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Department of Planning and Environment 13th March 2023

Attention: Caleb Ball (via planning portal)

Dear Sir,

RE "NERINGAH" SENIORS HOUSING AND HEALTH FACILITY (SSD-45121248) SUBMISSION

We refer to the above State Significant Development Application (SSD) submitted by Hammondcare at No 2-12 Neringah Avenue South, Wahroonga (referred to as No 4-12 Neringah Avenue in the application).

We are writing on behalf of the Owners of **Strata Plan 100500** known as the "***The Sirius"*** apartments at 14-18 Neringah Avenue South, Wahroonga. Our client's property directly abuts the northern boundary of the subject site. Refer to **Figure 1** below.

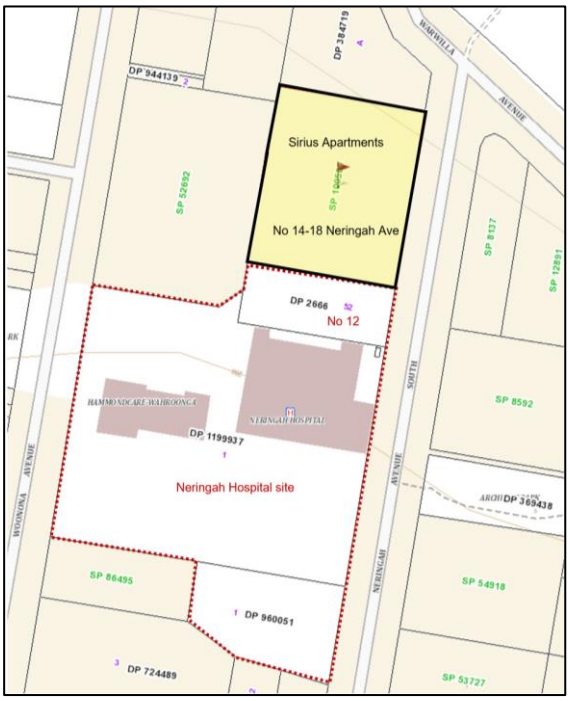


Figure 1 – SSD site & No 14-18 notated *Source:Six maps*

Figure 2 –SSD site (No 12) & No 14-18 "The Sirius" apartments *Source: Photo 10-3-23*

The focus of our client's objections relate to the following;

1.	**Impacts from proximity to the "*The Sirius"* apartments specifically in relation to proposed side setbacks and landscaping/deep soil landscaping provisions along the No 12 and No 14 boundary. Notably, while the proposed apartments achieve minimum 6m setbacks, an enclosed basement structure is located only 1.63m from the side boundary. The service vehicle driveway has minimal to no side setbacks to No 14-18 so that a (3m wide) deep soil planting zone cannot be achieved.**
2.	**Concerns relating to additional traffic congestion which currently occurs on the narrowed carriageway (approx. 6.5m wide) along the frontage of No 14-18 Neringah Avenue.**

1. SIDE SETBACKS & LANDSCAPE PROVSION ADJOINING No 14-18 NERINGAH AVENUE

The proposed development provides a basement entry for service trucks / ambulances immediately adjacent to "***The Sirius"*** apartments at No 14-18 Neringah Avenue side boundary. There appears to be minimal consideration given to providing deep soil landscape setbacks to this boundary. Specific concerns are detailed below;

a. **Changes to the design since SCC issued**: - The minimal landscaped side setbacks to No 14-18 and the driveway location and inclusion of a basement structure within the 6m setback are at odds with the more generous landscaped setbacks denoted in the Concept Plans for the Site Compatibility Certificate (SCC) approved by Sydney North Planning Panel (SNPP). Refer **Figure 3** below. **Changes to the design which will have a detrimental effect on No 14-18 apartments has not been explained/justified in the EIS**.

Figure 3 – Preliminary Concept Plan *Source: SCC application (2022)*

b. **Amenity issues for Driveway Location**:- The location of the service vehicle / truck entry adjacent to the northern boundary means that truck deliveries/laundry pickups are more impacting on residential neighbours at No 14-18, whilst achieving amenity benefits to the proposed development. Locating the driveway on the northern/downhill side has functional attributes for the development which are acknowledged. **However, the location of the driveway in close proximity to "The Sirius" apartments means that any usage will impact on the acoustic amenity for residents with south-facing rooms, particularly with respect to early morning garbage/laundry/food delivery truck arrivals and out of hours ambulance emergencies**. The provision of a "lid" over the basement entry structure and enclosing walls on the northern and western sides is a band-aid solution which is only necessary by virtue of the site design that locates a noise generating use in close proximity to neighboring residences. An alternative design would have been to locate the service vehicle entry further to the south, preferably incorporated into the building design and not directly abutting the neighbour boundary.

While generous landscape setbacks and pedestrian pathways have been provided to the brick reservoir building to the south, there are minimal setbacks for the service vehicle entry provided to sensitive residential neighours to the north. **Furthermore, the opening and closing of the metal entry roller door presents acoustic issues for the adjoining Sirius apartments as trucks/ambulances arrive/depart.** Refer **Figure 4** and **Figure 5** overleaf.

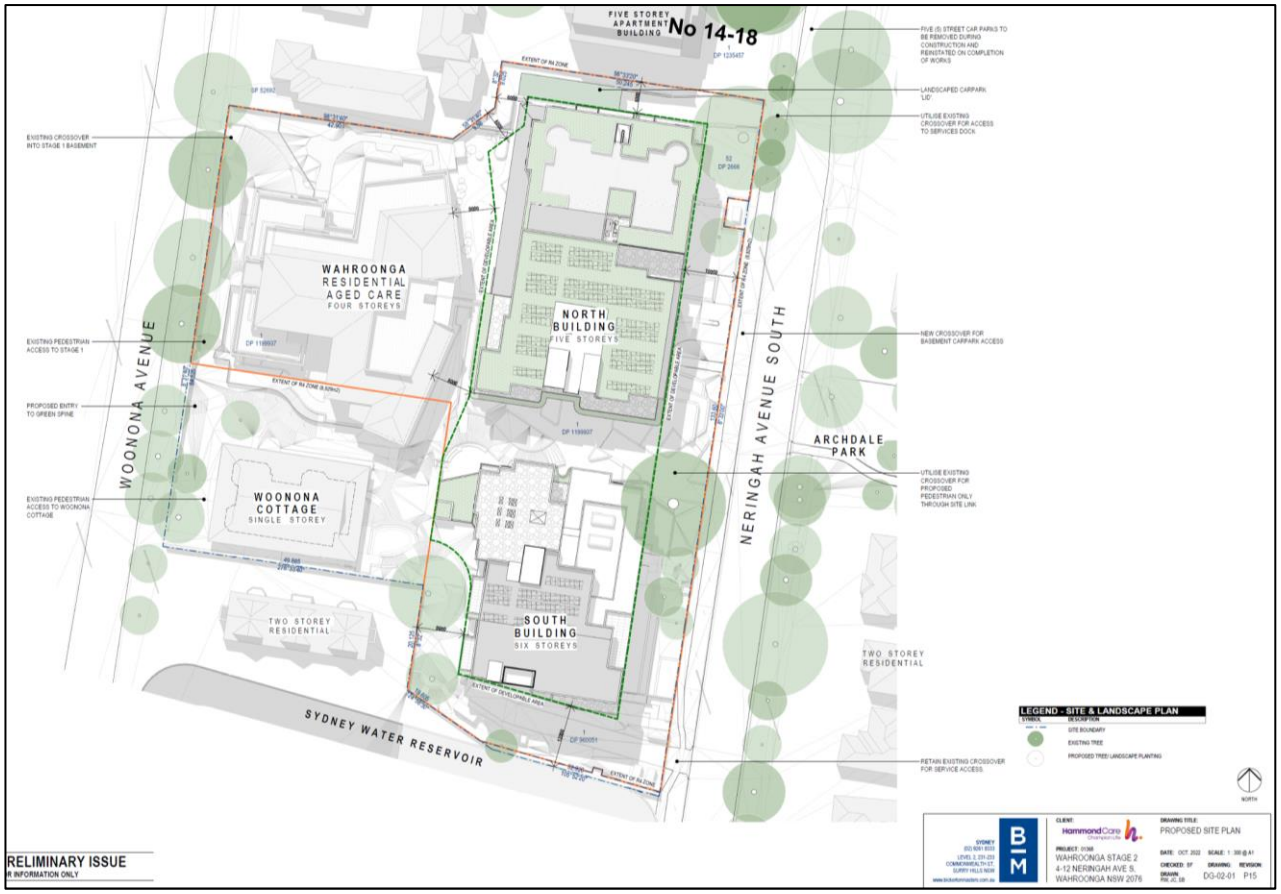


Figure 4 – Proposed Site Plan with No 14-18 Neringah site notated *Source: Bickerton Masters*

c. **<u>Basement entry structure form & setbacks</u>**:- The loading bay/ambulance carpark (RL195) and "landscape lid" to the basement entry structure (RL199.525) means that basement entry structure pops above the natural ground level (ERL 197) by approximately **2.5metres** with only a narrow **1.63m** setback to No 14-18 boundary. The basement entry structure is illustrated in **Figure 5** below.

Figure 5 – Perspective with No 14-18 Neringah site location notated *Source: Bickerton Masters*

No sections / details are provided in the exhibited documents to explain planting area (soil) dimensions having regard to ground levels, any physical separation of soil from the basement entry structure, stormwater pipes (Ø150) and side boundary fencing/retaining walls.

Elevation Drawings are also unclear how this narrow setback area is being treated. Refer **Figure 6** below.

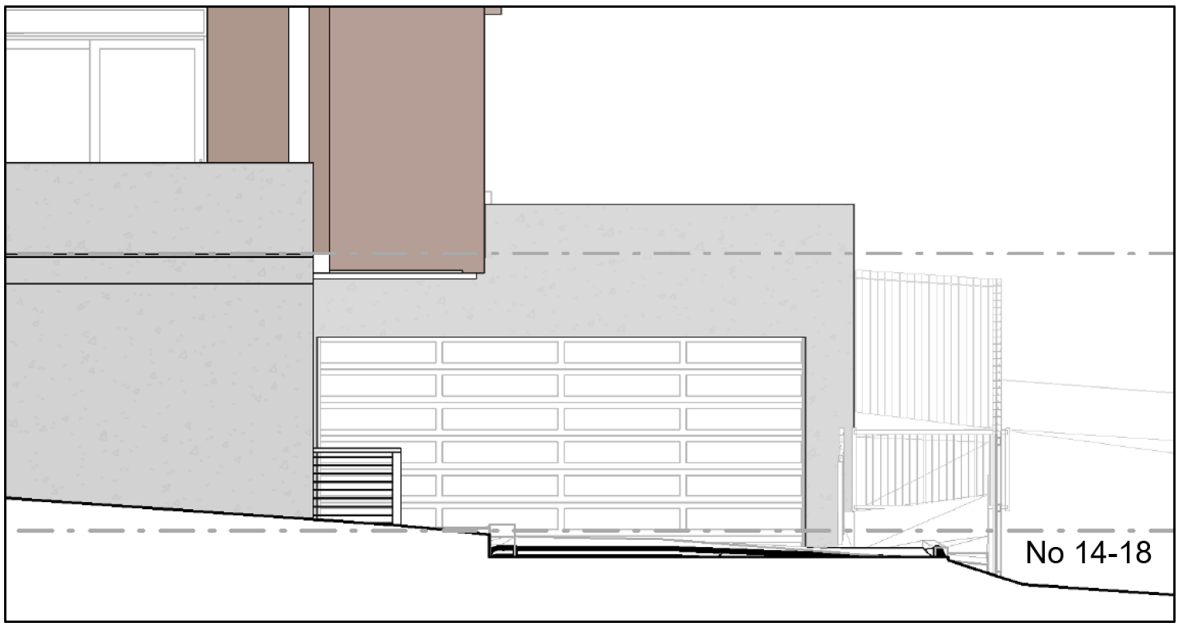


Figure 6 – Extract East elevation (Drawing AR-DG-20-N1) with No 14-18 notated *Source: Bickerton Masters*

The proposed row of Blueberry Ash (45L pot size) typically have 4m wide canopy, so that the trees will be significantly constrained by basement walls and side boundary fencing. Access for tree and stormwater pipe maintenance within the 1.63m wide dimensioned space may also present practical challenges as the trees mature in the confined space.

d. **<u>Service Driveway setbacks</u>:** - Forward (east) of the basement entry structure is predominantly a sealed driveway separated from No 14-18 boundary by a narrow (0m-1.63m) strip intended to accommodate a row of Blueberry Ash trees. No section drawings are provided to detail the finished ground/garden levels, internal planter (soil) width having regard to kerbing and fencing/retaining walls to contain the narrow landscape bed. Blueberry Ash typically have 4m wide canopy so that the landscaping will not be located wholly within the subject site and will be heavily reliant upon utilising the neighbouring property at No 14-18. **Figure 7** Site Plan extract below shows a **truck driveway width <u>4.37m</u> for trucks to enter and leave the premises, presumably not at the same time (?)**. Severe pruning to the southern side of the canopy will be necessary to ensure no obstruction to trucks entering/leaving the loading dock.

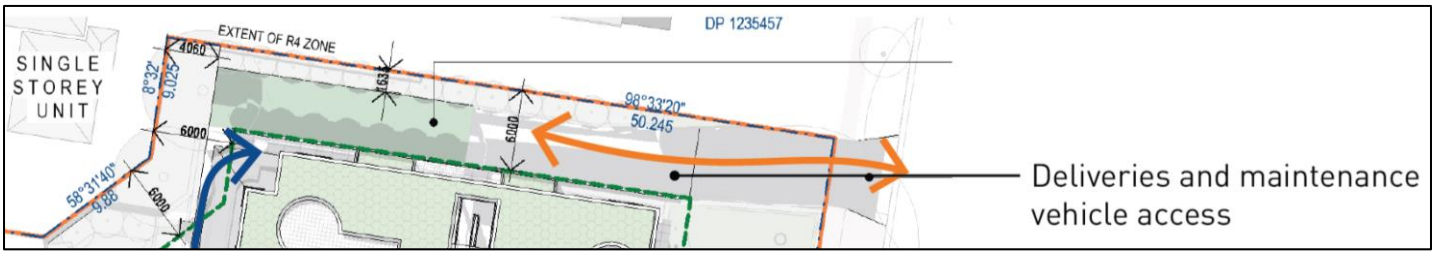


Figure 7 – Site Plan extract along northern side of proposed development *Source: Bickerton Masters*

e. **Landscape Treatment**: - The basement entry structure "lid" is shown on landscape plans to comprise "*Shallow light weight soil with hardy perennial native meadow planting over loading dock/driveway roof at lower level*" as denoted in **Figure 8**. Hence the side setbacks behind the building line which are ordinarily 6metres wide deep soil planting zones to provide tall vegetative screening between RFB developments in Ku-ring-gai, is not provided to any meaningful/effective degree.

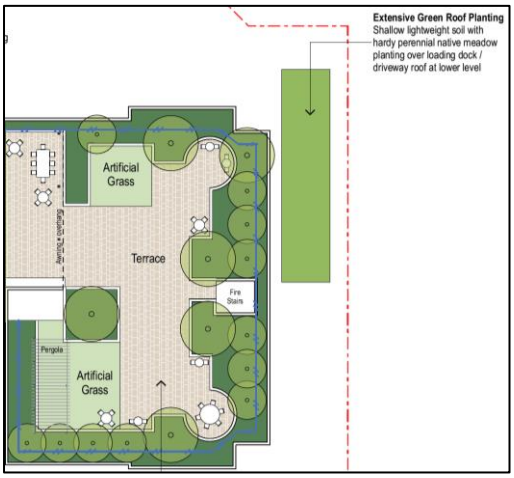


Figure 8 – Roof landscape Plan *Source: Arterra*

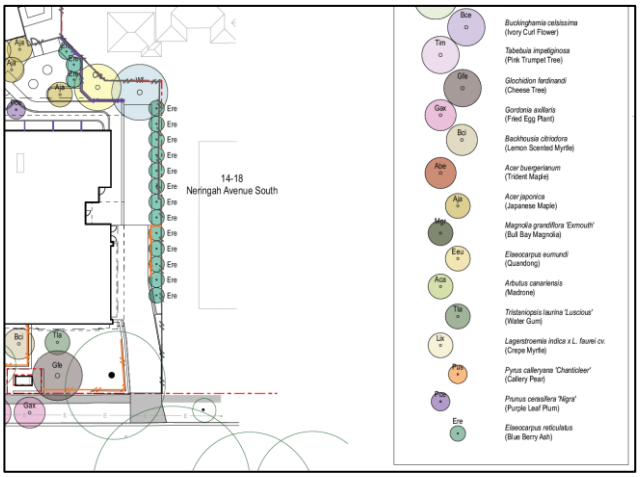


Figure 9 – Tree Planting Plan *Source: Arterra*

f. **Functionality of the Service Vehicle Driveway**:- In addition to comments raised in respect of **Figure 7** at item "d" above, various design deficiencies are identified in the submitted Traffic Report per the below extracts;

3.8.1 Required Change – Loading Ramp Grades and Vertical Clearance

To assess the ability of loading vehicles to access the site, vertical clearance testing has been undertaken of an 8.8m length MRV with results provided in **Annexure E.** The results indicate that an MRV does not achieve compliant clearances along the proposed ramp profile. However, preliminary investigations suggest that an acceptable ramp profile can be designed. The detailed design of this ramp can be required to occur during the Construction Certificate stage of the development.

3.8.2 Required Change – Loading Ramp Headroom Clearance

From the plans provided to date, there are no details regarding headroom obstructions along the loading ramp such that an assessment of compliance in this matter is not able to be completed. Additionally, further details regarding the power line heights near the loading driveway are required to ensure sufficient clearance is provided at this location. It is expected that there will be no headroom clearance issues due to the open nature of the loading ramp access. In any case, the detailed design of this ramp can be required to occur during the Construction Certificate stage of the development.

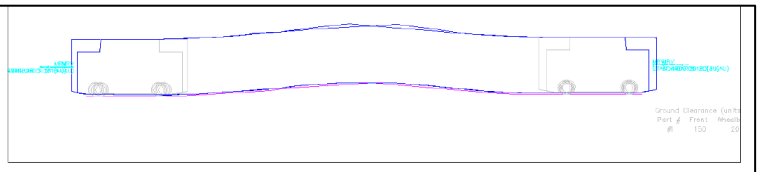
3.8.3 Required Change – Car Driveway Ramp Grades

To assess the ability of cars to access the appropriate parking areas, vertical clearance testing has been undertaken of an Australian 99th percentile light vehicle (B99) in accordance with *AS2890.1:2004* along the proposed driveway and ramp profile with results provided in **Annexure E**. The results indicate that a B99 scrapes its undercarriage along the proposed ramp profile. However, preliminary investigations suggest that an acceptable driveway and ramp profile can be designed. The detailed design of this driveway and ramp can be required to occur during the Construction Certificate stage of the development.

3.8.4 Required Change – Driveway Sight lines

During a visit to the site, it was noted that sight lines at the proposed two-way driveway and proposed loading driveway locations are potentially restricted due to the presence of shrubs and trees within the Council verge adjacent to the driveways. Accordingly, these shrubs and trees should be trimmed, relocated or removed where relevant to achieve suitable sight lines.

Whilst the plans have been assessed to comply with the relevant standards, subject to the required changes detailed above, it is usual and expected that a design certificate be required at the Construction Certificate stage to account for any changes following the development application.



MRV Vertical Clearance Testing

Unsuccessful

Inadequate clearances occur near the crest of the ramp. This can be modified during detailed design of the CC stage

Figure 10 – Swept Path Testing (MRV) *Source: McLaren Traffic Engineering*

The above Annexure E *Swept Path Testing* to the submittted Traffic Report illustrates the ramp grades do not accommodate 8.8m Medium Rigid Vehicles (MRV). It is further noted that the ramp testing did not include Hammondcare's larger **9.38m length laundry trucks** which would presumably also fail the test.

Clarification of what changes might be required to faciliate ingress/egress of 8.8m and 9.38m trucks along the service vehicle driveway ramps is requested to be provided by the applicant to assess the redesign incase it has detrimental knock-on effects. Provision of workable driveway design should be assessed at DA stage (not CC stage) given the driveway is immediately adjoining No 14-18 boundary and any adjustments could result in additional impacts.

g. **Removal of street trees**:- The below extract from the Traffic Report identified the need to remove street trees in the vicinty of the service vehicle driveway and directly infront of No 14-18 Neringah Avenue development.

> ***3.6 Sight Line Assessment***
>
> During a visit to the site, it was noted that sight lines at the proposed two-way driveway and proposed loading driveway locations are potentially restricted due to the presence of shrubs and trees within the Council verge adjacent to the driveways. As a result, it is likely that some of these trees will be required to be removed or relocated to ensure sufficient sight lines can be achieved from the proposed driveways.

The proposed removal of street trees is referenced in the submitted Arboricultural Report at page iv and Tree Retention Value Plan (Drawing LT-DG-01-E0) at **Figure 11** below. T44 and T45 are located on the road reserve in front of "***The Sirius"*** apartments are identied for removal.

38	1	*Gordonia axillaris*	Fried Egg Tree	0.40	0.52	4.80	2.51	Low	Remove
39	1	*Gordonia axillaris*	Fried Egg Tree	0.35	0.47	4.20	2.41	Low	Remove
40	1	*Gordonia axillaris*	Fried Egg Tree	0.30	0.40	3.60	2.25	Low	Remove
41	1	*Gordonia axillaris*	Fried Egg Tree	0.28	0.35	3.36	2.13	Low	Remove
42	1	*Nerium oleander*	Oleander	0.35	0.75	4.20	2.93	Low	Remove
43	1	*Nerium oleander*	Oleander	0.30	0.75	3.60	2.93	Low	Remove
44	1	*Gordonia axillaris*	Fried Egg Tree	0.20	0.30	2.40	2.00	Low	Remove

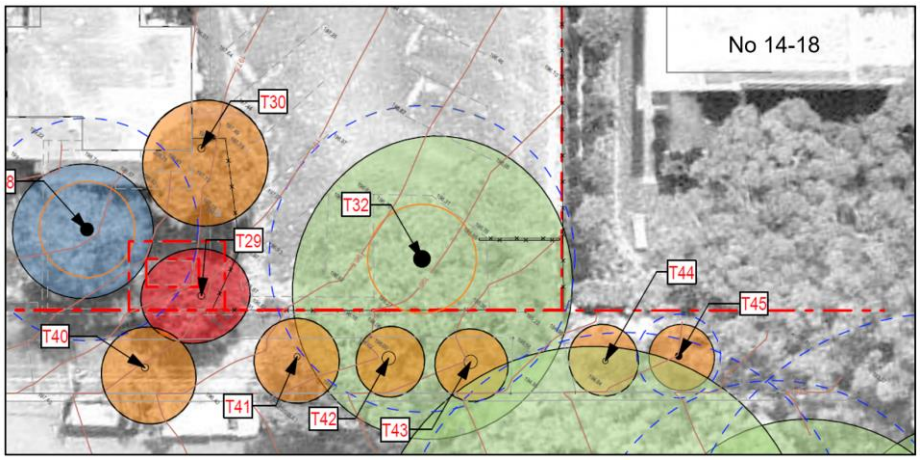


Figure 11 – Tree Retention Value Plan *Source: Anterra*

However, the Tree Planting Plan Drawing LA-DG-04-E0 (refer **Figure 12** below) is inconsistent with the Arborist report and does not show removal/replacement of Trees 44 and 45.

The tree removal/replanting for the road reserve in front of No 14-18 should be clarified by the applicant.

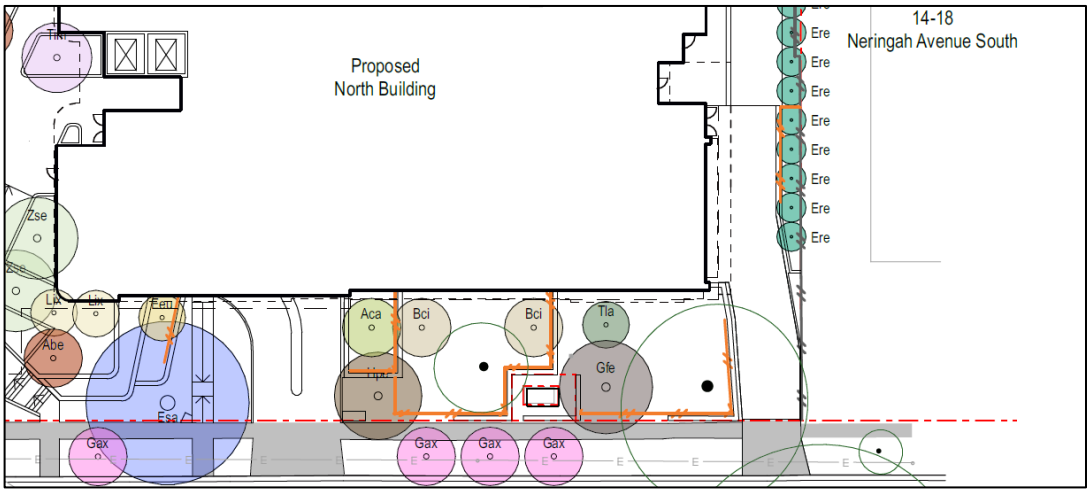
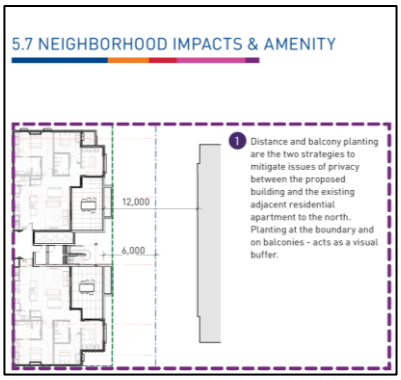
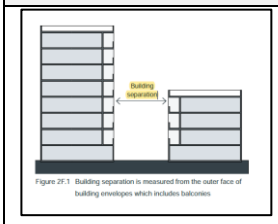
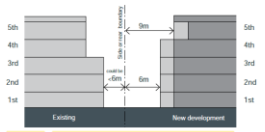
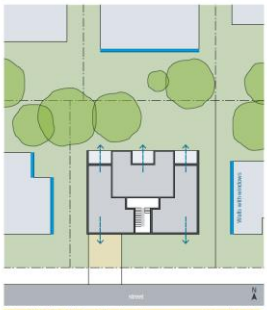


Figure 12 – Tree Planting Plan LA-DG-04-E0 *Source: Anterra*

Key Planning Controls Relevant to the Assessment of Setbacks, Landscaping & Privacy:-

"SEPP Seniors" 2004 EIS extracts	Responses
Clause 33 – Neighbourhood Amenity and Streetscape *(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and* As is discussed further in **Section 6.1**, the design of the proposed development has been subject to a rigorous design development process to ensure that the site responds appropriately to the current and future character envisaged for the locality, with particular consideration to surrounding residential development. The desired future character of the locality is established in the Ku-ring-gai DCP, which has been utilised during the design development phase to ensure the proposal integrates with the streetscape. The desired character of the area can be described as *'buildings situated with a garden setting dominated by tall trees'* (DCP Section 7A.3, Objectives 1, 3 & 14), and it is considered that the proposed development achieves this through the following features: • Provision of generous, DCP compliant setbacks that replicate adjoining development, allowing significant deep soil landscaping to be planted to act as a visual buffer between the proposal and public domain. • Stepping the overall building height as well as articulating facades in a manner that ensures the bulk and scale of the development generally matches that of the adjoining development. • Provision of a landscaped 'green spine' bisecting the site and connecting Archdale and Balcombe Parks, which will act to create a distinct green network through the locality. As such, the proposal is considered to complement the scale of built form within the vicinity while integrating with the existing and future landscaped residential character. Refer to **Section 6.1** for additional discussion on built form and urban design.	Response: The DA focusses on streetscape but fails to properly consider the reduced setbacks and minimal landscape separation to the northern boundary. There is a notable void of tall tree plantings along the northern side of the development resulting from **insufficient building / driveway setbacks.**
(c) maintain reasonable neighbourhood amenity and appropriate residential character by: The proposed development maintains reasonable neighbourhood amenity as it: • Provides appropriate setbacks that allow for internal amenity while not resulting in any adverse impacts to surrounding residents;	Response: The proposed setbacks are **insufficient** and will result in **adverse impacts on No 14-18.**
(i) providing building setbacks to reduce bulk and overshadowing, and *(ii) using building form and siting that relates to the site's land form, and* *(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and* *(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and* • Incorporates a design led solution to built form that ensures the site remains compatible with the surrounding streetscape and siting; and • Adopts a maximum building height that is commensurate with the existing and future residential character and the objectives of the R4 High Density Residential zone. Further discussion is provided in **Section 6.1**.	Response: The proposal appears to have had little regard to the northern neighbours and has adopted band-aid solutions to address this design deficiency.
Clause 34 – Visual and Acoustic Privacy *The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:* *(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping,* The orientation and design of windows and balconies has been carefully considered in the design of the proposed development, including reference to the minimum separation distances contained within the ADG. The offsetting of windows and balconies, and the inclusion of landscaping and screening at sensitive interfaces, will also minimise overlooking. Refer to **Section 6.2.5**. *(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.* Given the existing configuration of the site and with it being located in a dense urban area, the positioning of all rooms away from driveways and car parking areas is unavoidable. However, it is noted that the northern entrance to the basement car park (which will be used by service and emergency vehicles) has been covered with a landscaped lid to protect the amenity of rooms/dwellings both within and adjacent the site.  **Figure 13** - Survey Plan extracts *Source: LTS Lockley*	Response: The adjoining development has south facing bedrooms and balconies. Building separation for the apartments is numerically compliant with ADG's 12m separation requirements, however the absence of "deep soil planting" which is required to be 3m width under the SEPP Seniors definitions, means that **there is little scope to plant trees of any significance and certainly not any tall canopy trees to assist in screening the upper floor levels of the proposed development**. The location of the service vehicle driveway adjacent to the side boundary is contrary to SEPP cl 34 in terms of ***"considering the visual and acoustic privacy of neighbours in the vicinity***". **The submitted survey included No 14-18 south elevation. A detailed assessment of proposed apartments and distance/angles to neighbouring balconies/habitable rooms should be provided for assessment**.

SEPP 65 Apartment Design Guide (ADG) Extracts	Responses
The proposal is a "mixed use" development so that SEPP 65 and the Apartment Design Guide (ADG) applies.	
Objective 3J-4 Visual and environmental impacts of underground car parking are minimised ***Design guidance*** Excavation should be minimised through efficient car park layouts and ramp design Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites Natural ventilation should be provided to basement and sub basement car parking areas Ventilation grills or screening devices for car parking openings should be integrated into the facade and landscape design	The basement carpark is elevated above finished ground levels which elevates the building by several metres at the northern (downhill) end of the site. Arguably this elevated basement is counted as a storey which would trigger additional setbacks to the top floor at the northern end.  **Fig. 14** *Source:Architectural Design Report*
Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space ***Design guidance*** Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows. Design solutions may include: • setbacks • solid or partially solid balustrades to balconies at lower levels • fencing and/or trees and vegetation to separate spaces • screening devices • bay windows or pop out windows to provide privacy in one direction and outlook in another • raising apartments/private open space above the public domain or communal open space • planter boxes incorporated into walls and balustrades to increase visual separation • pergolas or shading devices to limit overlooking of lower apartments or private open space • on constrained sites where it can be demonstrated that building layout opportunities are limited, fixed louvres or screen panels to windows and/or balconies Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas Balconies and private terraces should be located in front of living rooms to increase internal privacy Windows should be offset from the windows of adjacent buildings Recessed balconies and/or vertical fins should be used between adjacent balconies	Response: Refer to response at SEPP Seniors clause 34. The Architectural Design Report which includes the below extract, does not adequately address the relationship between Building North and "***The Sirius"*** apartments windows & balconies. Balcony planter boxes as denoted in **Figure 15** below are not shown on the architectural or landscape plans.  **Fig. 15** *Source: Architectural Design Report* **A detailed assessment of proposed apartments and distance/angles to neighbouring balconies/habitable rooms should be provided for assessment**.

SEPP 65 Apartment Design Guide (ADG) Extracts	Responses
 Figure 2F.1 Building separation is measured from the outer face of building envelopes which includes balconies **Considerations in setting building separation controls** Design and test building separation controls in plan and section Test building separation controls for sunlight and daylight access to buildings and open spaces Minimum separation distances for buildings are: *Up to four storeys (approximately 12m):* • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms **Aims** • ensure that new development is scaled to support the desired future character with appropriate massing and spaces between buildings • assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook • provide suitable areas for communal open spaces, deep soil zones and landscaping.  Figure 3F.3 New development adjacent to existing buildings should provide adequate separation distances to the boundary in accordance with the design criteria *Objective 3F-1* Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy ***Design criteria*** 1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: 	Building height	Habitable rooms and balconies	Non-habitable rooms
---	---	---
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m | Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)	<u>Response</u>: The ADG requires 12m separation between habitable windows/balconies for up to 4 storeys building height. The habitable floors proposed have 12m separation distances. ADG aims for building separation include the provision of **"*suitable areas for communal open spaces, deep soil zones and landscaping*"** and *"**to assist in providing residential amenity including visual and acoustic privacy**.."*. The intrusion of the basement (**being less than 3m**) and driveway abutting the side boundary conflicts with the ADG Aims/ Controls for building separation distance to the boundary.
2H Side and rear setbacks Side and rear setbacks govern the distance of a building from the side and rear site boundaries and are related to the height of the building. They are important tools for achieving amenity for new development and buildings on adjacent sites. Setbacks vary according to the building's context and type. Larger setbacks can be expected in suburban contexts in comparison to higher density urban settings. Setbacks provide transition between different land uses and building typologies. Side and rear setbacks can also be used to create useable land for common open space, tree planting and landscaping. **Aims** • provide access to light, air and outlook for neighbouring properties and future buildings • provide for adequate privacy between neighbouring apartments • retain or create a rhythm or pattern of spaces between buildings that define and add character to the streetscape • achieve setbacks that maximise deep soil areas, retain existing landscaping and support mature vegetation consolidated across sites • manage a transition between sites or areas with different development controls such as height and land use.  Figure 2H.1 Side setbacks can contribute to the character of the street, for example by allowing views to existing vegetation at the rear of buildings  Figure 2H.2 On infill sites follow the existing open space patterns, limit side setbacks and locate habitable rooms to face the street and rear boundary to optimise amenity and privacy for all	<u>Response</u>: The ADG does not provide numerical controls in this chapter. However the principles clearly recognize they are "*important tools for achieving amenity for new development and buildings on adjacent sites*." And that "*larger setbacks can be expected in suburban contexts*". These stated Aims reflect the ADG 12m building separation for habitable rooms and Ku-ring-gai DCP2015 detailed controls which require deep soil planting to side setbacks and no intrusion by driveways/basements into the side setbacks. ADG Figure 2H.2 is generally consistent with KDCP2015 which is considered in the below DCP assessment table.
Considerations in setting side and rear setback controls Test side and rear setbacks with height controls for overshadowing of the site, adjoining properties and open spaces Test side and rear setbacks with the requirements for: • building separation and visual privacy • communal and private open space • deep soil zone requirements Consider zero side setbacks where the desired character is for a continuous street wall, such as in dense urban areas, main streets or for podiums within centres On sloping sites, consider increasing side and rear setbacks where new development is uphill to minimise overshadowing and assist with visual privacy	<u>Response</u>: The ADG recognises the need for increased side setbacks on sloping sites which are up hill to "*assist with visual privacy*". The proposed development seeks to minimise side setbacks which is contrary to the ADG provisions.

Ku-ring-gai DCP 2015 extracts	Responses

The below is noted in the submitted Environmental Impact Statement (EIS) which states that DCPs do not apply to SSDs.

Ku-ring-gai Development Control Plan 2015	It is noted that development control plans are not a matter for consideration in the assessment of SSDAs by virtue of Clause 11 of the SRD SEPP, which states that 'Development Control plans... do not apply to... State significant development'. Notwithstanding, guidance has been taken from the Ku-ring-gai DCP in certain instances to ensure that the proposed development provides a sympathetic built form outcome to the surrounding streetscape. This is discussed in further detail in the below sections.

Notwithstanding, the EIS does respond to certain DCP controls relating to streetscape. The DCP provisions are consistent with the aims of the ADG controls which seek to ensure local amenity is protected which is a key consideration under s4.15 of the EP&A Act 1979.

GENERAL ACCESS AND PARKING

22.3 BASEMENT CAR PARKING

Further controls that may apply

SECTION C
PART 23.7 - Waste Management

Objectives

1 *To ensure basement car parking design is of high efficiency and ecologically sustainable.*

2 *To provide safe and secure access for building users within the car park areas.*

3 *To minimise visitor parking on the street.*

Figure 22.3-1: Secure basement car parking.

Controls

1 A logical and efficient structural grid must be provided to the basement car park areas.

2 The minimum height between floor level and an overhead obstruction is to be 2.2m, except for the following:

i) 2.5m for parking area for people with a disability;

ii) 2.6m for residential waste collection and manoeuvring area; and

iii) 4.5m for commercial waste collection and manoeuvring area.

3 Where natural ventilation is not possible, a ventilation system for the basement car park is to be provided and designed in accordance with *AS1668.2 The use of ventilation and air conditioning in buildings - Ventilation design for indoor air contaminant control.* Monitoring of CO^2 and variable speed fans are to be provided with any basement car park mechanical ventilation systems.

4 Basements must be fully tanked to prevent unnecessary subsurface or groundwater extraction.

5 Unimpeded access to visitor parking and waste and recycling rooms located within a secure basement parking must be maintained.

6 Where ventilation grilles or screening devices are provided they are to be recessed and integrated into the overall facade and landscape design of the development.

7 Vehicle access ways to basement car parking must not be located in direct proximity to doors or windows of habitable rooms.

Response: The proposal is inconsistent with Control No 7 as it locates a service vehicle driveway in close proximity to neighbour habitable rooms and balconies.

RESIDENTIAL FLAT BUILDINGS

7A.1 LOCAL CHARACTER AND STREETSCAPE

Further controls that may apply:

SECTION A
PART 2 – Site Analysis

SECTION C
PART 21 – General Site Design

Objectives

1 *To improve the design quality of residential flat buildings.*

2 *To ensure that the development contributes to the greater Ku-ring-gai landscaped character of buildings within a landscaped garden setting and surrounded by tall trees.*

3 *To ensure the development is sensitive to, and conserves and enhances the existing built environment, landscape setting, environmental conditions and established character of the street and locality with particular reference to integration of.*

i) *architectural themes;*

ii) *building scale and setbacks; and*

iii) *landscape themes.*

Controls

1 All Residential Flat Buildings are to be designed by an architect registered with the NSW Architects Registration Board.

2 All residential flat buildings are to demonstrate how they provide a garden setting with buildings surrounded by landscaped gardens, including tall trees, on all sides.

3 Design components of new development are to be based on the existing predominant and high quality characteristics of the local neighbourhood.

4 The appearance of the development is to maintain the local visual character by considering the following elements:

i) visibility of on-site development when viewed from the street, public reserves and adjacent properties; and

ii) relationship to the scale, layout and character of the tree dominated streetscape of Ku-ring-gai.

5 The predominant and high quality characteristics of the local neighbourhood are to be identified and considered as part of the site analysis at Part 2 of the DCP.

Note: Local character and streetscape is created by many features including, but not limited to: kerbs, setbacks, footpath treatment, building separation and spaces between buildings, access arrangements, street tree planting, tall tree canopy backdrop to the horizon, native vegetation and gardens, topography, site and street geometry, as well the architecture.

Response: The proposal is inconsistent with Control No 2 as it does not provide "*landscape gardens, including tall trees, on all sides*".

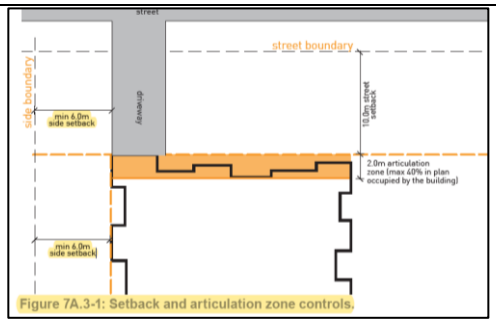


Figure 7A.3-1: Setback and articulation zone controls.

Response: The proposal is inconsistent with DCPs required 6m side setbacks for **both driveways and building**.

The resulting development has insufficient deep soil landscape setbacks which is also contrary to SEPP Seniors 2004 and ADG.

RESIDENTIAL FLAT BUILDINGS

7A.3 BUILDING SETBACKS (continued)

Controls

14 To ensure setback areas limit elements that compromise deep soil planting and growth of tall trees.

15 To ensure that new development is of a scale that supports the desired area character with appropriate massing and spaces between buildings.

16 To protect existing trees.

7 Side setback areas behind the building line are not to be used for driveways or for vehicular access into the building (see Figure 7A.3-1).

8 Driveways are to be set back a minimum of 6m from the side boundary within the street setback to allow for deep soil planting (see *Figure 7A.3-1*).

Side and rear setbacks at a zone interface

9 Setbacks are to respond to the attributes identified in the site analysis, conducted as required by Section A Part 2 Site Analysis of this DCP, including consideration of the location of adjoining buildings and views of the site.

10 Residential flat buildings are to provide the following side and rear setbacks to land which is zoned differently for lower density residential development:

i) a minimum of 9m from the side and rear boundary up to the fourth storey (see *Figure 7A.3-4*);

ii) a minimum of 12m from the side and rear boundary for the fifth storey and above (see *Figure 7A.3-4*);

iii) greater setbacks may be required where the residential flat building is located upslope from a lower density zone (see *Figure 7A.3-5*)

Encroachments

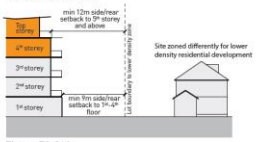


Figure 7A.3-4:
Sites adjoining lower density zones

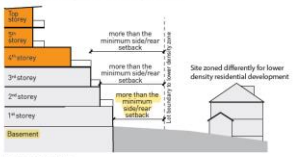


Figure 7A.3-5:
On steep sites adjoining lower density zones, setbacks may need to be more generous.

p 7-12 Ku-ring-gai Development Control Plan

Response: The proposal is contrary to the DCP provisions that do not permit side setback areas behind the building line to be used for driveways or for vehicular access.

The resulting design does not provide the required 6m side setback to allow for deep soil planting.

The proposal has overlooked the requirement (and need) for deep soil landscaped setbacks along the northern boundary.

The proposed landscaped "lid" over the basement entry structure and (max) 1.63m wide planting space along the boundary of No 14-18 does not meet the ADG or its underlying intent so that it will result in unacceptable amenity impacts on No 14-18 "The Sirius" apartments.

7A.3 BUILDING SETBACKS (continued)

Controls

11 Basements are not to encroach into the street, side and rear setbacks.

12 Ground floor private terraces/courtyards may encroach into the setback areas (see Figure 7A.3-6) provided there is a minimum setback to the terrace edge/courtyard wall of:

i) 8m from the street boundary;

ii) 4m from the side and rear boundaries;

iii) 7m from the side and rear boundaries where adjoining land is zoned differently for lower density residential development.

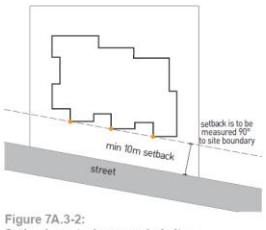
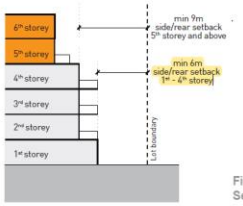
13 On sites less than 1800m^2 no encroachments into the setback areas is permitted.

14 No encroachments are permitted where minimum setbacks have not been achieved.

Response: The proposal is contrary to the DCP provisions as the covered basement entry incorporating the landscaped "lid" is part of the basement/building as its visually exposed.

The resulting development conflicts with **ADG 2H** Side & Rear Setbacks which aims include;

- "***provide adequate privacy between neighbouring apartments***"
- "***achieve setbacks that maximise deep soil areas, retain existing landscaping and support mature vegetation consolidation across sites"***

Ku-ring-gai DCP 2015 extracts	Responses
7A.3 BUILDING SETBACKS (continued) **Objectives** 5 *To maintain the alignment and rhythm of the built form on the street.* 6 *To ensure driveways do not compromise the landscape setting or neighbouring amenity.* 7 *To ensure adequate separation space between neighbouring sites to enable effective deep soil landscaping and tree planting which enhances the Ku-ring-gai landscape character.* 8 *To ensure that building separation distances are met on smaller sites.* 9 *To provide a transition to adjoining sites zoned differently for lower density residential development.* 10 *To ensure building setbacks at all levels respond to site conditions, and the local topography.* 11 *To ensure side and rear setbacks allow for deep soil landscaping including tall and medium trees that are able to screen blank facades and facades with openings to non-habitable rooms and service areas.* 12 *To ensure common area is retained to all boundaries, and that they are viable for deep soil landscaping.* 13 *To minimise bulk and scale impacts on neighbouring development.* **Controls** 4 The building line to any street is to be parallel to the prevailing building line in the streetscape. For angled sites, a stepped façade may be appropriate (see Figure 7A.3-2).  Figure 7A.3-2: Setback controls on angled sites. ***Side and Rear setbacks*** 5 Residential flat buildings are to meet the following side and rear setback requirements to ensure deep soil, landscaping and tall trees are accommodated to all sides of the building: i) a minimum of 6m from the side boundary for all levels up to the fourth storey (see Figure 7A.3-3); ii) a minimum of 9m to the fifth storey and above (see Figure 7A.3-3).  Figure 7A.3-3: Setback controls on side & rear. 6 For buildings of 3 storeys or less on sites less than 1800m², a minimum of 3m from the side boundary may be provided, however Building Separation requirements are to be met as stated in Part 7A.4.	Response: The apartments on the habitable floor levels achieve 6m setbacks to the northern boundary. However the enclosed basement entry structure provides a 1.63m setback which is contrary to Control No 5 and as a result fails "***to ensure deep soil, landscaping and tall trees are accommodated to all sides of the building***". The lack of deep soil planting area and limited ability to plant trees in a very confined 1.63m space is **contrary to DCP objectives**; • Objective 6 (driveways and neighbour amenity) • Objective 7 (separation space to enable deep soil landscaping and tree planting) • Objective 11 (side setbacks for tall & medium trees to screen service areas). Presumably the roller shutter will be open for the duration of trucks visiting the site. • Objective 13 (minimize bulk and scale impacts on neighbouring development).
7A.6 DEEP SOIL LANDSCAPING **Further controls that may apply** **SECTION A** PART 1B.1 - Dictionary **SECTION B** PART 14 - Urban Precinct and Sites **SECTION C** PART 21.2 - Landscape Design **Objectives** 1 *To ensure landscape areas contribute to the garden character and canopy of the Ku-ring-gai locality.* 2 *To provide consolidated deep soil zones of adequate area in all residential development sites through quality planning and building design.* 3 *To provide landscaped areas that are appropriate to the scale and context of the development.* **Controls** ***Design*** 1 Residential flat development is to have a minimum deep soil landscaping area as follows: | Site Area | Minimum Deep Soil Landscaping | | --- | --- | | Less than 1800 m² | 40% of the site | | 1800 m² or more | 50% of the site | **Note:** For the purpose of this section, the site excludes any access handle. **Note:** Certain sites in the B2 and B4 zones have a reduced maximum deep soil landscaping area. Refer to Section B Part 14 Urban Precinct and Sites. 2 Deep soil zones are to be configured to retain healthy and significant trees on the site and adjoining sites, where possible. 3 Deep soil zones are to be configured to allow for required tree planting including tall tree planting and garden and screen planting at front, side and rear boundaries.	Response: The proposed setbacks to the northern boundary does not meet the Objectives 1 & 2 or the Design Control 3 with respect to adequate provision of deep soil landscaping to the side boundary.

2. NERINGAH AVENUNE SOUTH - CARRIAGEWAY CONSTRAINTS

An inspection of Neringah Avenue South was undertaken at 8.20am – 9am on 10th March 2023. During this time the "lollypop" person for Abbotsleigh Junior School was on duty at the Warwilla Avenue pedestrian crossing. During the site visit, both sides of Neringah Avenue on-street parking were fully occupied between No 4-12 Neringah Avenue South and Warwilla Avenue. A notable observation was the changes to carriageway width in the vicinity of No 7-9 Neringah Avenue and No 12 Neringah Avenue.

Uphill / south of No 12 entry driveway the Neringah Avenue carriageway is approximately 8m wide (measured kerb to kerb). Downhill and infront of No 14-18 Neringah Avenue driveway, the Neringah Avenue carriageway is reduced to approximately **6.5m** (measured kerb to kerb).

When cars were observed travelling along Neringah Avenue, congestion issues and lack of passing opportunity was evident. This was despite circa 2020 changes to reduce the on-street parking near the Warwilla Avenue intersection. The "lollypop" person confirmed 2 x school buses travel along Neringah Avenue (before and after school) and experience difficulties with parked cars and other cars travelling along Neringah Avenue.

Figure 16 – View looking south along Neringah Ave

Figure 17 – View looking north along Neringah Ave to Warwilla Ave

Figure 18 – View looking north along Neringah Avenue (photo taken from opposite No 12 Neringah Ave)

The Traffic and Transport report which accompanies the EIS provides per below extracts from page 7, 8, 15 and 20;

2 EXISTING TRAFFIC AND PARKING CONDITIONS

2.1 Road Hierarchy

The road network servicing the site has characteristics as described in the following sub-sections.

2.1.1 Neringah Avenue South

- Unclassified LOCAL Road;
- Approximately 10m wide two-way carriageway (one lane in each direction) and kerbside parking;
- Signposted 50km/h speed limit;
- Sections of time restricted signposted "*2-P, 830am-6pm, Mon-Fri, 830am-1230pm Sat*" along the eastern side of the road and time restricted "*2-P 8am-5pm, Mon-Fri*" on the western side of the road. Unrestricted parking is available outside of time restricted parking areas;
- "*No Parking*" restrictions at the entrance to the Archdale Walk and within close proximity to the existing visitor site driveway from Neringah Avenue South.

2.3 Existing Traffic Volumes

Intersection traffic surveys were conducted at the intersections of Neringah Avenue South / Warwilla Avenue and Neringah Avenue South / Pacific Highway from 7:00 AM to 9:30 AM and 2:30 PM to 6:00 PM on the Tuesday 1st June 2021 representing a typical operating weekday. The full survey results are shown in **Annexure B** for reference.

2.3.1 Existing Road Performance

The performance of the surrounding intersections under the existing traffic conditions has been assessed using SIDRA INTERSECTION 9.0, **Table 2** summarises the resultant intersection performance data, with full SIDRA results reproduced in **Annexure C**.

TABLE 2: EXISTING INTERSECTION PERFORMANCES (SIDRA INTERSECTION 9.0)

Intersection	Peak Hour	Degree of Saturation[1]	Average Delay[2] (sec/veh)	Level of Service[3][4]	Control Type	Worst Movement
EXISTING PERFORMANCE						
Neringah Avenue South / Warwilla Avenue	AM	0.10	1.9 (Worst: 10.2)	**NA** (Worst: A)	Give Way	RT from Neringah Avenue South
	PM	0.08	2 (Worst: 9.1)	**NA** (Worst: A)		RT from Neringah Avenue South
Pacific Highway / Neringah Avenue	AM	0.54	0.4 (Worst: 20.6)	**NA** (Worst: B)	Stop	LT from Neringah Avenue
	PM	0.41	0.3 (Worst: 12)	**NA** (Worst: A)		LT from Neringah Avenue

NOTES:
(1) The Degree of Saturation is the ratio of demand to capacity for the most disadvantaged movement.
(2) The average delay is the delay experienced on average by all vehicles. The value in brackets represents the delay to the most disadvantaged movement.
(3) The Level of Service is a qualitative measure of performance describing operational conditions. There are six levels of service, designated from A to F, with A representing the best operational condition and level of service F the worst. The LoS of the intersection is shown in bold, and the LoS of the most disadvantaged movement is shown in brackets.
(4) No overall Level of Service is provided for Give Way and Stop controlled intersections as the low delays associated with the dominant movements skew the average delay of the intersection. The Level of Service of the worst approach is an indicator of the operation of the intersection, with a worse Level of Service corresponding to long delays and reduced safety outcomes for that approach.

As shown above, the two relevant intersections are currently performing at a high level of efficiency, with worst movement levels of service of "A" or "B" conditions in both the AM & PM peak hour periods. The level of service "A" and "B" performance is characterised by low approach delays and spare capacity.

TABLE 5: ESTIMATED TRAFFIC GENERATION

Use	Scale	Generation Rate	Trips	PM Peak Hour Split
Self-contained dwellings	57 units	0.4 per dwelling	23 trips	18 in 5 out [1]
Residential aged care / Palliative care	30 units	0.15 per dwelling[2]	5 trips	1 in; 4 out [3]
Total	-	-	**28 trips**	**19 in; 9 out**

As shown, the intersections of Neringah Avenue South / Warwilla Avenue and Neringah Avenue South / Pacific Highway both retain the same worst movement Levels of Service under future conditions with minimal delays and additional capacity, indicating that there will be no adverse traffic impact on the road network as a result of the proposed development. As there are no adverse impacts expected to occur, no additional road infrastructure or impact mitigation measures are necessary.

Comment: The Neringah Avenue carriageway widths provided in the Traffic Report (approx 10m) appear to be overstated having regard to measurements taken during the site inspection on 10-3-23. **As a consequence, the existing congestion at peak school times has not been identified / addressed.** While traffic generation is indicated to be modest, the additional traffic associated with the expanded development will likely have a noticeable affect on traffic flow in the vicinity of No 14-18 Neringah Avenue and the Warwilla Avenue intersection given the congestion problem already exists.

To minimise potential impacts and to address current problems two measures should be considered;

1. Limit cars and trucks exiting the subject site to **right exit only** during busier 7am to 7pm periods
2. Applicant should approach Council/ the Local Traffic Committee to seek deletion of several on-street parking spaces along Neringah Avenue just uphill from Warwilla Avenue. Removal of the lower 3 spaces (eastern side) and the single space remaining at the lower end (western side) outside No 14-18 Neringah Avenue would faciliate cars and larger vehicles to stay on the correct side of the double white line.

CONCLUSION

The provision of a "landscape lid" is presented as being a design solution to mitigate noise impacts on neighbouring residential development. The location of the service vehicle driveway immediate adjoining "***The Sirius"*** apartments site has triggered the problem in the first instance. By constructing what is in reality an extension of the basement some 1.63m away from the neighbour boundary, there is limited ability to grow and maintain tall screen trees in the narrow building setback. The combination of the basement structure and the service vehicle driveway being sited so close to the side boundary, combine to achieve very minimal landscape setbacks to "***The Sirius"*** apartments. **The proposal should be amended to provide as a minimum, a 3m wide deep soil planting zone capable of accommodating tall tree plantings along its northern boundary in accordance with SEPP Seniors 2004 and in accordance with the aims of the SEPP 65 Apartment Design Guide**.

Clarification of what changes are required to faciliate ingress/egress of 8.8m and 9.38m trucks along the service vehicle driveway ramps is requested to be provided by the applicant to assess the redesign incase it has detrimental knock-on effects.

Consideration should be given to restricting left turns onto Neringah Avenue during busier 7am – 7pm periods to mitigate further congestion on Neringah Avenue where the carriageway is only 6.5m wide and vehicles are unable to pass due to on-street parking. The applicant should also be required to liaise with Council with respect to facilitating the approval by Local Traffic Committee for removal of 4 on-street parking spaces near the Warwilla Avenue intersection.

If you have any queries in relation to the above, please do not hesitate to contact Meg Levy on 0419 267767 or email meg@levyplanning.com

Yours faithfully,
LEVY PLANNING

Meg Levy
DIRECTOR

Cc Owners of Strata Plan 100500
Enc Plan extracts No 4-12 & No 14-18 Neringah Avenue

ADDENDUM PLAN EXTRACTS

Extracts No 4-12 Neringah Avenue SSD Plans

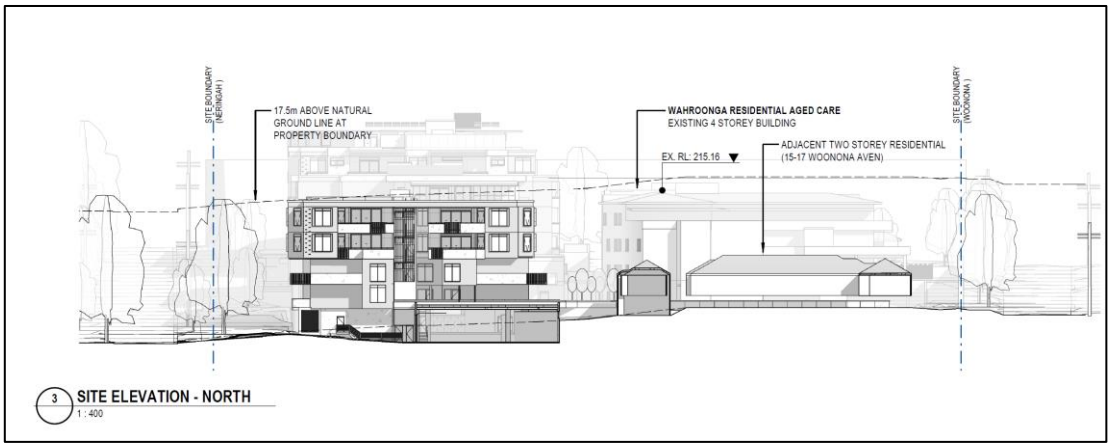


Figure 19 – North Elevation (as viewed from No 14-18) *Source: Bickerton Masters*

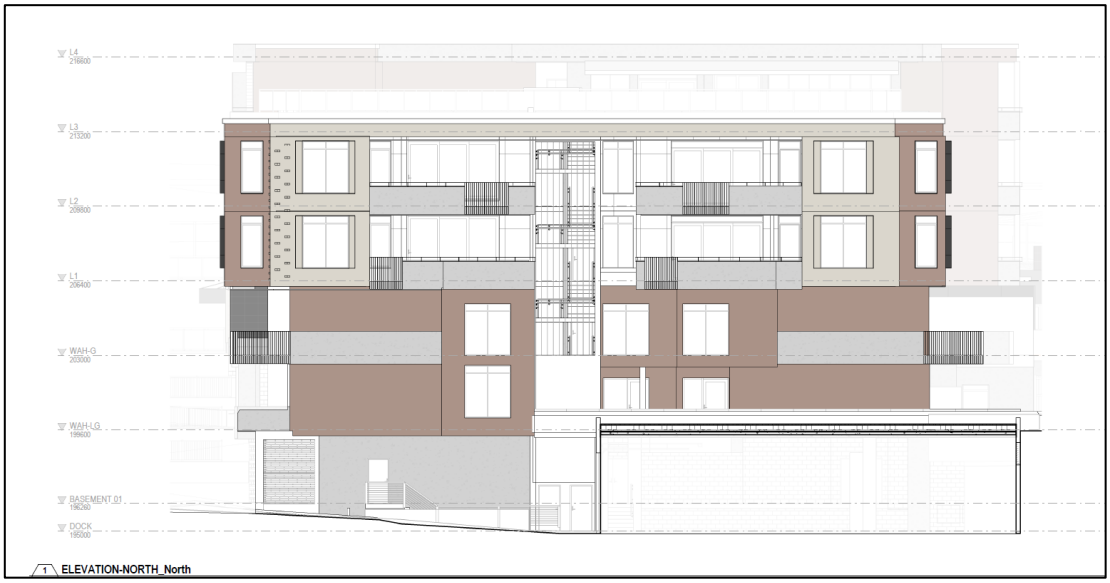


Figure 20 – North Elevation (as viewed from No 14-18) *Source: Bickerton Masters*

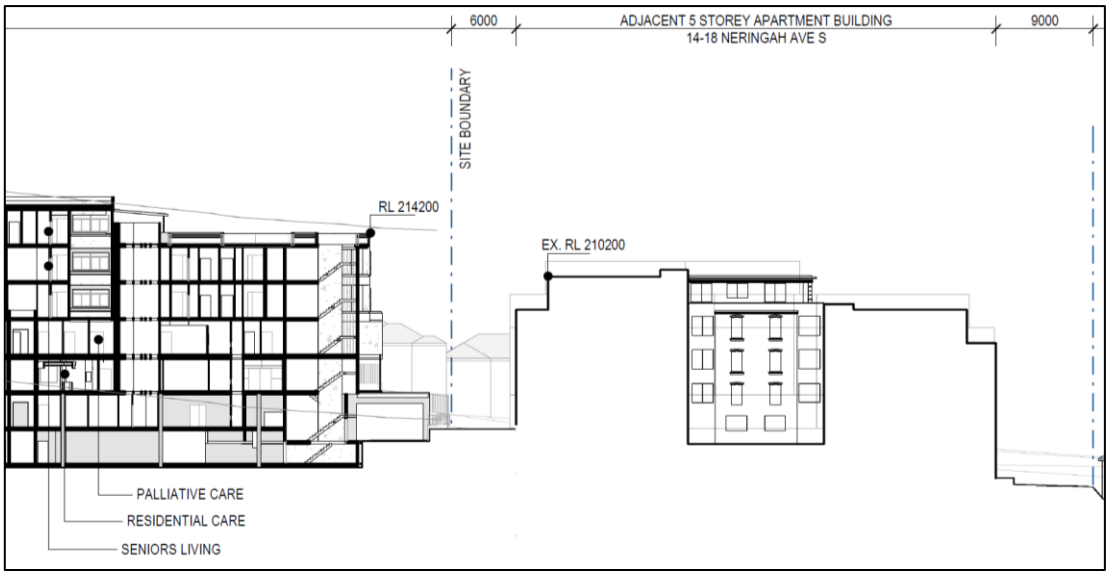


Figure 21 – Section Drawing *Source: Bickerton Masters*

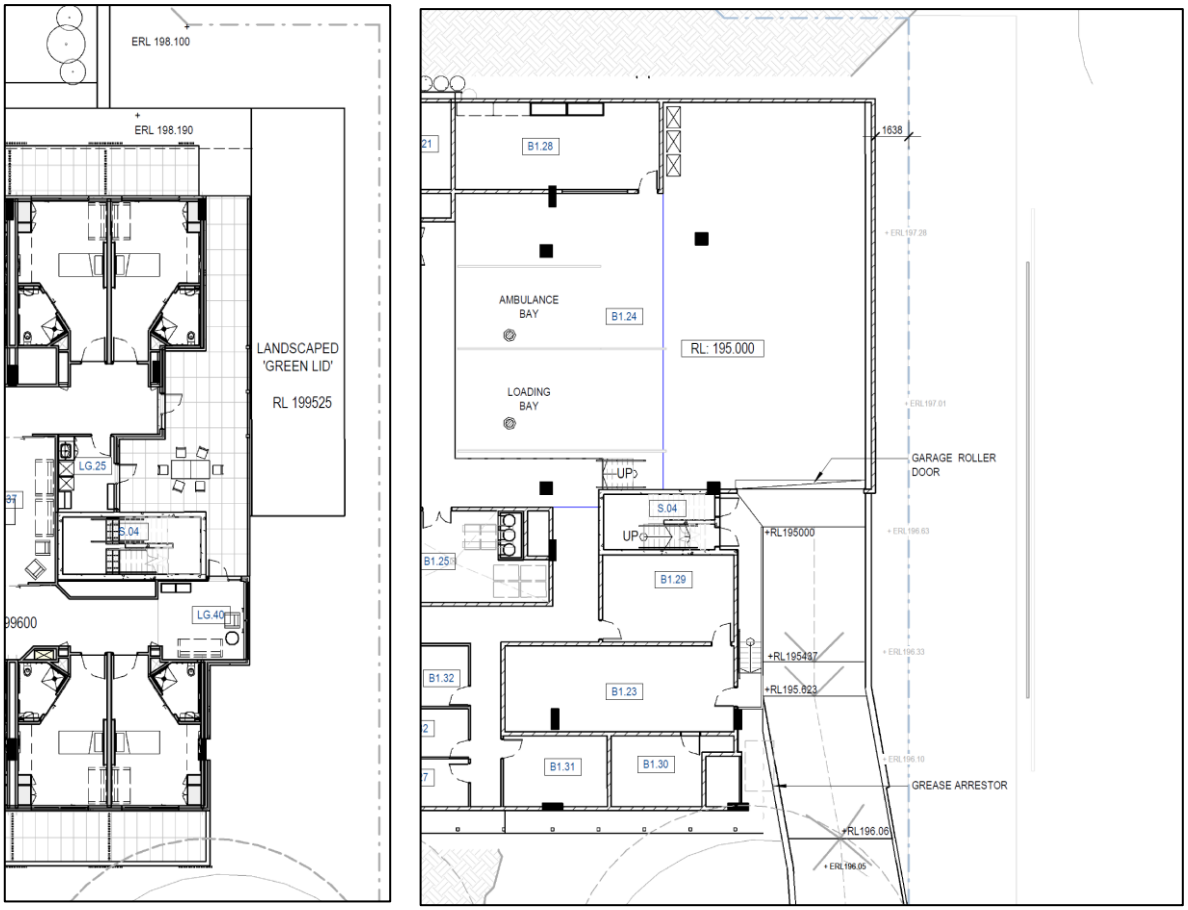


Figure 22 – Basement and Ground Floor Plan extracts *Source: Bickerton Masters*

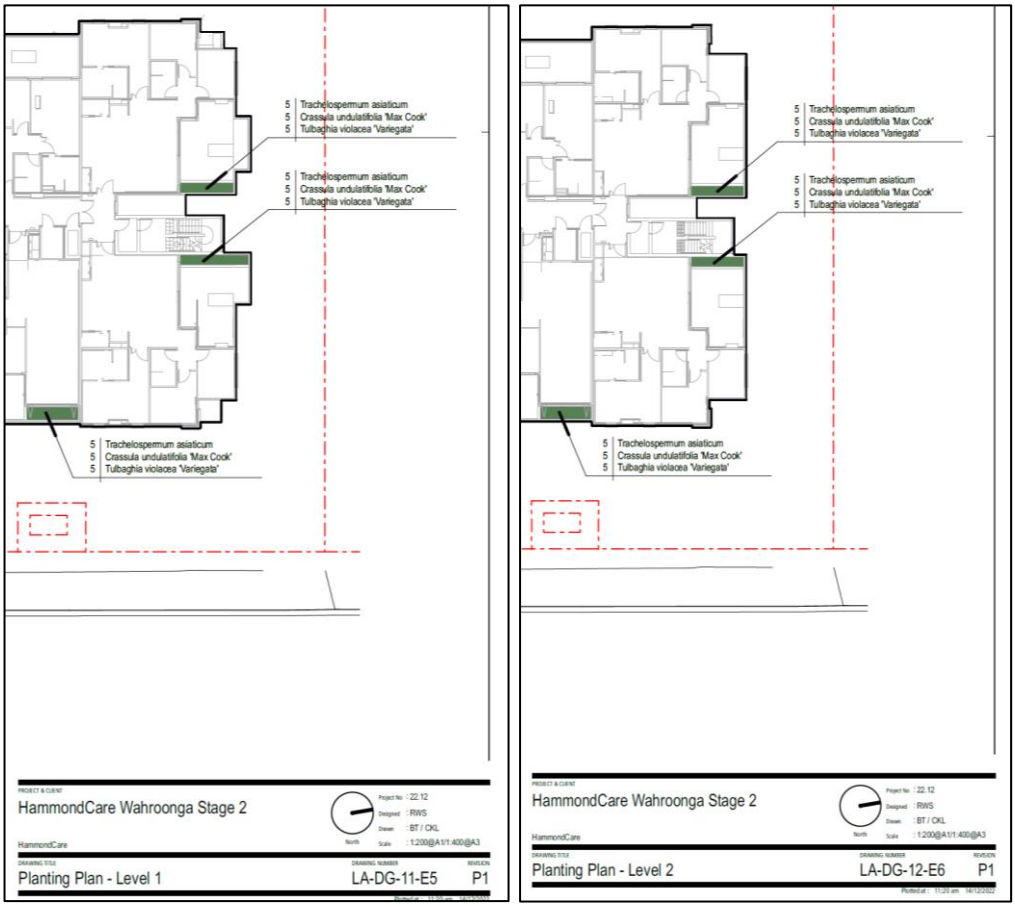


Figure 23 – Planting Plans L1 and L2 (northern end facing No 14-18) *Source: Anterra*

Extracts S96 Drawings – No 14-18 Neringah Avenue