

Department of Planning, Housing and Infrastructure
Attention: SSD Assessment Team
SSD-81941461 – 12–20 Berry Road & 11–19 Holdsworth Avenue, St Leonards

**RE: 12–20 Berry Road & 11–19 Holdsworth Avenue, St Leonards South
Submission on behalf of Waterstone Development
(DA/60/2022 – SH South St Leonards Pty Ltd)**

This submission is made on behalf of the approved Waterstone development, developed on behalf of Sekisui House Australia located at 22–34 Berry Road, 21–31 Holdsworth Avenue and 42–46 River Road, St Leonards South, which is immediately adjoining the subject site to the south.

While the strategic objectives of increasing housing supply and delivering affordable housing are acknowledged, it is considered that the proposal, in its current form, results in unacceptable amenity impacts on the approved Waterstone development. These impacts are expressly acknowledged within the applicant's own Environmental Impact Statement (EIS), particularly in relation to overshadowing and solar access.

1. Overshadowing Impacts as Identified in the EIS

Section 8.4.1 (Overshadowing) of the EIS identifies that the proposed development will have its greatest overshadowing impact on the Waterstone development, due to its location immediately south of the subject site.

The EIS confirms that during the winter solstice the proposed development will cast shadows across large portions of the Waterstone site for most of the day, with impacts progressing from morning through to afternoon. The shadow diagrams clearly demonstrate that Waterstone is the most materially affected neighbouring development.

2. Solar Access Outcomes for Waterstone (EIS Findings)

The EIS includes comparative solar access modelling for the Waterstone development under four massing scenarios, identifying the following outcomes:

Under a DCP and LEP compliant massing without height uplift, approximately 70.5% of Waterstone apartments achieve minimum solar access.

Under a DCP and LEP compliant massing with the 30% height and floor space uplift, solar access reduces to approximately 55.6%.

Under a 30% uplift scenario without regard to setback controls, solar access reduces further to approximately 38.2%.

While the EIS states that the proposed SSDA scheme performs better than the worst-case uplift scenario, it nonetheless confirms a substantial reduction in solar access when compared to a compliant baseline outcome.

Moreover, the impact directly contradicts Objective 3B-2 of the ADG which seeks to protect existing solar access and only provides that a reduction in solar access is acceptable “*where an adjoining property does not currently receive the required hours of solar access*”. The approved development is fully compliant with 70.5% of apartments receiving 2 hours solar access between 9am and 3pm on 21 June, and therefore the latitude available where solar access is not currently achieved, is not available to the proposed development.

These findings demonstrate that the proposal results in a material and measurable loss of solar access to the approved Waterstone development.

Finally, Clause 20 of SEPP Housing provides that the consent authority does not have the power to approve this application, unless the proposal is compatible with the desired future character of the precinct:

(3) *Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—*

(a) *the desirable elements of the character of the local area, or*

(b) *for precincts undergoing transition—the desired future character of the precinct.*

The desired future character for the precinct is demonstrated by the approved development, and the proposal is clearly incompatible with this character given that it results in a profound adverse impact to the solar access currently enjoyed by the approved development. It is not possible to conclude that the proposed development is compatible where its impacts fall outside the overshadowing latitude within Objective 3B-2 of the ADG.

3. Reliance of Purchasers on Approved Solar Amenity

The Waterstone development is currently actively being marketed and sold to purchasers, many of whom have made purchasing decisions in reliance on the approved design, orientation and solar amenity of their apartments.

Solar access is a fundamental component of residential amenity and a key consideration for purchasers in high-density residential developments. The overshadowing impacts identified in the EIS raise significant concern that the proposal will materially alter the amenity outcomes relied upon by Waterstone residents.

It is considered that appropriate weight must be given to the reasonable expectations of future residents who have relied on the DA approved amenity outcomes of the Waterstone development, particularly where a subsequent proposal significantly diminishes those outcomes.

4. Insufficient Detail in Solar Analysis

While the EIS provides high-level shadow diagrams and comparative modelling, it is considered that the solar analysis lacks sufficient detail to fully understand the impacts on Waterstone.

In particular:

The analysis does not clearly identify which Waterstone apartments lose minimum 2 hour mid-winter solar access ADG compliance as a result of the proposal.

The duration and timing of solar access loss to specific habitable rooms required under the ADG are not transparently documented.

Apartments that receive no direct sunlight mid winter have not been identified.

The implications of these impacts for DA approved and apartments that have been sold or currently marketed have not been adequately assessed.

Given the acknowledged significance of the impacts identified in the EIS Report, further detailed analysis warranted.

5. Recommendation – Refusal or Substantial Amendment Required

Having regard to the above, it is recommended that the consent authority refuse the application in its current form or alternatively require substantial amendments prior to any approval.

Any amended proposal should demonstrably address the identified impacts through meaningful changes to the built form, including but not limited to:

An alternative massing strategy that takes reasonable steps to maintain amenity to the approved DA design consistent with ADG objectives and design criteria requirements.

In addition, the applicant should be required to submit a detailed, apartment-by-apartment solar access assessment for the Waterstone development that clearly demonstrates whether acceptable amenity outcomes can be achieved following any such amendments.

Based on the findings contained within the applicant's own Environmental Impact Statement, the proposed development results in significant overshadowing and loss of solar access to the approved Waterstone development. These impacts are particularly concerning given that this results in a loss of 67 apartments (32.3% reduction) that receive the minimum ADG 2 hours solar access mid-winter. Waterstone apartments are actively being sold to purchasers who have relied on approved solar amenity outcomes.

In the absence of substantial design amendments that appropriately addresses and provide a reasonable level of solar access to apartments consistent with ADG objectives, it is considered that the proposal in its current form gives rise to unacceptable amenity impacts and should not be supported.

Please direct all correspondence related to this submission to the undersigned.

Yours sincerely,

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