 of the DCP.
 - The listing of the Site within the biodiversity values map has been removed.
 - The proposal does not conserve the natural environment of Ku-ring-gai.
 - Concern in relation to reduction of carbon offset and reduce climate control in the area.
 - Impacts from dust and dirt during construction and mitigation measures.
 - Concern regarding impacts to stormwater easement and sewer lines at 89 Carrington Road.
 - Structural damage to dwelling foundations. Pre and post dilapidation reports should be required.
 - Noise and vibration impacts.
 - Enforceability of noise and vibration requirements.
 - Impacts from construction lighting.
 - Impacts from the proposed footpath to services and street trees.
 - Traffic, parking and visitor parking impacts.
 - Road and pedestrian safety impacts.
 - Inconsistent with the existing streetscape character.
 - Impact on property values.
 - Inadequate infrastructure and services.
 - Concern regarding waste collection and storage.
 - Impacts to swimming pool compliance.
22. On 28 February 2025 the Council was served with the Class 1 Application.

PART B - CONTENTIONS

B1 - Contentions that warrant the refusal of the application

The application must or ought to be refused because:

- 1. The 'Site' is identified as being 91 and 93 Carrington Road but the application lacks clarity and proposes work external to the Site.**

Particulars:

- a) The Application identifies the land to be developed as 91 and 93 Carrington Road, Wahroonga.
- b) Retaining wall structures (and associated boundary fences) are proposed on or over the common boundary in relation to 95 Carrington Road (side eastern boundary), 98A Junction Road (side eastern boundary), 98 Junction Road (rear northern boundary), 89A Carrington Road (side eastern boundary) and 89 Carrington Road (side eastern boundary).
- c) Dividing courtyard walls are shown on or over the common boundary in relation to Villas 1, 3, 5, 7, 8, 9 and 10.
- d) Owners' consent has not been provided as required by section 23(1)(a) of the EP and A Regulations.

- 2. The proposal is inconsistent with Part 5 Housing for seniors and people with a disability of SEPP Housing.**

Particulars:

- a) Clause 85(1) requires *'Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the relevant standards specified in Schedule 4'*. The proposal is non compliant with the following aspects of Schedule 4:
 - i) Villas 03 to 10 are connected to Carrington Road by the proposed central driveway which also serves as the pedestrian path of travel. Villas 1 and 10 also utilise this pedestrian path for access to the waste storage collection area.
 - ii) Schedule 4(2)(1) requires that if the whole of the site has a gradient of less than 1:10 that 100% of dwellings must have wheelchair access by a continuous accessible path of travel to an adjoining public road. For villas 3-10, the gradient of this pathway (including any diagonal line) may be greater than 1:20 and too steep as a ramp without handrails being inconsistent with schedule 4(2)(1) of SEPP Housing.
 - iii) Schedule 4(3)(b) requires letter boxes must have wheelchair access by a continuous accessible path of travel from the letterbox to the relevant dwelling. For villas 3-10, the gradient of this pathway (including any diagonal line) may be greater than 1:20 and too steep as a ramp without handrails being inconsistent with schedule 4(3)(b) of SEPP Housing.
 - iv) Schedule 4(22) requires a garbage storage area and a recycling storage area provided for an independent living unit must be accessible by a continuous accessible path of travel from the dwelling entrance. For villas 1-10, the gradient of this pathway (including any diagonal line) may be greater than 1:20 and too steep as a ramp without handrails inconsistent with schedule 4(2)(1) of SEPP Housing. In addition, the access reports states that bin storage areas are provided at individual villas in an accessible location. It is unclear if the bin storage areas for Villas 3 and 5, 4 and 6 and 9 and 10 are shared. It appears that the area in front of the private bin areas would be insufficient to accommodate a wheelchair. .

- v) Schedule 4(18)(4)(a) and (c) requires that a work surface that is at least 800mm long, clear of obstructions and not in the corner of the room, be located next to the cooktop. Villas 07 and 08 do not provide this arrangement.
 - vi) Schedule 4(18)(4)(e) requires that each kitchen must have an oven that has operative elements between 450mm and 1,250mm above the finished floor level and is next to a work surface. No proposed kitchens appear to have an oven to meet this requirement.
 - vii) Schedule 4(20)(a) requires that each independent living unit have a floor-to-ceiling linen storage cupboard that is at least 600mm wide. Villas 03, 04, 05, 06, 09 and 10 do not appear to have a linen cupboard.
- b) Clause 93 requires consideration of the location and access to facilities and services for independent living units, specifically:
- i) Clause 93(2)(b)(ii) requires there to be a public transport service available to the residents who will occupy the proposed development that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive). The 576 Bus Service operates along Carrington Road to Wahroonga Train Station. The service operates Monday to Friday. The proposal is inconsistent with 93(2)(b)(ii) as the 576 bus service does not operate on a Saturday or Sunday.
 - ii) The Footpath Access Plan prepared by Hydracor Consultants has not demonstrated the following:
 - I. The existing bus stops have not shown to be upgraded in accordance with Council Drawing No.2013-008.
 - II. The location of all underground services and any adjustments to existing underground services have not been shown for setting out purposes.
 - III. Potential landscaping/tree impacts have not been depicted on the civil plans.
 - IV. Endorsement of the civil plans by the access consultant to ensure compliance with Council standards and access standards has not been provided.
 - iii) The project arborist has not provided a construction methodology for the construction of any new footpath, bus stop and/or driveway works.
 - iv) The access consultant has not addressed in their report any works (removal of trip points, vegetation trimmed back etc.) required to achieve compliance with Clause 93 of the SEPP.
 - v) The proposal is inconsistent with clause 93. A variation request has not been provided in accordance with clause 4.6 of KLEP.
- c) Clause 97(2) requires that development consent must not be granted unless the consent authority is satisfied the design of the seniors housing demonstrates that adequate consideration has been given to the design principles for seniors housing set out in Schedule 8.
- i) Relevant controls of Schedule 8 include:
 - (1)(b)(i) requires that the seniors housing should be designed to recognise desirable elements of the locations current character
 - (1)(c) to complement heritage conservation and heritage items in the area
 - (1)(e) requires to set back the front building on the site generally in line with the existing building line

(2)(a) and (b) requires seniors housing to be designed to consider the visual and acoustic privacy of adjacent neighbours and all residents of the seniors housing by using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.

- ii) An adequate site analysis has not been undertaken in accordance with Part 2.1, control 2.1.5 and objective 1 of DCP as it does not indicate the prevailing street setback, the easement located at 89 Carrington Road, landscaping and topography of adjoining sites and the adjoining heritage item at 98 Junction Road. This results in a deficient and unsatisfactory site layout inconsistent with schedule 8 (1)(b)(i).
 - iii) The proposed development is sited forward of the adjoining properties and the predominant pattern of development on the high side of Carrington Road inconsistent with the character of the area inconsistent with schedule 8(1)(e).
 - iv) The proposed development impacts on 98 Junction Road, a listed heritage item as detailed in contention 7 inconsistent with schedule 8(1)(c).
 - v) The proposal has not undertaken appropriate site planning and has not adequately considered the proposed ground levels, location and design of windows and the use of screening devices and landscaping to ensure an acceptable privacy impact to adjoining properties inconsistent with schedule 8 (1)(b)(i) and (2)(a) and (b) as detailed in contentions 3, 4, 5 and 9.
 - vi) The proposal does not ensure acceptable noise levels in bedrooms of new dwellings as they are not located away from driveways inconsistent with schedule (8)(2)(a) and (b).
- d) The proposal does not comply with the following non discretionary development standards in clause 108:
- i) Clause 2(c) requires that the density and scale of the building when is expressed as a floor space ratio is 0.5:1 or less.
 - ii) The applicant has calculated the FSR as 0.476:1.
 - iii) The floor space ratio is 0.53:1, or an exceedance of 122.5m² (3.0%) as calculated by Council.
 - iv) A clause 4.6 variation request has not been provided in accordance with section 4.15(3)(b) of the EP and A Act.

3. The proposal is inconsistent with the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)* and *Seniors Housing Design Guide (SHDG)*.

Particulars:

- a) Design quality Object (g) of section 1.3 of the EP&A Act, seeks:

(g) to promote good design and amenity of the building environment.
- b) The proposal is inconsistent Clause 1.3(g) as the proposal is of poor design being inconsistent with the character of the area and results in an adverse amenity impact on adjoining properties.
- c) Section 97 of the SHDG - Design of in-fill self-care housing requires that in determining a development application for development for the purposes of seniors housing, a consent authority must consider the SHDG.
- d) SHDG states that the purpose of these guidelines 'is to expand on the intent outlined in SEPP Housing in the provision and delivery of this sector specific housing typology providing 'design guidance' on how the objectives can be achieved through particular

design approaches and illustrates 'design criteria' of measurable ways to achieve the objectives for seniors housing development.

- e) The SHDG states that the 'information provided in Parts 2 and 3 set the framework for how a new development needs to demonstrate that it meets the objectives. The proposal is inconsistent with Parts 2 and 3 for the following reasons:

a. Building maintenance

- i) Objectives 2.1.1, 2.3.2 and 2.3.4 requires a selection of robust and durable materials which will reduce ongoing maintenance costs.
- ii) Design guide 2.3.5 requires that pre finished and low maintenance robust materials are used.
- iii) The proposed render finish is not low maintenance inconsistent with design guide 2.3.5 and objectives 2.3.1, 2.3.2 and 2.3.4.

b. Site planning, character and built form.

- i) The proposed development does not fully consider the environmental sensitivities of the site and adjoining sites and is inconsistent with the character of the area.
- ii) Design guide 4.2.4 requires the mapping of the pattern of existing adjacent development and key features surrounding the site and determine their influence on the articulation of the built form.
- iii) An adequate site analysis has not been undertaken in accordance with Part 2.1, control 2.1.5 and objective 1 of DCP and objectives 3.1.1, 3.1.3 and 3.1.5 and design guide 4.2.4 of the SHDG and results in a deficient and unsatisfactory site layout.
- iv) Design guide 4.2.5 requires reference to front setbacks of neighbouring development and acknowledge the established street pattern.
- v) The adjoining properties have front setbacks of approximately 16.75m (95 Carrington Road) and 14.75m (89 Carrington Road). The prevailing front setback pattern within Carrington Road is consistent with the desired future character established by Part 4A.2(3) of DCP which seeks a minimum setback of 12m and an average setback of 14m.
- vi) The proposed development has a front setback of approximately 9.5m – 10.8 metres and is inconsistent with objectives 4.2.1 and 4.2.2, and design guide 4.2.5 of SHDG.
- vii) The proposed services / visitor carparking and waste storage collection areas are setback a minimum of 2.6m from the front boundary. The high side of Carrington Road is largely characterised by parking structures behind the building line and is inconsistent with objectives 4.2.1 and 4.2.2, and design guide 4.2.5 of SHDG.
- viii) The development has not been designed to respect the site layout with excessive amounts of fill within the eastern setback, with minimal planting resulting in unacceptable privacy impacts on sensitive areas of adjoining properties inconsistent with Part 2.1, control 2.1.5 and objective 1 of DCP and objectives 3.1.1, 3.1.3 and 3.1.5 of the SHDG.
- ix) The proposed development is inconsistent with the existing built character, has not sensitively integrated the new development into the surrounding area and is inconsistent with the desired future character of the R2 Low Density Zone.

c. Access and mobility

- i) Design guide 6.3.3 seeks to maintain positive connections between resident communities and the outdoor environment.
- ii) Design guide 6.3.5 requires circulation paths and corridors are also places for social interaction and should include places to sit and gather in small groups.

- iii) Design guide 6.5.5 requires frequent rest points in corridors, lift lobbies and on outside walking paths to enable equitable design and promote dignity, respect and pride of place consistent with objectives 6.5.1 and 6.5.2.
- iv) Objective 13.2 promotes the creation of environments where owner/occupants of the units can get together for activities, socialising, events and celebrations.
- v) Villas 03 to 10 are connected to Carrington Road by the proposed central driveway which also serves as the pedestrian path of travel.
- vi) The proposed development does not define and separate the footpath from the driveway. There is limited common landscaped area providing limited opportunities for sitting in communal areas throughout the development inconsistent with objective 13.2, 6.3.1 and 6.3.2 and design guides 6.3.3, 6.3.5 and 6.5.5 of SHDG.
- vii) The proposal provides insufficient accessible, equitable and useable areas of common areas to be utilised by residents of the site to create community and socialisation inconsistent with objectives 6.3.1, 6.3.2, 6.5.1, 6.5.2 and 13.2, and controls 6.3.3, 6.3.5 and 6.5.5 of SHDG.

d. Visual and acoustic privacy

- i) Objective 14.2.1 seeks to provide separation between communal open space and private open space.
- i) Design guide 14.2.2 requires the provision of generous landscape buffers for screening and acoustic privacy.
- ii) The proposal includes bedrooms facing directly onto the driveway and common area (villas 03, 04, 05, 06, 09 and 10) with minimal setback and low hedge planting. This is inconsistent with design Guidance 14.2.2 of SHDG to 'provide generous landscape buffers for screening'.

e. Chapter 14.3 Solar access and design for climate

- i) Objective 14.3.1 seeks to design dwellings that reduce the demand on energy.
- ii) Design guide 14.3.3 requires that dark roof colours be avoided to reduce heat absorbance.
- iii) The proposed roofs of villas 01, 02, 03, 04, 07 and 08 are dark in colour.
- iv) This is inconsistent with design Guidance 14.3.3 of SHDG.

4. The proposal has unacceptable impacts on the privacy and amenity of adjoining properties.

Particulars:

- a) Control 1 of Part 23.8 of DCP requires that private open spaces and principal living spaces of the proposed dwelling(s) and adjacent dwellings are protected from direct and unreasonable overlooking from all new residential developments.
- b) Control 1 of Part 21.1 of DCP requires buildings to be stepped down the site, and development to be accommodated within the natural slope of the land.
- c) Control 3 and 5 requires that landscape cut and fill is to be a maximum of 600mm above or below existing levels and setback 2 metres from the boundaries respectively.
- d) 95 and 98A Junction Road adjoin the sites eastern boundary and are on the low side of the Site. Areas of principal private open space are located aligning the eastern boundary.
- e) Villas 1, 3, 5, 7 and 9 and their associated outdoor patios and garden areas are filled up to 1.9 metres in height allowing overlooking of adjoining dwellings and their principal areas of private open space, in close proximity to the boundary fence, inconsistent with Part 23.8 control 1, 3 and 5 and objectives 1 and 2 of DCP.
- f) The proposed development has not been accommodated within the natural slope of the land resulting in unreasonable amenity impacts to adjoining properties inconsistent with objectives 1 and 9 and controls 1, 3 and 5 of Part 21.1 of DCP.

5. Landscape Amenity Impacts on Adjoining Properties

The proposed development will negatively impact on the amenity of the adjoining properties (89 Carrington Road, 89A Carrington Road, 95 Carrington Road, and 98A Junction Road). As such, it fails to comply with the relevant provisions under SEPP Housing, SHDG, the objectives and controls of KLEP and Part 21.1 of the KDCP.

Particulars:

- a) The retaining walls and associated cut and fill (see details below at (c)) will negatively impact on the amenity of the adjoining properties, particularly within the eastern side setback, where terraced retaining walls create narrow landscape areas that cannot support planting at a scale reflective of the original treescape.
- b) The cumulative effect of these earthworks fails to satisfy Clause 1(d)(iv) of Schedule 8 of SEPP, "to maintain reasonable neighbourhood amenity and appropriate residential character by considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours".
- c) The earthworks fail to satisfy Objective 3.1.9 of the SHDG, which aims to, "provide opportunity for regeneration of natural environments by allowing suitably sized setbacks to accommodate restorative planting to a scale that reflects the original treescape".
- d) The earthworks within the eastern, western and southern setbacks will negatively impact on adjoining properties and as such fails to satisfy Clause 6.2 Earthworks of the LEP, Clause 3(d) & (h), which requires the consent authority to consider "the effect of the development on the existing and likely amenity of adjoining properties", and to ensure "any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development."
- e) Excessive Retaining Wall Heights – The terraced retaining walls and fill along the eastern boundary range from 0.6 to 2 metres above existing ground levels, exceeding Control 3, which limits cut or fill to 600mm above or below natural ground.
- f) Lack of Setback – Retaining walls are positioned at the eastern, western, and southern boundaries with no setback to the boundaries, breaching Control 5, which requires maintaining existing ground level for 2 metres from any boundary.
- g) Adverse Amenity Impacts – The retaining walls, combined with a 1.8-metre fence along the eastern boundary, will result in a total height of 2.1 to 2.8 metres above existing grades, negatively affecting the amenity of adjoining properties and contrary to Clause 4.3.4 of the SHDG which aims to "provide setbacks to respect neighbours privacy, overshadowing and existing amenity".

6. Impacts on trees nominated for retention

The proposal fails to demonstrate that trees designated for retention will not be adversely affected, thereby failing to comply with the relevant provisions under SEPP Housing and contravening the objectives under the SHDG. Additionally, it does not meet the objectives and controls of Part 13.1 of the KDCP or the standards set out in AS 4970-2009 – *Protection of Trees on Development Sites*.

Particulars:

- a) The proposed works will have unacceptable impacts on trees nominated for retention, failing to comply with the following relevant objectives, standards and controls:
 - SEPP Housing- Schedule 8 Clause 1(g): Aims "to retain, wherever reasonable, significant trees.
 - SHDG – Clause 3.1.3: Seeks "to manage and preserve existing natural features such as trees, overland flow paths, riparian corridors, and sensitive environments".

- SHDG – Clause 3.1.6: Requires engagement of expert consultants (e.g., arborists), to inform initial design through site analysis.
 - DCP Part 13.1 - Control 2 prohibits “the injury of any tree(s) or other vegetation protected under this DCP is prohibited without the written consent of Council.”
 - DCP Part 13.1 - Control 3 defines actions that cause tree injury, including:
 - i. removing including cut down, take away, clearing or transplant a tree(s) or other vegetation from its place of origin;
 - ii. pruning, damaging / tearing live branches and roots; lopping (height reduction) a tree;
 - viii. changing of ground levels within the root zone of a tree or other vegetation by way of excavation, trenching, filling or stockpiling;
 - ix. severing tree or other vegetation roots with a diameter of 50mm
 - DCP Part 21.1 – Control 8(iii): Requires “retaining walls, excavated and filled areas to be located and constructed to have no adverse impact on trees and vegetation to be retained on site or on adjoining sites.
 - AS4970-2009 – Clause 3.3.3: States that “if the proposed encroachment is greater than 10% of the TPZ or inside the SRZ the project arborist must demonstrate that the trees would remain viable”.
- b) In accordance with the above provisions, the proposal fails to adequately consider and implement design solutions to minimise impacts on the following trees to an acceptable level:
- i. T1, T5, T8, T14, T17, T22 - The proposed masonry front fence will encroach within the tree protection zone (TPZ) and structural root zone (SRZ) constituting a major encroachment under AS4970-2009.
 - ii. T22 – Villa 1, including the patio, fill and retaining walls within the eastern side setback, encroaches 19% into the TPZ constituting a major encroachment. The proposed masonry fence along the eastern boundary also encroaches within the TPZ and SRZ.
 - iii. T114 – Villas 9 & 10 along with retaining walls and associated cut within the southern rear setback, encroaches 29% into the TPZ and into the SRZ (major encroachment). The arborist has recommended removal of T114 due to the high level of impact however the plans indicate retention of the tree. Removal of T114 would not be supported as it is a mature specimen in good health and does not unreasonably constrain development on the site. T114 also contributes to the landscape amenity of the adjoining heritage item.
 - iv. T117 & T119 – The retaining wall along the southern boundary encroaches into the SRZ constituting a major encroachment under AS4970-2009.
 - v. T120 – Villa 9, including the patio, fill and retaining walls within the eastern side setback, encroaches 19% into the TPZ constituting a major encroachment. The proximity of the tree to Villa 9 may also require future pruning of branches overhanging the roofline, which are exempt under Part 13.2 of the DCP. The combination of root disturbance and canopy pruning will compromise the ongoing health, structural integrity and appearance of the tree.
 - vi. T121 - Villa 9, including the patio, fill and retaining walls within the eastern side setback, encroaches 18% into the TPZ and SRZ constituting a major encroachment under AS4970-2009.
 - vii. T30, T35, T38, T39, T41, T43, T49, T54, T58, T54, T80, T87, T106 – Retention of the trees is unviable due to proposed cut, fill, and retaining walls within the eastern and western side setbacks. The trees and mature shrubs currently provide amenity for the adjoining properties and their subsequent removal will have adverse amenity impacts on neighbouring properties.

7. Unacceptable Impacts on the adjoining Heritage ItemParticulars:

- a) The proposed retaining walls and cut within the southern (rear) setback will negatively affect trees T114, T117, T119, T120, T121, as well as mature shrubs and trees within the Heritage Item at 98 Junction Road. The subsequent potential loss of the trees fails to satisfy Clause 4.3.5 of the Senior Housing Design Guide, which is to *"investigate and respond to any heritage context or values and provide considered setbacks that are complimentary to significant buildings, views or natural features, and that preserve curtilages needed for heritage interpretation"*.
- b) The proposed potential large loss of trees and shrubs throughout the whole of the adjacent SEPP Seniors development will have an adverse impact on the setting of the heritage item contrary To Part 19F.1.2(vi) of DCP which require development on sites that directly adjoin a Heritage Item to have regard to the setting and context of the item.
- c) The potential loss of trees along the rear boundary close to the outbuilding will have an adverse impact on it and is contrary to Part 19F.1.2(vi) of DCP which requires development on sites that directly adjoin a Heritage Item to have regard to the setting and context of the heritage item.
- d) The proposed development will be partially visible from the rear of the heritage item through deciduous trees on the site and will alter its view and setting contrary to Part 19F.1.4 of DCP which require new development in the vicinity of a Heritage Item to demonstrate that it will not reduce or impair important views to and from the Heritage Item.
- e) The proposed potential loss of trees and shrubs on either side of the northern boundary of the heritage item is contrary to Part 19F.3(i), (ii) and (iii) of DCP which requires development in the vicinity of a heritage item to retain original or significant landscape features associated with the Heritage Item or which contribute to its setting.

8. Unacceptable landscape proposal

The proposed landscaping fails to provide sustainable, high-quality landscaped areas with adequate amenity and does not offer sufficient screening for neighbouring properties. As a result, it does not comply with the relevant provisions under SEPP Housing , the SHDG, and Parts 19F.3, 21.1 and 21.2 of the KDCP.

Particulars:

- a) The proposed retaining walls and associated fill along the eastern boundary will increase the potential for overlooking into adjoining properties and create a visually intrusive structure when combined with the 1.8 metre fence above the retaining walls. Furthermore, the proposed retaining walls and associated cut along the western and southern boundaries will require the removal of trees designated for retention and negatively impact trees on adjoining properties.
- b) These works will have an adverse effect on neighbouring properties and therefore fail to comply with Clause 1(d)(iv) of SEPP Housing (Schedule 8) which aims "to maintain reasonable neighbourhood amenity and appropriate residential character by considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours".
- c) Additionally, the proposal fails to comply with Control 5 of Part 21.1 of the DCP which requires "Existing ground level is to be maintained for a distance of 2 metres from any boundary."
- d) The existing trees and mature shrubs (T30, T35, T38, T39, T41, T43, T49, T54, T58, T54, T80, T87, T106) located on the eastern, western and southern boundaries, along with a Murraya hedge on the eastern and southern boundaries, currently provide amenity for the adjoining properties. However, based on the current plans, retaining these trees is not viable due to proposed excavation, filling, and retaining walls within the eastern and western side setbacks. As a result, their removal does not comply with Control 8(iii) of Part 21.1 of the DCP, which states that:

“retaining walls, excavated and filled areas to be located and constructed to have no adverse impact on trees and vegetation to be retained on site or on adjoining sites”.

- e) Additionally, Part 21.2 - Control 3 of Part 21.2 of the DCP requires the retention of existing appropriate screen planting.
- f) The proposed transplanting of 15 Camellia plants for screen planting is not considered viable. Without specialist handling and ongoing maintenance, their survival is unlikely. Priority should be given to retaining the existing screen planting. If retention is not possible, it should be replaced with super-advanced screen planting to ensure long-term success and effective screening.
- (g) Inappropriate placement of tall to medium trees beneath the canopies of existing trees to be retained (T22, T114).
- (h) To minimise impacts on the streetscape and existing trees the proposed front fence is to be deleted and the existing hedge row of Camellia's along the front boundary is to be retained where possible.
- (i) Trees T33, T50, T65, T78, T89, T108, T109, T116, T118, T123 are proposed for retention however should be removed due to poor health, structure or are a nominated weed species.

9. Public interest

The Development Application is not in the public interest, having regard to the contentions raised by Council and the matters raised by submissions.

Particulars:

- (a) The Development Application is not in the public interest, contrary to sections 4.15(1)(d) and (e) of the EP&A Act.
- (b) The Development Application was notified in the circumstances set out in Part A above. Council contends that the Development Application should be refused as potential adverse environmental impacts from the development are not minimised or mitigated, contrary to the public interest. Having regard to the matters raised in the submissions received by Council insofar as those matters coincide with the contentions raised in this Statement of Facts and Contentions and/or the Court finds them determinative of the Development Application.

B2 – CONTENTIONS THAT COULD BE RESOLVED BY CONDITION OF CONSENT

10. Trees recommended for removal

The proposal fails to provide effective management solutions for the site's future landscape outcomes, as some trees nominated for retention are either in poor health, have structural deficiencies, or are classified as weed species.

Particulars:

- a) Trees T33, T50, T78, T89, T108, T109, T116, T118, T123 are recommended for removal.

**B3 - CONTENTIONS THAT THERE IS INSUFFICIENT INFORMATION TO ENABLE
ASSESSMENT**

- 11. The submitted documents and plans lack consistency and sufficient detail, to enable a comprehensive and accurate assessment of the proposal against the relevant planning provisions.**

Particulars

- a) Inaccurate GFA diagrams and FSR calculations have been submitted.
 - i) The maximum permissible FSR for the Site is 0.5:1 under section 108 (c) of SEPP Housing. The proposal has an approximate GFA of 2,146m² which is equivalent to a floor space ratio of 0.530:1, or an exceedance of 122.5m² (3.0%).
 - ii) Amended architectural plans with supporting GFA diagrams and FSR calculations are required, to demonstrate compliance with the FSR development standard.
 - iii) A clause 4.6 variation request has not been provided in accordance with clause 4.15(3)(b).
- b) Inaccurate information in relation to trees
 - i) The Survey Plan does not include trees located in close proximity to the site within neighbouring properties. The properties affected are known as 89 Carrington Rd, 95 Carrington Rd, 98 Junction Rd and 98A Junction Rd.
 - ii) An updated Arboricultural Impact Assessment (AIA) should be provided by the arborist to assess the impact of the proposed footpath, as detailed in the Hydracor Consulting Engineers suite of plans (Drawings FP1 to 13, Issue B dated 19/12/24), on:
 - I. Trees located on the nature strip
 - II. Trees on adjoining private properties where the footpath encroaches within the designated tree protection zones.
 - iii) An updated AIA is also required to assess the impact of the proposed new driveway crossing on trees T3 and T4. The AIA should detail any required pruning works necessary to provide vehicular egress.
 - iv) All plans must be consistent in relation to tree retention and removal.
- c) BASIX certificate.
 - i) The BASIX Certificate is not consistent with the landscape plan:
 - i. The common areas of lawn and garden on page 2 are not consistent with the landscape plan.
 - ii. The private areas of garden and lawn indicated on page 3 are not consistent with the architectural plan DA08.
 - iii. A BASIX landscape compliance plan is to be submitted.
- d) Solar access
 - i) The proposed solar access is stated as being 100% which meets the non-discretionary development standard of HSEPP 108(2)(g) which requires at least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces.
 - ii) Shadow diagrams have not been prepared using the surveyed true north point, do not indicate neighbouring windows or identify neighbouring swimming pools.
 - iii) An accurate assessment of the solar access impacts cannot be undertaken.
- e) Plan inconsistencies and insufficient information
 - i) The plans do not include heights or dimensions for the proposed front fence, mailbox or screen structures.

- ii) The front boundary width shown on the architectural plans is inconsistent with the survey.
- iii) The roof plan and elevations do not show all ridge heights. The full survey is to be overlayed onto the roof plan to confirm maximum building heights.
- iv) The plans do not indicate the finished level of the base of the existing swimming pools. Villas 1 and 10 are located over the existing swimming pools. The roof plan and sections do not demonstrate the maximum height of these villas.
- v) All elevations of all dwellings have not been provided.
- vi) Details of the proposed individual waste storage area enclosures have not been provided.
- vii) Clothes drying facilities have not been identified.
- viii) Trees are shown over the elevations which remove architectural detail from the plans.
- ix) Photovoltaic cells and air conditioning condensers are not shown on the architectural plans inconsistent with the BASIX certificate.
- x) An acoustic design report identifying all mechanical ventilation equipment and other noise generating plant including, but not limited to air conditioners, lifts and pumps associated with rain water reuse systems and recommendations to address any potential noise impacts has not been provided.
- xi) The architectural plans are inconsistent, for example:
 - I. Balustrading is not identified to first floor balconies of Villas 1 and 2.
 - II. The floor levels on the elevation plans do not clearly identify which villa they relate to.
 - III. The eastern and western elevations identify screens within the front setback area running north to south. These screens are not shown on the ground floor plan/site plan.
 - IV. All plans must be consistent.
- xii) The landscape plan and architectural plans are inconsistent.
 - I. For example the proposed screen structures behind the garbage collection point and visitor parking is not shown on the landscape plans.
 - II. The retaining wall locations on the landscape plan and architectural plans are inconsistent.
 - III. The location of retaining wall structures along the eastern boundary of villas 8 and 9 are inconsistent.
 - IV. Level differences of the garages (villas 09, 02, 04, 06, 08, 10, ramp in front of villa 3) are inconsistent
- xiii) The plans are not consistent in relation to the retention and removal of existing trees.
- xiv) Several instances of doorway circulation spaces, corridor widths and passenger lift dimensions do not appear to comply. Dimensioned drawings with accessibility clearance templates and room dimensions demonstrating all clearances and required accommodation for all dwellings are satisfied consistent with the requirements of 85(1) and Schedule 4 of SEPP Housing have not been provided.

SIGNATURE

Signature of authorised officer of
respondent consent authority



Name of authorised officer

Belinda Newell

Capacity

Executive Assessment Officer

Date of signature

9/4/2025