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14 January 2026

The Hon. Paul Scully MP
Minister for Planning and Public Spaces
NSW Department of Planning, Housing and Infrastructure

Submitted via the Planning Portal

Dear Minister Scully

Letter of objection to the State Significant Development Application SSD-81890707 Residential flat buildings at 10, 14 and 14a Stanhope Road, Killara

Introduction

1. Background and summary of objections

- 1.1 We act for Anne Bi and Jane Bi, the owners of the dwelling at 12 Stanhope Road, Killara (our clients' **Home**).
- 1.2 We refer to our previous letter dated 3 June 2025 (**June 2025 Letter**) sent on behalf of our clients objecting to the State Significant Development Application SSD-81890707 (**SSDA**) concerning land at 10, 14 and 14a Stanhope Road, Killara (**Development Site**),¹ which is located within the local government area (**LGA**) of Ku-ring-gai Council (**Council**).
- 1.3 We understand that the SSDA has been amended to respond to the 213 submissions that were lodged in response to the SSDA, of which we understand 210 were in objection to the SSDA.
- 1.4 As amended, the SSDA proposes to construct 3 residential flat buildings with infill affordable housing, providing 136 (instead of 135) apartments / units and 23 (instead of 26) affordable units and extensive basement parking for 195 car parking spaces (**Amended Development**). In summary, key amendments include:
 - 1.4.1 increasing the built form of Building A (being the building at the front of the Development Site) to the rear of levels 3 and 4 and an increase in overall height of Building A to 17.5m (previously 17.25m);
 - 1.4.2 reducing the maximum height of Buildings B and C (being the buildings at the rear of the Development Site) from 36.45m to 33.75m;
 - 1.4.3 removal of one level of residential floorspace in Building B and removal of half of level 7 of Building C;
 - 1.4.4 increase the number of apartments from 135 to 136 dwellings and reduced the number of affordable units from 26 to 23; and

¹ Comprising the land in Lot B DP326483 (10 Stanhope Road) and Lots 1 and 2 DP224907 (14 and 14a Stanhope Road).

- 1.4.5 a minor reduction of the gross floor area (**GFA**) or floor space ratio (**FSR**) from 2.22:1 to 2.2:1.
- 1.5 The amendments to the SSDA are insignificant and do not go far enough to properly address the concerns raised in the 213 submissions objecting to the SSDA, and in particular, the Amended Proposal does not adequately address our clients' concerns. As such, the purpose of this letter is to outline our clients' vehement objections to the amended SSDA, including on the basis that:
 - 1.5.1 **Objection Ground 1** – the resultant site isolation of our clients' Home, which will be rendered incapable of future development or otherwise and is also contrary to the strategic planning objectives of the Chapter 5 of *State Environmental Planning Policy (Housing) 2021 (TOD SEPP)* to apply to our clients' Home;
 - 1.5.2 **Objection Ground 2** – the excessive building height proposed exceeds even those controls prescribed in TOD SEPP;
 - 1.5.3 **Objection Ground 3** – the unacceptable impacts on heritage, including to our clients' Home which is a listed heritage item, along with other heritage items in the immediate vicinity of the Development Site and to the mapped heritage conservation area more broadly;
 - 1.5.4 **Objection Ground 4** – the adverse amenity impacts caused to our clients' enjoyment of their Home, particularly by reason of an unacceptable intrusion into their visual and acoustic privacy; and
 - 1.5.5 **Objection Ground 5** – the unacceptable impacts to our clients caused by overshadowing by the Amended Development.
- 1.6 As we outline in these grounds of objection (and as previously raised in our June 2025 Letter), there are numerous fundamental power issues which, in our view, have the result that the Minister **must** refuse to grant consent to the SSDA. This includes (inter alia) that:
 - 1.6.1 the Amended SSDA fails to include consideration of numerous mandatory matters of consideration required by s 4.15 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* which necessarily gives rise to errors of law;
 - 1.6.2 the SSDA does not comply with essential jurisdictional preconditions in the *Ku-ring-gai Local Environmental Plan 2015 (KLEP)*, including because:
 - (a) the SSDA relies upon a written request under cl 4.6 in respect of the proposed building height which exceeds the controls prescribed in the TOD SEPP, and that request does not satisfy the jurisdictional preconditions of that clause; and
 - (b) the SSDA does not undertake an assessment of heritage in a manner required by cl 5.10, which similarly imposes jurisdictional constraints on the grant of consent.
- 1.7 Any decision of the Minister to approve the SSDA, in these circumstances, would be *ultra vires* or beyond power.
- 1.8 In addition to this, there are a raft of merit issues which, in our view, cannot be overcome. This is because the Proposed Development is simply of a scale, form and character which is inappropriate and unsuitable given the sensitive heritage and low-density residential context.
- 1.9 A detailed summary of each of these grounds of objection are provided below.

- 1.10 In support of these submissions, our clients have also engaged a town planner, Emma Rogerson of Corona Projects, to prepare a letter of opinion in response to the amended SSDA (**Planning Opinion**). A copy of the Planning Opinion is enclosed at **Annexure A** and is relied upon by our clients to supplement the matters raised in this letter of objection.

2. Permissibility of the Amended Development

- 2.1 Part of the Development Site (being 14 Stanhope Road) is located within the R2 Low Density Residential zone (**R2 Zone**) pursuant to the KLEP. Development for the purpose of RFBs are an innominate prohibited use in the R2 Zone. The remainder of the Development Site (being 10 and 14A Stanhope Road) is zoned R4 High Density Residential.
- 2.2 Consequently, the Amended Development would be prohibited but for the provisions in the TOD SEPP, which enable higher density residential developments in prescribed residential zones, being areas generally located within 400m of key public transport hubs.
- 2.3 In respect of the permissibility of the Amended Development, we reiterate the comments about the permissibility as set out in Part 4 of our June 2025 Letter. Importantly, our June 2025 Letter notes that although the TOD SEPP may give the Applicant the benefit of development uplifts and overcome the issue of permissibility, the TOD SEPP does not enable a consent authority to otherwise avoid undertaking a comprehensive assessment of the proposal as against each of the heads of consideration in s 4.15 of the EP&A Act.
- 2.4 Since the lodgement of the SSDA and on 14 November 2025, the *State Environmental Planning Policy Amendment (Ku-ring-gai Station Precincts) 2025* commenced and amended the TOD SEPP as well as the Transport Oriented Development Sites Map (**Site Map**).
- 2.5 As a result of this amendment, our clients' Home (as well as the Development Site) is identified as being within the Transport Oriented Development Area (**TOD Area**). This is a clear strategic planning decision by the Minister and the Council to ensure that heritage items, like our clients' Home, will not be stranded amongst mid-rise residential flat buildings that were permissible and approved because of the TOD SEPP (although we say that the amended SSDA seeks approval for a higher density development than a 'mid-rise' residential flat building).
- 2.6 It is our clients' submission that:
- 2.6.1 *firstly*, the SSDA (as amended) is critically lacking in various respects and does not meet essential jurisdictional preconditions, which has the consequence that the Minister does not have the power to approve the Amended Development and consent **must** be refused; and
- 2.6.2 *secondly*, that following a proper consideration of each of the merit matters required by s 4.15, the Minister could not be satisfied that the impacts of the Amended Development are acceptable and consent to the SSDA **should** be refused.

Grounds of objection

3. Objection Ground 1: Site isolation

- 3.1 The unusual battle-axe lot of the Development Site has the effect of isolating our clients' Home between the two pan-handles. Such an approach is not consistent with good planning practices as it effectively renders our clients' Home incapable of any future development.
- 3.2 This is contrary to the strategic planning decision of the Minister and the Council to amend the TOD SEPP to include our clients' Home as land identified as a TOD Area under the Site Map. The purpose of the amended scheme under the TOD SEPP was to ensure that

heritage items, like our clients' Home, would not be stranded next to high density development² as it was envisaged that heritage items be incorporated into neighbouring developments.³

- 3.3 Below is an extract of the Site Map, which marks the Development Site and our clients' Home (by hatching) as the only land in this block on Stanhope Road, Culworth Avenue and Marian Street to be identified as a TOD Area.

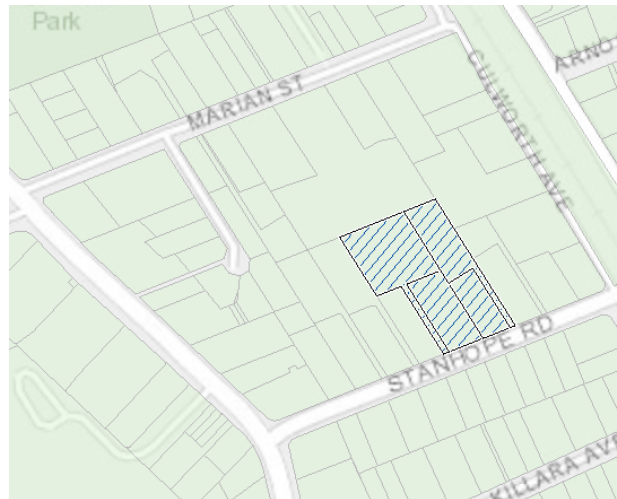


Figure 1: Extract of the Site Map showing the Development Site and our clients' Home as being within the TOD Area (hatched blue)

- 3.4 The impacts of this site isolation is visually depicted in the following extract from the Design Report:



Figure 2: Extract of the 'Existing KLEP controls and zoning at lodgement' plan at page 22 of the Design Report by PBD Architects dated 7 November 2025 (**Design Report**)

- 3.5 Figure 2 shows the poor planning outcomes that would arise if the Amended Development was approved, by highlighting that:

- 3.5.1 the heritage item on our clients' Home would be stranded, as the Applicant has made no attempts to incorporate it into the Development Site, contrary to the intentions of the TOD SEPP;

² Letter from Ku-ring-gai Council Mayor to Hon Paul Scully MP dated 26 June 2025.

³ Mayoral Minute: An update on planning for new housing in Ku-ring-gai, Ordinary Meeting of Council dated 19 August 2025,
https://kuringgai.infocouncil.biz/Open/2025/08/OMC_19082025_AGN_AT_SUP.htm

- 3.5.2 our clients' Home, by itself, would be incapable of being developed, as the design of any redevelopment will need to be sensitive to the heritage significance of the Home. As such, the greater density development envisaged under the TOD SEPP cannot be realised;
- 3.5.3 our clients' Home would also not be able to be developed in an amalgamated form (including with the site to the west at 8 Stanhope Road), since our clients' Home is completely surrounded by the Development Site;
- 3.5.4 in circumstances, where the Home remains largely as is (and undeveloped), it will in the future be surrounded by low and medium rise housing on all sides, including on the opposite side of Stanhope Road.
- 3.6 The SSDA has failed to consider and respond to Part 3B of the *Ku-ring-gai Development Control Plan (DCP)* and the relevant principles in *Karavellas v Sutherland Shire Council* [2004] NSW LEC 251 which apply to circumstances of site isolation. These principles are:
- 3.6.1 Is amalgamation of the sites feasible?
- 3.6.2 Can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?
- 3.7 In response to the first limb, our client is not aware of any genuine efforts by the Applicant to amalgamate 10, 12, 14 and 14A Stanhope Road. As for the second limb, the SSDA, as amended, does not consider the issue of site isolation of our clients' Home and therefore has not considered what built form outcomes might be achieved on our clients' Home, nor the associated impacts of this isolation on exacerbating the heritage impacts identified in the below Objection Ground 3 (see Part 5) and the amenity impacts identified in Objection Ground 4 (see Part 6).
- 3.8 These principles are explored in greater detail in the Planning Opinion enclosed at Annexure A to this submission.

4. Objection Ground 2: Excessive building height

- 4.1 The Applicant has failed to properly respond to the objections about the excessive building height of the proposed development. Under the Amended Application, the Applicant has sought to increase the height of Building A (by 0.25m) and Building C (by 0.45m), and proposes only to reduce the height of Building B by 2.7m.
- 4.2 Whilst the overall maximum height of the proposal has been reduced slightly, the Amended Development remains significantly non-compliant with the applicable controls under the TOD SEPP, as identified in the table below.

Control	Proposal	TOD SEPP control	Extent of non-compliance
Building height	33.75m	28.6m (being 22m + 30% uplift for providing 15% of GFA as affordable housing)	Additional 5.15m above the TOD SEPP control

- 4.3 The amended SSDA relies upon a Clause 4.6 Request by GYDE dated 25 November 2025 (**Clause 4.6 Request**) to justify the 5.15m or 18% exceedance of the 28.6m height limit imposed under the TOD SEPP, even accounting for the 30% bonus height awarded because of the provision of affordable housing as part of the proposal.

- Failure to demonstrate that compliance with the development standard is unreasonable or unnecessary***

- Not appropriate bulk and scale*

- ⁶ cl 4.3(1)(b) of the KELP.



Figure 3: Extract from NSW Planning Portal Spatial Viewer website (<https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address>) with our clients' Home outlined with a dotted line and showing the height of buildings map overlay

- 4.9 Accordingly, the exceedance in height proposed under the Amended Development is incompatible with the bulk and scale of the existing and the desired future character of the locality.

No transition in scale

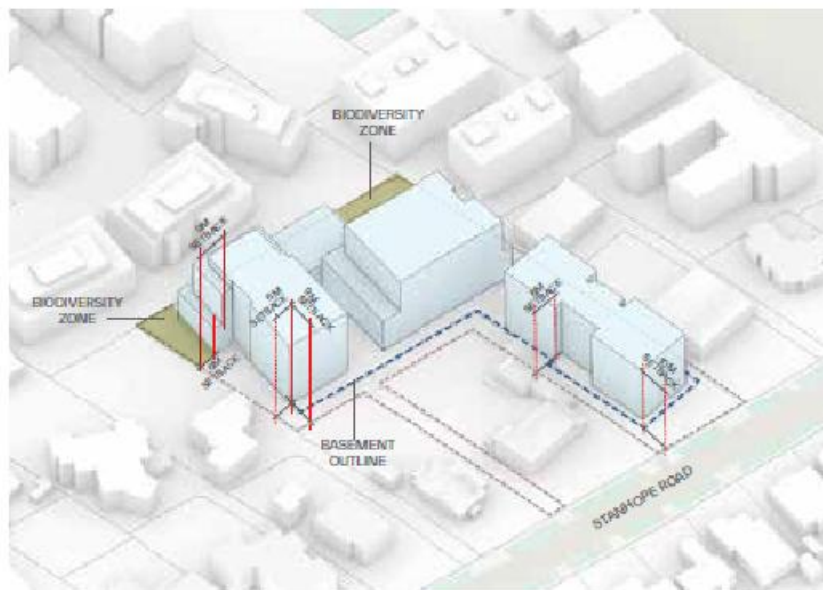
- 4.10 Further, the Applicant seeks to justify the height exceedance in its Clause 4.6 Request by suggesting that the redistribution of height and building mass away from the Stanhope Road frontage achieves a graduated transition in scale across the Development Site and the envisaged higher design form closer to Killara Train Station.⁷
- 4.11 However, this assessment considers fails to consider the impact of the scale of the Amended Development on properties on the other side of the Development Site and is contrary to a key feature of the scheme under the TOD SEPP, which is to transition "*building heights near low-density areas to reduce the impact of new development on neighbouring properties*".⁸ These other properties along Stanhope Road are zoned R2 Low Density Residential and would therefore be subject to a maximum height of building of 9.5m (see Figure 3).
- 4.12 From Figure 3, it is clear that the Development Site sits along the edge of the higher density development area and the lower density residential areas. With Buildings B and C to be 33.75m and Building A to be 17.5m, the effect of the Amended Application is that there will be a sudden drop in height to 9.5m for the low density residential development immediately

⁷ Clause 4.6 Request, page 16.

⁸ Ministerial media release by Minister for Planning and Public Spaces, published 15 November 2025, <https://www.nsw.gov.au/ministerial-releases/3300-extra-homes-unlocked-ku-ring-gai> (**Ministerial Media Release**)

adjacent to and surrounding the Development Site. The Amended Development fails to provide any sort of “*transition in scale*” to bridge the higher and lower density areas.

- 4.13 While a small portion of the north-eastern façade of Building B is stepped in, that design element alone is insufficient in mitigating the impacts of the overwhelming bulk and scape of the Amended Development on adjoining property. Further, the excessive building height of the Amended Development does not provide an acceptable transition with our clients’ Home as the southern elevations of Buildings B and C do not step in to lessen the impact of the 33.75m high towers on our clients’ Home.
- 4.14 This is best illustrated by figure 4, which shows that the full height of Buildings B and C will loom over our clients’ Home.



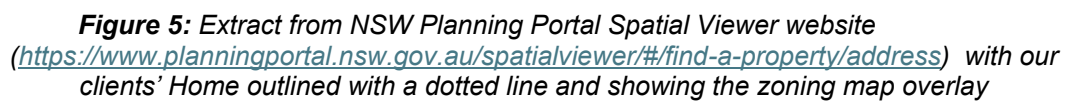
Building Setbacks and Separation

Figure 4: Extract of the ‘Principle 2: Built Form & Scale’ plan at page 74 of the Design Report

No environmental planning grounds to justify contravention of the development standard

- 4.15 The arguments raised in Part 4.4 of the 4.6 Request that the “*development standard has been virtually abandoned or destroyed by the Council’s own actions...*” must be rejected.
- 4.16 The Clause 4.6 Request refers to properties within the Ku-ring-gai LGA, which is too broad to be able to demonstrate whether or not the development standard has been abandoned. Rather, the correct approach is to consider the character of the immediate context of the Development Site.⁹
- 4.17 Currently, Stanhope Road is a residential road that includes predominately two storey dwelling houses and includes a number of heritage items (like our clients’ House). Based on the current zoning of locality, the desired future character is to retain low density residential dwellings fronting Stanhope Road and higher density developments (that are subject to a maximum building height of 12m in the R4 zone) located at the rear (see Figure 5).

⁹ *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [68].



- 4.18 In addition, the Clause 4.6 Request asserts that the excessive building height is justified as it will minimise the impacts on the heritage significance of the Stanhope Road conservation Area and our clients' Home is proffered compared with a fully compliant scheme. However, that alleged justification is highly doubtful.
- 4.19 Figures 9 and 10 of the Clause 4.6 Request cannot be relied upon to show that a compliant Building A at 28.6 would have a greater overshadowing impact than the Amended Development on the basis that no detail is provided about the 'fully compliant scheme', except Building A is a 28.6m in height. Without knowing critical information like whether the height of Buildings B and C complies with the height controls and how the FSR is divided between the three buildings, it is impossible to understand and test the impacts of the 'fully compliant scheme'. Given the lack of information, those figures, and the Clause 4.6 Request more generally cannot be relied upon.
- 4.20 In light of the above, the Minister cannot be satisfied that the 4.6 Request meets the jurisdictional preconditions prescribed in cl 4.6, such that there is no jurisdiction to approve the SSDA and consent **must** be refused.

4.21 Assuming the above jurisdictional issues can be overcome (which, in our view, they cannot), the Minister would similarly find that the height of the Amended Development is excessive and unacceptable, as a matter of merit.

4.22 We note that while development standards relating to height and FSR are intended to set a “*maximum*” expectation as to built form, whether such an intensity is nevertheless *achievable* is something that needs to be assessed having regard to various site constraints, following a review of the proposal as a whole.

- 4.23 In this case, the heritage context of the Development Site is a significant site constraint which necessarily means that the unit yield envisaged by the developer is simply unachievable based on the current site arrangements.
- 4.24 Similarly, the fact that the Proposed Development is situated in a low density residential context means that a substantially smaller scale of development is likely necessary in order to balance the impacts of the proposal to neighbouring landowners, including our clients.
- 4.25 There are, therefore, ample reasons for the Minister to form the view that the SSDA should be refused on the basis that the height of the Amended Development is excessive and is not capable of support on merit, by reference to the TOD SEPP, noting that the proposal exceeds even the 28.5m height limit prescribed under that instrument.
- 4.26 The Planning Opinion enclosed at Annexure A further supports the matters raised above and addresses the impacts arising from the excessive height of the Amended Development.

5. **Objection Ground 3: Unacceptable impacts on heritage**

- 5.1 The Development Site is located in an area of rich heritage significance. Specifically, the Development Site is mapped within the Stanhope Heritage Conservation Area (C25) under Part 2 of Sch 5 to the KLEP (**Stanhope HCA**), and is also located in an area densely populated by heritage items, including but not limited to our clients' Home at 12 Stanhope Road, being Item #I388.
- 5.2 Given minimal amendments have been made to the SSDA, in our opinion, many of the issues raised in our June 2025 Letter about the impacts on heritage remain live. Those issues include:
 - 5.2.1 *firstly*, the conclusions reached in the Heritage Impact Statement by Urbis dated 12 November 2025 (**HIS**) as to the acceptability of the Amended Development rely significantly on achieving the planning objectives of the TOD SEPP, rather than focussing on how the impacts are acceptable on heritage grounds; and
 - 5.2.2 *secondly*, a review of the proposed architectural plans identifies that the scale, form and character of the Amended Development will significantly undermine and adversely impact on the heritage values of Item #I388 (our clients' Home).
- 5.3 We consider each of these in more detail below.

Justification unacceptably relies on the TOD SEPP

- 5.4 Part 6 of the HIS contains the substantive impact analysis.
- 5.5 Relevantly, the HIS acknowledges in Part 6 that the Council's controls do not anticipate development of the proposed scale in this area, such that the proposal is largely non-compliant with the controls relating to heritage in the DCP.
- 5.6 It also acknowledges that:
 - 5.6.1 *"the proposed building would be of a notably different scale and typology than that which currently exists";¹⁰*
 - 5.6.2 *"a degree of change will result to the views and vistas of the HCA and nearby items as a result of the development's vertical scale";¹¹ and*

¹⁰ HIS, Part 6.2, page 56.

¹¹ HIS, Part 6.2, page 59.

- Unacceptable heritage impacts to our clients' Home (Item #1388)***

- page 11

- 5.15 These impacts will be most prominent when the item is viewed from the public domain from the south, along Stanhope Road. This is because the 2 storey brick residence will be visually dominated – both by the RFB tower to the east ('Building A'), but most significantly by the 10 storey twin towers to the rear of the dwelling (Buildings B and C).
- 5.16 This is illustrated in Figure 6 below, which is an extract of the Southern Elevation and shows the enormous scale of Proposed Development when compared to our client's Home, which we have highlighted in yellow for convenience:

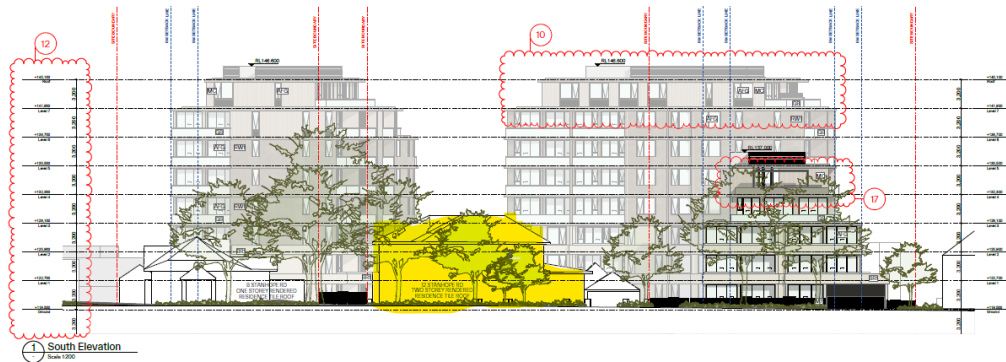


Figure 6: Extract of the Southern Elevation – see Drawing DA200 Rev 02 (annotated in yellow)

- 5.17 The following Figure 5 is similarly helpful in providing an understanding of the comparative scale of the Amended Development:



Figure 7: Extract of the Height Plan Diagram 3 – see Drawing DA522 Rev 02 (annotated in yellow)

- 5.18 It is clear from the above that the scale, form and character of the Amended Development will adversely impact the aesthetic significance of the heritage item, including by reason of:

- 5.18.1 the proximity of the Amended Development to the item, which appears to visually enclose the dwelling on two sides in a manner that makes it appear diminutive and undermines the historic significance of the grandeur of the dwelling and its setting;
 - 5.18.2 the height of the proposed towers, which at the rear exceed even the controls (and associated uplifts) allowed for under the TOD SEPP, and which results in a bulky form which overbears and overwhelms the heritage item; and
 - 5.18.3 the siting of the rear towers (with inadequate setback to our clients' Home), which results in building envelopes that are excessively dominant and intrusive in form, particularly when viewed from Stanhope Road.
- 5.19 These factors in combination obstruct and interfere with the views of the heritage item from the public domain, in a manner which is unacceptable and incapable of being managed or mitigated to render it acceptable. Given the bulk and scale of the Amended Development, any proposed landscaping would be inadequate in softening the visual impact of the Amended Development on our clients' Home.
- 5.20 This is consistent with the observations recorded in the NSW Heritage Office's *Design in Context: Guidelines for Infill Development in the Historic Environment* which says, in respect of building scale:

The scale of a building is its size in relation to surrounding buildings or landscape. Infill design should recognise the predominant scale (height, bulk, density, grain) of the setting and then respond sympathetically. The impact of an inappropriately scaled building cannot be compensated for by building form, design or detailing.

[Emphasis added]

- 5.21 There are, therefore, ample reasons for the Minister to make merit findings that the SSDA results in unacceptable heritage impacts to Item #I388 which warrant refusal of the application, similar to those made in cases such as *George v City of Parramatta Council* [2017] NSWLEC 1366,¹⁶ *G & J Drivas Pty and Telado Pty Ltd v City of Parramatta Council* [2025] NSWLEC 1033,¹⁷ and *Howe Architects Pty Ltd v Ku-ring-gai Council* [2021] NSWLEC 1233.¹⁸

6. Objection Ground 4: Unacceptable privacy impacts

- 6.1 The Amended Development has not addressed our clients' objection in regards to the unacceptable privacy impacts, which was raised in our June 2025 Letter. We repeat our concerns that the amended SSDA adversely impacts our clients' enjoyment of their Home by reason of an unacceptable intrusion into their visual and acoustic privacy.
- 6.2 This is largely because it appears that the built form has been "*strategically placed away*" from the north of the Development Site which is said to have "*biodiversity values*",¹⁹ with the bulk pushed closer towards 12 Stanhope Road.
- 6.3 Consequently, the built form of the Amended Development, including areas of communal and private open space, are located in close proximity to the northern and eastern shared boundaries between the Development Site and our clients' Home. This inevitably causes a conflict in use between the enjoyment of those areas by the future occupants of the Amended Development, and our clients' use and enjoyment of their Home.

¹⁶ Per Commissioner Dickson at [53]-[54].

¹⁷ Per Commissioner Dickson at [60].

¹⁸ Per Commissioner O'Neill at [82].

¹⁹ Design Report prepared by PBD Architects dated 7 November 2025 (**Design Report**), at page 18.

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- (a) the communal open space for 'Building A' is located at the north eastern corner of our clients' backyard. Relevantly, this is the location proposed to be used as a "*Kids Play area*" with play equipment as identified in the proposed Landscape Plans;²⁰
- (b) the communal entrance ways to both Building B and C towers are located along the rear shared boundary with the Home;
- (c) the communal open space which is intended to separate to two rear towers is located at the north western corner of our clients' backyard. Relevantly, there is proposed to be constructed a terraced area with bench seating,²¹ presumably capable of being used by any future occupants of 'Building B'; and

²¹ See Landscape Plan, General Arrangement Plan – Sheet 3, Drawing LA-203 Rev B.

6.7.2 the primary living areas and private open spaces (including outdoor “terrace” areas) for a number of units in Buildings B and C are oriented to face our clients’ backyard, including in particular:

- (a) lower ground floor units: B.LG1.05; B.LG1.06; C.LG1.03;
- (b) ground floor units: B.G.05; B.G.06; C.G.03;
- (c) levels 1 and 2 units: B.L1.05; B.L1.06; C.L1.03; B.L2.05; B.L2.06; C.L2.03;
- (d) levels 3 to 6 units: B.L3.05; C.L3.03; B.L4.05; C.L4.03; B.L5.05; C.L5.03; B.L6.05; C.L6.03; and
- (e) level 7 unit: C.L7.02.

6.8 In addition to this, we understand that the Amended Development is intended to be accessed by pedestrians on all 3 of the shared boundaries with our clients’ Home, as indicated by the broken blue lines and arrows in Figure 9 below:

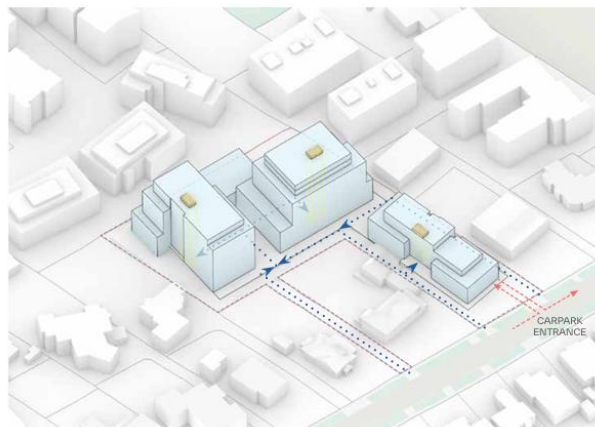


Figure 9: Extract of the “Core Entry” plan at page 20 of the Design Report

- 6.9 Access along the western boundary is facilitated by an extended footpath which connects Buildings B and C to Stanhope Road. The amended SSDA proposes the bare minimum to mitigate any overlooking and privacy impacts on our clients’ Home by retaining an existing mature cypress hedge and the planting of deciduous trees and evergreen hedging along the boundary of the Development Site and our clients’ Home.
- 6.10 There are key limitations to having soft landscaping be the only method to protect our clients’ privacy including that there can be unpredictability in the type of coverage such landscaping can provide to mitigate overlooking, and that landscaping is not a guaranteed to block all angles and sightlines.
- 6.11 This failure is significant, noting that the Amended Development results in a material intensification of the use of the Development Site and is capable of being occupied by at least 714 people.²²
- 6.12 In circumstances where the amended SSDA documents reveal a potential for significant impacts to our clients, there is no meritorious basis to approve the amended SSDA having regard ss 4.15(1)(b) and (c) of the EP&A Act.

²² Calculated assuming that each bedroom will be occupied by 2 people.

7. Objection Ground 5: Overshadowing

- 7.1 The Response to submissions and Amendment Report by GYDE dated 25 November 2025 (**GYDE report**) asserts that the overshadowing impacts to 6, 6A, 8 and 12 Stanhope Road *“have been minimised through the revised building height, massing and redistribution of built form”*.²³ However, our clients’ Home will still be overshadowed by the Amended Development.
- 7.2 The Amended Development will cause a substantial reduction in the quantity of solar access enjoyed by the Home, particularly as it concerns the amenity afforded to the backyard area which is our clients’ principal (and only) private open space. The GYDE Report asserts that the Amended Development has an improved overshadowing outcome than the originally proposed development but the amended Shadow Diagrams plans show approximately a minimum of 50% of the backyard area of the Home will be overshadowed at all times on 21 June.
- 7.3 This further strengthens our position that the full height and FSR bonus that is available because of the provision of affordable housing is not suitable for the Development Site because of the unreasonable overshadowing and the substantial reduction in the mid-winter solar access to our clients’ Home.²⁴
- 7.4 Further, the GYDE Report incorrectly relies upon section 4C.4 of the DCP a 50m² area of the backyard of our clients’ Home will not be overshadowed between 11am to 12pm and at 2pm. However, that section of the DCP seeks to ensure development proposals provide useable open space but does not provide that limited overshadowing impacts on a minimum 50m² area of private open space on neighbouring land is acceptable.
- 7.5 The GYDE Report asserts that a development that a fully compliant built form would result in “significant additional overshadowing” of the Home and seeks to rely on the diagrams at figure 33 of that report (which we understand to be the drawing titled Shadow Analysis to 8 and 12 Stanhope Rd, by PBD Architects, drawing no. DA620, Revision 02). However, that assessment is flawed because figure 33:
- 7.5.1 appears to only consider the overshadowing impacts if Building A (being the only tower that is currently compliant with the maximum building height) was increased to the maximum height permissible under the TOD SEPP being 28.6m (including the uplift in height because of the provision of affordable housing); and
 - 7.5.2 appear to show Buildings B and C as exceeding the relevant height controls and fails to consider the overshadowing impacts if all towers proposed under the Amended Development complied with the maximum building height requirements under the TOD SEPP.
- 7.6 The fact that the Amended Development significantly overshadows the majority of the backyard of the Home is an unacceptable impact and the Minister should not grant consent to the SSDA.
- 7.7 The enclosed Planning Opinion further considers the solar impacts of the Amended Development and is relied upon for this purpose.

8. Conclusion

- 8.1 For all of the above reasons, we consider that the Minister is compelled to refuse the amended SSDA as currently formulated.

²³ Gyde Report, Part 6.1.3.1, page 49.

²⁴ In-fill Affordable Housing Practice Note by the NSW Government dated December 2023, pages 12 and 13.

8.2.1 *firstly*, the amended SSDA is critically lacking in various respects and does not meet essential jurisdictional preconditions, which has the consequence that the Minister does not have the power to approve the Amended Development and consent **must** be refused; and

8.3 Balancing all of these relevant factors, and applying the precautionary principle, the Minister must find that the amended SSDA is contrary to the public interest and should be determined by way of refusal.

8.5 In this regard, our clients wish to note that they accept the need for more housing and acknowledge the policy reasons behind the introduction of the TOD SEPP. However, as has been acknowledged, the purpose of the TOD SEPP is to facilitate the delivery of more affordable, well-designed and well-located homes, whilst balancing the need to protect heritage items and areas and to avoid leaving heritage items stranded within the context of the TOD SEPP.

8.7 We wish to thank the Minister for considering this submission.

Yours sincerely



page 17



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13 January 2026

NSW Minister for Planning and Public Spaces
The Hon. Paul Scully
NSW Department of Planning, Housing and Infrastructure
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

Dear NSW Minister for Planning and Public Spaces,

**Submission in regards to SSD-81890707 Development Application (“the DA”)
10, 14 and 14A Stanhope Road, Killara (“10-14A Stanhope Road”)**

“The demolition of existing residential dwellings, and the construction of a part 4-storey to part 9-storey residential flat buildings with infill affordable housing and associated works.”

Corona Projects has been engaged by the property owners of 12 Stanhope Road, Killara to undertake an assessment of SSD-81890707 in its amended format and provide a submission to the consent authority (NSW Minister for Planning and Public Spaces) on their behalf. 12 Stanhope Road lies to the south and west of the development site at 10-14A Stanhope Road. This assessment is based on a review of the development application plans and documents available for inspection on the NSW DPHI Major Projects tracker website exhibited from 4 December 2025 and a site visit.



Figure 1 – Site Locality Map (NearMaps, 2025)



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Figure 2 – 12 Stanhope Road as viewed from street (Google Maps, 2021)



Figure 3 – Development site viewed from street (Corona Projects, 2025)

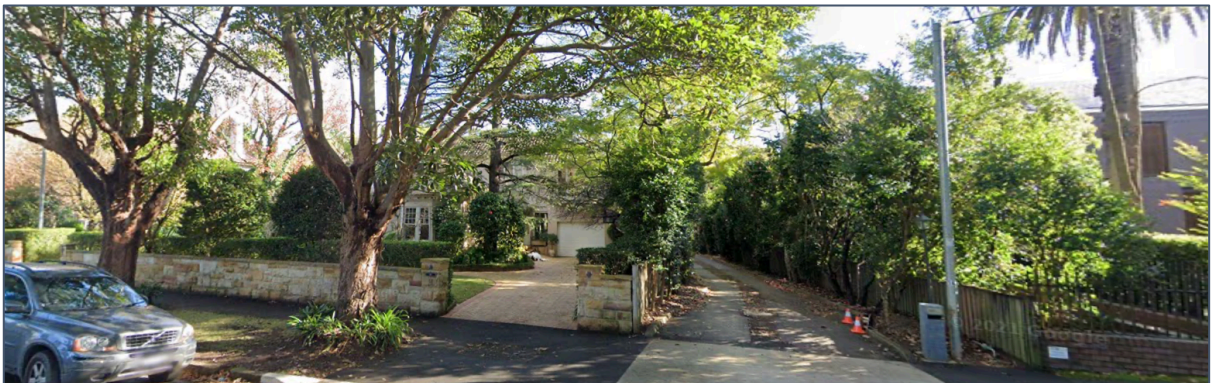


Figure 4 – Development site viewed from street (Google Maps, 2021)



1. Introduction

The residential flat building proposal at 10-14A Stanhope Road was originally submitted in early 2025 with a design for a part 3 and part 10-storey structure. The design has since been amended and re-exhibited in December 2025 with the following key changes:

- Reconfiguration of bulk, with the 3-storey component being increased to 4-storeys, and the 10-storey component being decreased to 9-storeys.
- Increase in units from 135 to 136,
- Reduction of affordable units from 26 to 23.
- Reduction of maximum building height from 36.45m to 33.75m.
- Increase in floor-to-floor heights from 3.15m to 3.2m

These changes do not genuinely address any of the concerns raised in the previous submission made on behalf of the owners of 12 Stanhope Road as the scale and location of works remains as similar, so the residential flat building proposal at 10-14A Stanhope Road still raises considerable concerns regarding:

- Site isolation;
- Overshadowing and solar access;
- Privacy and overlooking;
- Acoustic privacy;
- Visual bulk;
- Heritage and streetscape character impacts;
- Traffic and parking impacts;
- Stormwater management;
- Excavation, construction, noise and vibration issues;
- Non-compliance with the Ku-ring-gai Local Environmental Plan (KLEP) 2015 and the Ku-ring-gai Development Control Plan (KDCP) 2024.

Consequently, the proposal will pose an unacceptable impact on the residential amenity of 12 Stanhope Road (existing dwelling and future residential flat building) and on the character of the locality.

2. Future development at 12 Stanhope Road

Since original lodgement, the neighbour at 12 Stanhope Road has been nominated by the NSW Department of Planning, Housing and Infrastructure as a site eligible for Transport Oriented Development (TOD) provisions as it is surrounded by SSD proposals. It is therefore highly likely that 12 Stanhope Road will be subject of a multi-storey residential proposal in the future.

A concept floorplate has been marked upon 12 Stanhope Road (see figure 5) which reflects a likely future ADG and TOD-compliant design. This concept floorplate can accommodate a building with a



12m setback to the current heritage-listed dwelling, 6m rear setback and 5m side setbacks across 9 storeys.

This submission will consider both the impacts of the proposal at 10, 14 and 14 Stanhope Road under SSD-81890707 upon the existing dwelling house, and the concept scheme.

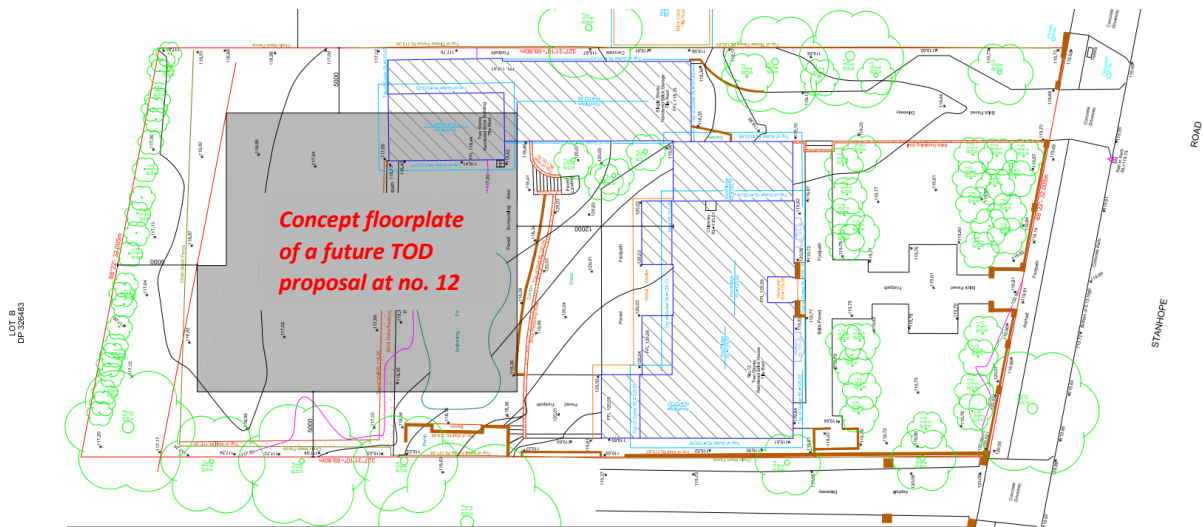


Figure 5 – Concept floorplate for possible future TOD proposal at 12 Stanhope Road shown in grey (Corona Projects, 2025)

3. Site Isolation

12 Stanhope Road is now eligible for development by itself under TOD provisions (as demonstrated by Figure 5) because minimum lot size restrictions are ‘switched off’ by clause 158 of the *State Environmental Planning Policy (Housing) 2021*. Despite this, an improved built form outcome can be achieved by amalgamating 12 Stanhope Road with the other development sites to construct a consolidated development and reduce a duplication of services (i.e. car and pedestrian entry, and communal areas). Impacts upon either new future TOD building can also be better mitigated when constructed as a single unified development.

It is acknowledged that 12 Stanhope Road contains a heritage listed dwelling house, however, the rear garden area is of limited heritage significance and is therefore suitable for incorporation within a future redevelopment. Without amalgamation with surrounding sites (10, 14 and 14A Stanhope Road), the rear portion of 12 Stanhope Road is unlikely to be able to accommodate a high quality residential flat building due to the negative impacts that SSD-81890707 will create upon it.

Site isolation is therefore still considered to be occurring. The revised development package under SSD-81890707 has not addressed the isolation of 12 Stanhope Road.



Where site isolation is suspected, tests established under *Karavellas v Sutherland Shire Council*[2004] NSW LEC 251 must be considered. In *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251, Tuor C sets out the planning principle for the isolation of a subject site.

Paragraph 17 states: “The general questions to be answered when dealing with amalgamation of sites or when a site is to be isolated through redevelopment are: Firstly, is amalgamation of the sites feasible? Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?”

In determining the answer to the first question outlined above by Tuor C, one may apply the principles established by Brown C in *Melissa Grech v Auburn Council* [2004] NSWLEC 40:

“Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements, then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.

Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.

Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979”.

The current owner of 12 Stanhope Road who purchased the property in November 2024 is unaware of any genuine efforts by the applicant of SSD-81890707 to amalgamate 10, 12, 14 and 14A Stanhope Road. Documents submitted under SSD-81890707 as amended do not address the proposed site isolation created for 12 Stanhope Road, despite this issue being raised in the earlier submission to this Development Application by 12 Stanhope Road. The outcome of the first question under *Karavellas v Sutherland Shire Council*[2004] NSW LEC 251 is therefore unresolved.

In regards to the required setback and minimum planning controls when a site is being isolated, Brown C set out principles to answer the second question in *Cornerstone Property Group Pty Ltd v Warringah Council* [2004] NSWLEC 189 and stated that:

“The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non-compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.



To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.

The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.”

Whilst minimum lot size is no longer a concern for the future redevelopment of 12 Stanhope Road, the negative impacts produced upon a future residential flat building at 12 Stanhope Road by SSD-81890707 would make it difficult to achieve a design suitable for approval at 12 Stanhope Road in the future.

The negative residential impacts by SSD-81890707 upon any future Transport Oriented Development project at 12 Stanhope Road will occur to the extent that any such future project at 12 Stanhope Road would be unlikely to be approved and the site would remain isolated. These impacts relate to unacceptable solar access, privacy, traffic and more. This directly conflicts with the strategic intention that the NSW Department of Planning, Housing and Infrastructure have declared for 12 Stanhope Road, through its recent nomination of the site as TOD-eligible land.

Further, the amended development will also result in the heritage item being ‘stranded’ and surrounded by residential flat buildings. However, including it in the development site can allow for a more considerate relationship between the heritage building and new contemporary works.

In Cornerstone, Brown C stated that *“the subject application may need to be amended, such as by a further setback than the minimum in the planning controls to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments”*. In the instance of SSD-81890707, no evidence of improved setbacks or changes to the design to address site isolation concerns for 12 Stanhope Road has been noted.

In conclusion, the lack of offers for amalgamation and consideration of impacts on any future TOD project at 12 Stanhope Road fails to obey the planning principles established in *Cornerstone Property Group Pty Ltd v Warringah Council*. As such, SSD-81890707 in its current form cannot be supported for its unreasonable site isolation impact on 12 Stanhope Road.



4. Solar Access and Overshadowing

At present the principal private open space (rear patio, swimming pool and tennis court) and indoor habitable spaces (rear-facing living room and bedroom windows) of 12 Stanhope Road receives pleasant sunlight throughout the Winter Solstice. This sunlight reduces the reliance of non-renewable energy sources for the home and pool, and contributes greatly to the quality and amenity of the home.

This sunlight would also be enjoyed by future residents of any TOD project at 12 Stanhope Road, with the footprint of the future building being located where the rear yard is as per Figure 5.



Figure 6 – Principal private open space and habitable space windows of 12 Stanhope Road (Realestate.com.au, 2025)

The works proposed under SSD-81890707 will substantially decrease the amount of sunlight received by this space, with new shadow cast upon the rear yard and dwelling at 12 Stanhope Road during all times of day during the Winter Solstice.

Even if the proposal did comply numerically with numerical Council solar access controls, “reasonable sunlight” should be subject to consideration against planning principles established in *The Benevolent Society v Waverley Council* (2010) NSWLEC 1082 and *Parsonage v Ku-ring-gai* (2004) NSWLEC 347.

Senior Commissioner Moore established the planning principles to properly assess the impact of solar access to open space in *The Benevolent Society v Waverley Council* (2010) NSWLEC 1082 and it is concluded that:

“overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guideline” and,



“for private open space to be assessed as receiving adequate sunlight, regard should be had to the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space.”

The overshadowing by SSD-81890707 is a direct result of “poor design” given the ability for a development to occur with a reduced scale and lesser shadow impact. Furthermore, the rear areas of 12 Stanhope Road which are being overshadowed are the only private open space areas for the site. As they are located directly accessible from the primary living areas of the dwelling, the rear outdoor space at 12 Stanhope Road is frequently used and important for the current and future residents.

For future residents of any TOD project at 12 Stanhope Road, any balconies and living rooms on lower floors facing 10, 14 and 14A Stanhope Road would likely not comply with ADG solar access requirements.

In addition, Senior Commissioner Roseth concludes in *Parsonage v Ku-ring-gai (2004) NSWLEC 347* that numerical guidelines should be applied with a great deal of judgement with the following example provided:

“Consider a dwelling that now receives sunlight all day. Taking away that sunlight from 9am till noon would satisfy most guidelines; and yet the occupants of such a dwelling are likely to perceive it as a devastating impact on their dwelling’s amenity”

The above example is identical to the circumstances imposed by SSD-81890707 on the rear garden and living areas of the existing dwelling at 12 Stanhope Road.

It can therefore be reasonably concluded that SSD-81890707 will impose an unjustified overshadowing impact on the rear garden and living areas of 12 Stanhope Road, and the living areas and balconies of future units in any TOD project at 12 Stanhope Road that cannot be supported, in accordance with an assessment against both the KLEP and KDCP, and the findings under *The Benevolent Society v Waverley Council (2010) NSWLEC 1082* and *Parsonage v Ku-ring-gai (2004) NSWLEC 347*. A reconfigured design, as detailed in the Recommendations of this letter will assist to better protect the solar access for 12 Stanhope Road, whilst still allowing 10-14A Stanhope Road to increase their residential amenity.

5. Visual Privacy and Overlooking

Most south and west-facing windows and balconies proposed under SSD-81890707 will still allow for direct, unobstructed and close views into the principle private open space and primary habitable living areas of 12 Stanhope Road. Figure 7 shows the expected views from the proposed windows and balconies, straight into the private spaces of the single dwelling at 12 Stanhope Road, resulting in a substantial and unacceptable visual privacy breach.



This overlooking will also occur between the proposed windows and balconies under SSD-81890707 and any future external-facing windows and balconies of any future TOD project at 12 Stanhope Road, given the proximity of the buildings.

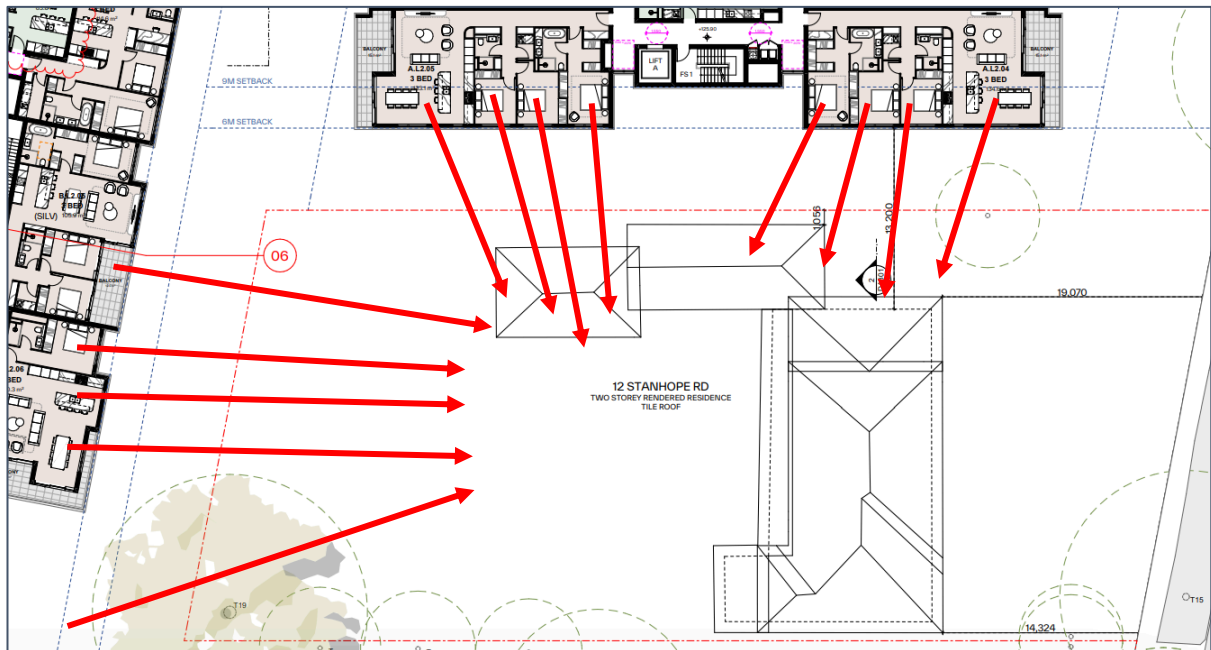


Figure 7 – Overlooking Diagram (Corona Projects, 2026) *Note: Identical or similar overlooking occurs on all levels except for the ground floor*

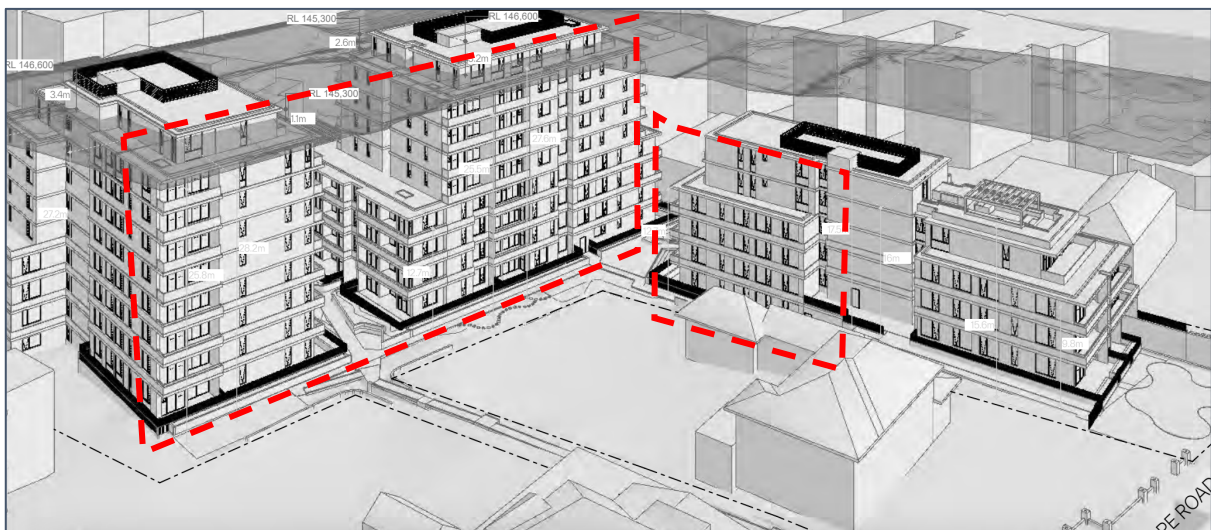


Figure 8 – Windows and balconies of concern (Corona Projects, 2026)



Furthermore, under *Meriton v Sydney City Council [2004] NSWLEC 313* SC Roseth concludes that;

*“Generalised numerical guidelines such as above [Council DCP Privacy controls], need to be applied with a great deal of judgment, taking into consideration **density, separation, use and design**”.*

Roseth states that the principles discussed below may be applied when assessing privacy:

Assessment Principle	Comment
1. Ease of Privacy Retainment The ease with which privacy can be protected is inversely proportional to the density of development. At low-densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. At high-densities it is more difficult to protect privacy.	As the development site and 12 Stanhope Road are both capable of utilising TOD projects, it remains a reasonable expectation that they should make reasonable efforts to protect the privacy of the adjoining sites. No improvements to privacy between the original design and the amended design have been made.
2. Separation Privacy can be achieved by separation . The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the <i>objective</i> should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)	SSD-81890707 should improve the physical separation between the position of overlooking (windows and balconies) and the existing rear garden and living spaces of 12 Stanhope Road, or the future external windows and balconies of a TOD project at 12 Stanhope Road. Increases in setbacks and the addition of privacy screens can achieve this.
3. Use of Space The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.	The existing rear garden area and rooms with rear-facing windows of 12 Stanhope Road are the most used areas of the home. Therefore, overlooking from the proposed windows and balconies is unacceptable. The proposed upper floor spaces that will facilitate the overlooking, will provide direct sightlines into spaces of identical use, where people spend the majority of waking time. Living rooms into living rooms. Bedrooms



	into bedrooms. Outdoor spaces into outdoor spaces. Under a future TOD project at 12 Stanhope Road, the works under the SSD at 10, 14 and 14A Stanhope Road will also result in windows of similar use looking into areas of 12 Stanhope Road. It is unreasonable to expect future works at 12 Stanhope Road to not utilise its north and north-east facing aspects.
4. Poor Design Overlooking of neighbours that arises out of poor design is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the applicant at no additional cost, has a reduced impact on privacy.	An alternative design which does not sacrifice the amenity of 10-14A Stanhope Road and better protects that of existing and future development at 12 Stanhope Road as suggested in the Recommendations of this report, can be very reasonably achieved.
5. Hierarchy of Space Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.	The area of rear yard that adjoins the living room of 12 Stanhope Road is subjected to overlooking. Under a future TOD project at 12 Stanhope Road, the balconies and living rooms of 12 Stanhope Road would be overlooked. Communal areas may also be affected, as these will likely be located with a northerly aspect to maximise sunlight.
6. Additional Solutions Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.	Inadequate privacy screening devices have been implemented within SSD-81890707. Fixed screening for the balconies and frosting for the windows alone is considered inadequate given the substantial visual bulk impact that this would have. A combination of hard screening, landscaping
7. Landscaping Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within	



a development is valuable, planting proposed in a landscaping plan should be given little weight.	screening and increased setbacks is required.
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8. Change

In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.

SSD-81890707 will overlook future TOD projects at 12 Stanhope Road.

In accordance with *Meriton v Sydney City Council [2004] NSWLEC 313*, more considerate design would assist to reasonably mitigate overlooking concerns between the sites. Without the changes proposed in the Recommendations of this letter, the development cannot be supported in its current form.

6. Acoustic Disturbance

SSD-81890707 will result in adverse noise impacts for 12 Stanhope Road and other surrounding properties.

The proposed balconies under SSD-81890707 will create opportunity for entertaining large groups, inherently associated with great levels of noise. The proposed lifts and air-conditioning (and associated equipment) are also likely to create adverse noise for 12 Stanhope Road, given their likely location along shared boundaries.

Vehicle noise caused by the substantial increases in car movements to and from the site will also contribute to negative acoustic impacts for 12 Stanhope Road.

The location of a pedestrian walkway along the entire western boundary of 12 Stanhope Road will introduce substantial noise too.

No obvious acoustic screening or acoustic barriers have been shown, creating concern for adjoining neighbours who have windows, bedrooms and outdoor areas close to the shared boundary with the development site.

These impacts will occur upon both the existing dwelling at 12 Stanhope Road, and any future TOD project upon that site too.

7. Visual Bulk and 'Sense of Enclosure'

The up to 9-storey proposal under SSD-81890707 will appear bulky and obtrusive from the primary living spaces of 12 Stanhope Road. The non-compliant (height variation) extent of extrusion will provide the current and future residents of 12 Stanhope Road with a feeling of enclosure from their primary habitable spaces and rear garden principle private open spaces.

Residents of any future TOD project will also be subject to similar bulk, created by the height variation.



8. Traffic and Parking Impacts

SSD-81890707 will introduce 136 apartments and almost 200 parking spaces to the site which will create substantial congestion for the locality.

At present Stanhope Road experiences high levels of vehicle movements and the owners of 12 Stanhope Road struggle to exit their site due to this congestion. The substantial density increase proposed will significantly exacerbate the existing traffic, creating unreasonable congestion and unsafe streets.

Future TOD development at 12 Stanhope Road may be limited by the cumulative impact of cars using the multiple driveways. A consolidated project involving one development upon 10, 12, 14 and 14A Stanhope Road can limit the number of car entries and exits, improving road safety and congestion.

9. Stormwater Management

There are concerns that the substantial increase of impervious area proposed under SSD-81890707 (total of 4858sqm of impervious area) will create issues regarding stormwater drainage for the area.

The stormwater drainage plan submitted with the DA notes that 163 cubic metres of detention storage is required to achieve compliance with catchment requirements and that 165 cubic metres is being provided. There are concerns that whilst the proposal is just meeting the minimum amount required, in a heavy rain event (which are occurring more frequently and more severe than current controls anticipate) the storage will be inadequate and overflow will occur onto neighbouring sites.

10. Excavation, Construction, Noise and Vibration

The significant extent of excavation associated with new basements under SSD-81890707 at such close proximity to 12 Stanhope Road raises serious concerns regarding the impacts on the structural integrity of the home at 12 Stanhope Road during demolition, excavation and construction stages of the development under SSD-81890707. The dwelling house at 12 Stanhope Road relies significantly on strength and stability provided to it by the earth below. Its heritage construction places greater risk too.

Any future TOD project at 12 Stanhope Road may also be impacted by the significant extent of basement. Consolidating the development into one project can assist to mitigate conflicts between future basements and works on either site, as a single basement can be proposed to service all buildings with a united approach to geotechnical management and earthworks.

Noise and vibration during construction are also likely to disturb the amenity of surrounding neighbours.



11. Against the Public Interest, and LEP and DCP Non-compliances

The KLEP and KDCP are considered to be contemporary documents which do have relevance in State Significant Development assessment.

As part of the planning policy process, changes to the KLEP and KDCP are placed on public exhibition prior to finalisation and gazettal, in order to ensure that the documents reflect the local communities sentiments. Therefore, any non-compliance with the KLEP and KDCP can be considered to be **directly against the public interest**.

As such, the proposal under SSD-81890707 in its current form is not in the public interest, and cannot reasonably be supported as the “public interest” is a key consideration that consent authorities such as Council must consider under Clause 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

SSD-81890707 exhibits major non-compliance with the objectives and controls of the KLEP and KDCP, as per the below table. Non-compliances with the *State Environmental Planning Policy (Housing) 2021* are also proposed with regards to building height and aims, and with the NSW Apartment Design Guide. In its current form, the proposal can therefore not be supported as it does not contain planning merit.

Key non-compliances - State Environmental Planning Policy (Housing) 2021

Control	Comment
Maximum building height is 28.6m.	Non-Compliance – 33.75m height is proposed. The variation cannot be accepted via Clause 4.6 as the exceedance has a direct relationship with negative impacts explained throughout this report.
Aims are to “deliver mid-rise residential flat buildings...around rail... stations that — are well-designed, and are of appropriate bulk and scale, and provide amenity and liveability” (SEPPH 150(b)(i-iii)).	Non-Compliance – The proposal will have a visually overbearing impact upon the character of the area, and detrimentally impact upon the amenity of 12 Stanhope Road.



Key non-compliances – NSW Apartment Design Guide

Control	Comment
Design principles to be complied with include: • Design Principle 1: Context and neighbourhood character • Design Principle 2: Built form and scale	Non-Compliance – The proposal is inconsistent with the neighbourhood character due to inappropriate built form and overbearing scale.
Solar access must be achieved	Non-Compliance – The proposal overshadows 12 Stanhope Road. Further, any future TOD project at 12 Stanhope Road would be unlikely to comply with ADG solar access requirements.
Privacy must be achieved	Non-Compliance – The proposal overlooks 12 Stanhope Road. Further, any future TOD project at 12 Stanhope Road would be unlikely to comply with ADG privacy requirements.

Key non-compliances - Ku-ring-gai Development Control Plan 2024

Control	Comment
<u>Part 7A.1 Local Character and Streetscape</u> This Part of the KDCP requires new development to consider and respect the established local character of the area surrounding the site.	Non-Compliance – The proposal will have a visually overbearing impact upon the character of the area.
<u>Part 7A.2 Site Layout</u> Overshadowing should not compromise the development potential of the adjoining yet to be redeveloped sites.	Non-Compliance – The proposal will overshadow significant portions of 12 Stanhope Road, reducing the amenity of future works on the site.
<u>Part 7A.5</u> Maximum site coverage is 30%	Non-Compliance – The proposal does not appear to comply with this control.



12. Recommendations

The owner of 12 Stanhope Road welcomes discusses with the applicant of SSD-81890707 in relation to site acquisition in order to avoid site isolation. The principles established under *Karavellas v Sutherland Shire Council*[2004] NSW LEC 251 must be followed.

In the event that negotiations with regards to site isolation do not result in site amalgamation with 12 Stanhope Road, then the following design changes are requested in order to allow 12 Stanhope Road to retain their amenity.

- a) **Action:** Reduce the scale of all buildings to ensure that sunlight is retained to at least 50% of the rear tennis court, swimming pool and rear paved area at 12 Stanhope Road during all hours of the Winter Solstice. Reduce the scale further if it is required to provide the future residents of any TOD project at 12 Stanhope Road with ADG compliant solar access, with reference to the likely future footprint shown in figure 5.
Outcome: This will protect the solar amenity of existing and future residents of 12 Stanhope Road.
- b) **Action:** Apply 1.8m solid privacy screens to all balcony edges facing 12 Stanhope Road. Apply frosted glazing to all windows facing 12 Stanhope Road.
Outcome: This will reduce overlooking, privacy and acoustic disturbance concerns.
- c) **Action:** Relocate deep soil areas to adjoin shared boundaries with 12 Stanhope Road.
Outcome: This will improve physical separation between the development buildings and the existing dwelling at 12 Stanhope Road.
- d) **Action:** Prepare a Dilapidation Report prior and post construction for 12 Stanhope Road. Any damage caused during construction must be rectified at the total expense of the applicant within 14 days of the damage being identified.
Outcome: This will protect the structural integrity of the home at 12 Stanhope Road.
- e) **Action:** Locate mechanical equipment associated with the lifts, air-conditioning and other mechanical components within soundproof enclosures.
Outcome: This will mitigate acoustic issues.
- f) **Action:** Install vibration and noise monitoring equipment on site during construction to ensure that levels are recorded and that when they exceed levels considered excessive (Council engineering and health teams to advise), this is identified and immediate action is taken to reduce it to compliant levels.
Outcome: This will mitigate acoustic issues.
- g) **Action:** Install acoustic screening along all boundaries shared with 12 Stanhope Road, including but not limited to dense hedging and acoustic fencing.
Outcome: This will mitigate acoustic issues.
- h) **Action:** Reduce the scale of development to no more than 40 units.
Outcome: This will mitigate acoustic and traffic disturbances. It will also allow the development to exhibit a reduced scale which will improve other amenity impacts, stormwater management circumstances and local character outcomes.



Conclusion

We still have strong concerns about the proposed development and believe it cannot be supported in its current form, as amended and re-exhibited in December 2025. The development will have an adverse impact on the residential amenity and heritage value of 12 Stanhope Road and the character of the area. It will also have negative residential impacts upon any future Transport Oriented Development project at 12 Stanhope Road, to the extent that any such future project would be unlikely to be approved and the site would remain isolated. This directly conflicts with the strategic intention that the NSW Department of Planning, Housing and Infrastructure have declared for 12 Stanhope Road, through its recent nomination of the site as TOD-eligible land.

A development of this scale cannot be supported on this site. It is therefore requested that the proposed development in its current form be revised. Any future development on the site should ensure compatibility with the local area and address the issues raised in this submission.

The owners of 12 Stanhope Road invite Council to conduct a site inspection on their property to best understand the perspective of the discussed concerns. Please contact Ms Anne Bi and Ms Jane Bi (nej2008@hotmail.com) to arrange a visit.

Kind regards,

Emma Rogerson

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