

Mr Jeffrey Bresnahan
Stanhope Road Residents Group
4a Stanhope Road
Killara NSW 2071

3 June 2025

Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Attention: Adela Murimba

Dear Adela

SSD-81890707
10, 14 and 14a Stanhope Road, Killara

I am writing to make a submission by way of strenuous objection in relation to state significant development application SSD-81890707 (**SSDA**).

Attached to this cover letter are the following documents:

1. A detailed submission prepared by me;
2. A submission from town planner Mr John McFadden of State Planning Services;
3. A submission from ecologist Ross Wellington of Australian Environmental Surveys;
4. A submission from heritage consultant Ms Lisa Trueman of Lisa Trueman Heritage;
5. A submission from heritage consultant Colin Israel of Heritage Advice; and
6. A legal memorandum from Lander & Rogers.

I reside at 4a Stanhope Road, Killara. If approved, the impacts of the proposed development on my residence and life will be significant.

As you will see from the above listed documents, the SSDA cannot in its current form be approved. There are numerous legal and merits issues associated with the SSDA itself. There are countless inconsistencies and intentional omissions across the SSDA and the environmental impacts statement which mean that neither I, nor the impacted residents, clearly understand what is proposed. It follows that any consent authority cannot reasonably understand what it would be approving.

It appears to me that the SSDA has been rushed through to avoid the Ku-ring-gai Council's preferred alternative to the Transport Oriented Development provisions under the *State Environmental Planning Policy (Housing) 2021*. As a result, the quality of the SSDA is manifestly inadequate for the size of the development it proposes.

In my submission, the SSDA should be **refused**.

I would be pleased to answer any questions.

Your faithfully
Jeff Bresnahan

Objection to Development Application SSDA 81890707

- My family and I have lived on Stanhope Road since 2013, some 12 years.
- Being solely residential housing and the treed nature of Stanhope Road makes it ideal for families
- In particular, our battle-axe block enjoys complete privacy and is incredibly quiet
- Sitting within a R2 zoning, we were 100% protected against any potential surrounding development. On this basis, in late 2023 we signed a building contract to demolish and rebuild a two-storey dream home for life for our now extended family (DA App ID CCPCA0395/23).
- We are now potentially faced with a 9 or 10 storey building looking directly over our property, with resultant extreme visual impact (35 metres next to 9.5 metres); privacy invasion; loss of outlook and views; overshadowing and complete loss of amenity.

As a result, I am part of a resident action group known as the Stanhope Road Residents Association. While this submission is my own, we hold regular meetings to discuss our deep concerns associated with the development application. I am aware that the below issues and concerns are shared by all those in the Association, and beyond. Given the enormity of the proposed overdevelopment of the site, and the non-complying nature of the application itself, in my view there is no reasonable alternative but for the developer's application to be refused.

Review of the Application

Based on my review of the application, I have identified the following issues with each part of the EIS which mean that SSDA 81890707 (the **SSDA**) cannot be granted development consent.

My overall objection is grounded in the fact the SSDA is a clear overdevelopment. Despite the state government's intentions to drive development, by any measure, turning three, large lot residential houses within a heritage conservation area into 135 residential apartments is a significant proposal which will fundamentally change the character of the area, and have significant impacts on surrounding residents.

While there are several aspects of the development which are manifestly unreasonable or inadequate, for the purpose of this submission I have focussed on:

- The unreasonable bulk and scale of the proposed development;
- The significant deficiencies, inconsistencies and omissions throughout the body of the environmental impact statement;
- The inadequacy of the clause 4.6 objection, which fails to justify why there should be a departure from the 28.6m height standard (which is already utilising bonus provisions); and
- The flagrantly deficient manner in which the community consultation/engagement was undertaken. This was a blatant attempt to avoid community involvement.

I have reviewed all elements of the proposal and have identified numerous issues with the documents.

The potential impact of this development cannot be understated. From a 6 storey development frontage on the residential housing only Stanhope Road, to the 9/10 storey 35 metre towers at the rear of the site, again against a backdrop of 9.5m residential housing to the south, east and west. The effects include but are not limited to: extreme visual impact (see below impressions); privacy invasion; loss of outlook and views; overshadowing and complete loss of amenity.

The bulk and scale of the Proposed Development is unreasonable

The proposed development will have a significant impact on my property, as evidenced by the below mock ups which I have had commissioned.



Figure 1: an image from my backyard (at the back of my residence) looking east towards the development site



Figure 2: the same perspective but including the proposed development the subject of the SSDA.



Figure 3: An image from my back garden, looking south-east across the development site



Figure 4: looking east, with the development the subject of the SSDA just 20 metres from our neighbour's home and 50 metres from our home.



Figure 5: From the front of our property with the SSDA building in white



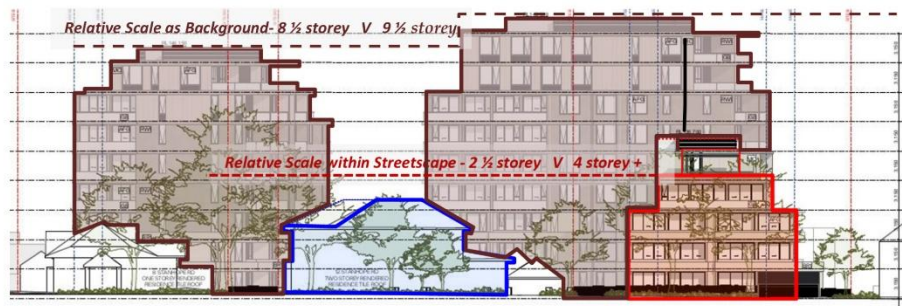
Figure 6: From the rear deck of our property with the SSDA in white

In all of these views, our privacy is not just compromised, it is destroyed. Our backyard and pool have zero screening or protection from these towers. Our architecturally designed new home has specific windows designed on the east side of the property to capture the magnificent and endangered Sydney Blue Gum trees, which according to the SSDA's arborist report, are most likely to be removed.

If the development goes ahead, we will instead have somewhere between 30 to 50 home units looking into our windows and backyard.

The consent authority will understand that images such as these are cause for great concern.

See Figure 6 - South Elevation Below.



No 8
Sympathetic
Contributory

No 12 (Item)
Heritage Item Traditional Hip Roof
Intact Representative

No 14 (Bld A)
Contemporary Flat Parapet
Linear Trabeated

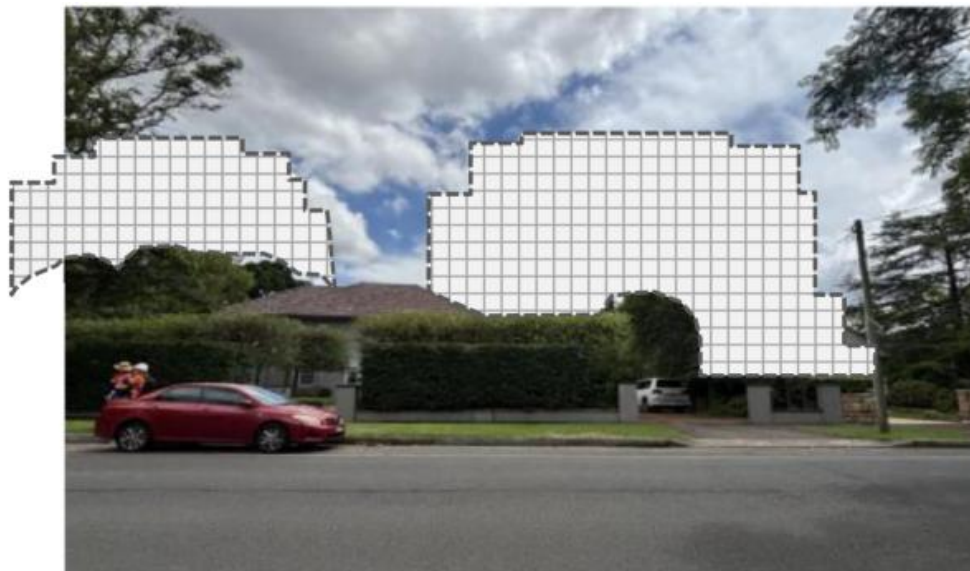
Figure 6: South Elevation facing Stanhope Road marked to show of the Item at No 12 relative to Proposed Bld A & B.

Artist's Impression of Scale and Mass of Potential Development from Stanhope Road. Existing homes shown in front. Stanhope Road currently consists purely of one or two storey residential homes.



Figure 2: View Lines showing intrusion of Building B in the setting of Item at No 12.

Artist's impression of height and extreme visual impact of development, from the west side.



Development structures superimposed over existing home at number 12 Stanhope Road.

1. Main text of the EIS

I have taken considerable time in reviewing the environmental impact statement prepared by Gyde in support of the EIS. I have endeavoured to understand the features of the proposed SSDA, however the litany of inconsistencies and errors, as discussed below, have meant that I genuinely do not understand the specifics of a range of proposals.

It has taken considerable time and expense to review this significant amount of material in a short window of time.

- a) **Page 2, section 1.2.3:** States "*to the east, and immediately north of the site comprises mid-rise residential flat buildings*". This mischaracterises the character of the area. Development to the east is almost entirely large lot residential, rather than any residential flat buildings.
- b) **Page 4, section 1.4:** States that the "*design of the scheme has developed from detailed analysis of local amenity and feedback from local stakeholders*." This claim overstates the extent to which local stakeholders have been engaged, as well as the extent to which local amenities have been appropriately analysed. Furthermore, as of the date of this letter, no neighbouring properties have been consulted about the proposed SSDA
- c) **Page 7, section 2.2:** Suggests that "*[w]hilst the planning controls in the KDCP (Ku-Ring-Gai Development Control Plan) are still applicable, there are instances of some non-compliances due to the controls not reflecting the new state provisions*." It is our position that non-compliance in other unrelated developments, does not provide reasonable grounds for altering the character of Stanhope Road. Fundamentally, non-compliance with the KDCP will irreparably change the character and landscape of not just Stanhope Road, but broadly the surrounding suburb and streetscape of Killara.
- d) **Page 7, section 2.2:** States that the development has "*been carefully designed to integrate and complement the existing character of Stanhope Road, as well as respecting the adjoining local heritage items and HCA*." A legitimate question must be raised as to the extent of the purported integration of the design in the SSDA. Most properties along the road are characterised by their extensive gardens and as such the horticultural makeup of the road is complemented by interwar period housing blocks, as well as heritage listed properties. There is no evidence that this proposal either conserves or enhances Ku-ring-gai's unique visual landscape and character.
- e) **Page 13, Active Transport:** States that "*[t]here is a well-established network of pedestrian facilities in the vicinity of the site, with paved footpaths provided on both sides of Stanhope Road and adjacent roads. The site also benefits from being surrounded by a number of formal pedestrian crossings. Stanhope Road and Werona Avenue are dike friendly routes. Cyclists may travel north/south on Werona which has a 50km/h speed limit*." This is a mischaracterisation of both Stanhope Road and Werona Avenue. There are no pedestrian crossings on Stanhope Road, or Culworth Avenue to cross towards Killara station. The nearest pedestrian crossings are on the Pacific Highway in Lindfield or Gordon. There are no cycle paths on Werona Avenue.
- f) **Page 20, Section 2.5:** States that the "*surrounding area is characterised by a mix of dwelling houses & residential flat buildings... The proposed medium density development is consistent with the surrounding land uses*." We submit that the proposed medium density development is not

consistent with the surrounding land. Rather, the properties relied upon in this application do not sit on Stanhope Road and are significantly lower (by some 48%) than this proposal.

- g) **Page 26, Section 3.5:** States that the Design Report delivers a *"seamlessly integrated design"* as well as *"sustainable features that are energy-efficient to ensure environmental living that meets the needs of the community"* and *"generous outdoor spaces"*. The development is not a *"seamless"* integration with the current neighbourhood streetscape. Further, the energy efficiency report was deficient and does not comply with certain standards. The *"outdoor spaces"* appear performative as deep soil is limited to 7%.
- h) **Page 62, Shadow Diagrams:** the diagrams provide an outline of what the shadowing may be like for local properties, following the development. There is significant overshadowing of the properties at 12,8,6,6A,4A and 4 Stanhope Road. This modelling has not been communicated with any local stakeholders and at some parts of the day the overshadowing is 100%.
- i) **Page 70, Detailed Impact Assessment:** States that *"...the intersection of Stanhope Road/Pacific Highway has not been assessed under the increased traffic load due to existing intersection already operating near capacity and SIDRA not being able to accurately model the existing conditions. Council is intending to undertake intersection works along Pacific Highway within the near vicinity of the site which will improve connectivity for the area including for the subject site."* This assessment is particularly concerning as these works have been completed in Lindfield. No assessment of the intersection of Stanhope Road and the Pacific Highway has been undertaken and this intersection, as noted which is near capacity, will be unable to handle a development of this size.
- j) **Page 72, Proposed Environment & Detailed Impact Assessment:** States that *"8 sensitive receivers were identified and split into 2 noise catchment areas for assessment as showing in Figure 39. The project noise trigger level for the site is of low intrusiveness and project amenity noise levels."* Our position is that this downplays the extent of the intrusion. Figure 39 (page 73) and Figure 42 (page 75) both show that NCA1 and NCA2 both exceed the maximum noise event criteria. Resultingly, the catchment area map shows that houses on Stanhope Road, including the properties at:
 - i. 12 Stanhope Road;
 - ii. 16 Stanhope Road;
 - iii. 8 Stanhope Road;
 - iv. 6 Stanhope Road;
 - v. 4 Stanhope Road;
 - vi. 6A Stanhope Road;
 - vii. 4A Stanhope Road;
 - viii. 9 Stanhope Road;
 - ix. 11 Stanhope Road;
 - x. 15 Stanhope Road;
 - xi. 17 Stanhope Road;
 - xii. 19 Stanhope Road;
 - xiii. Approximately 3 apartment blocks on Marian Street; and
 - xiv. Approximately 3 apartment blocks on Culworth Avenue.
- k) **Page 85, Social locality:** States that *"[b]uses frequent the Pacific Highway that provide access to upper and lower North Shore centres, including the major Chatswood shopping centre."* This is incorrect. There are no bus routes that exist from Killara. The closest bus route departs from Gordon or Chatswood.
- l) **Page 99, Stormwater:** States that *"All stormwater runoff from the site is collected by roof drainage or surface inlet pits and is directed to an OSD tank at the rear of the site and overflow is discharged via an existing*

300mm diameter pipe in 10 Marian Street at the rear of the site." Given the large roofing, a single pipe to discharge stormwater appears inadequate, irrespective of an OSD tank. Our position is that the stormwater management has not been adequately considered, in light of the potential for flooding in this region. Further, we are not aware of any approval being granted by 10 Marian Street for this runoff.

2. Appendix 4: Clause 4.6 Variation Request

I am deeply concerned by the developer's attempt to justify an unreasonable and unnecessary exceedance of the relevant height control. Due to the high number of omissions, together with erroneous and misleading statements contained in Appendix 4 (the **Clause 4.6 Variation Request**) of the SSDA, all related to the non-complying height of the buildings proposed, I urge the consent authority to refuse this request. I believe the 4.6 Variation document as submitted, could easily mislead those that rely on same for decision making. As part of the consideration, I believe a site visit by the consent authority, together with residents is required to test and validate, or otherwise, claims made by the developer in this document.

The key issues I have are:

- The two back towers both substantially exceed (by over 22%) the allowable height limit under Chapter 5 of the Housing SEPP. There are no environmental planning grounds to justify the contravention of the Housing SEPP development standard.
- There are no precedents that I am aware where height limits set by the Housing SEPP have been approved above those set out in the legislation. It is difficult to understand how any relevant standard has been "abandoned".
- Stanhope Road is made up entirely of residential homes, with a maximum height of two stories. The single exception is the low rise (2 storey) Stanhope Gardens, which is over 2 kilometres away. Hence, the proposed buildings are incompatible with the height, bulk and scale of the locality and hence, not in the public interest.
- The document misleadingly focuses almost entirely on the scale as seen from Stanhope Road. This view forms only approximately 17% of the boundary line. The bulk of the development is set back in line with other battle-axe properties to the east and west, all of whom have a height limit of 9.5m. Hence the proposed 35m height of the proposal sits immediately next to 9.5m residential homes.
- Immediately north facing to the proposal is a low/medium-rise unit block which totals 5 storeys and is estimated to stand at just 18.5m high. Hence the proposal seeks to dwarf this block by around 89% in terms of height.
- A large number of properties immediately surrounding this proposed development (in all directions) will suffer from a combination of the following factors: up to 100% overshadowing for significant parts of the day; extreme visual impact; privacy intrusion; view loss and reduced solar access.
- The intent of TOD was to create low – medium rise buildings. This proposed development clearly incorporates high-rise buildings which breach by over 22% the allowable height standard. They are also close to 50% higher than any other development in the suburb of Killara. As a result, the development disrespects the charm and character of Killara.
- Due to public pressure, the developer of SSD-78669234, 27-29 Tryon Road, Lindfield, has voluntarily responded with "Building C to the rear south-west corner of the site has been reduced in height by 2 storeys (from 28.6m to 22m), to improve solar access and reduce overshadowing

on neighbouring properties". The developer of the Stanhope Road proposal has done nothing to appease public unrest and has sought to manipulate rules for personal gain.

Overall, I believe the 4.6 Variation Request Document is lacking in adequate disclosure and as a result this we are trying to correct, in a limited amount of time, the inconsistencies and in our view the misleading nature of the developer's report.

3. Appendix 17: Engagement Outcomes Report

The developer's Appendix 17, being the "Engagement Outcomes Report" incorporated into the SSDA is factually incorrect. As a result, it is clearly misleading and cannot be relied upon by the consent authority when assessing this part of the SSDA.

The document clearly states (incorrectly) that "A letter was distributed to approximately 500 residences in the surrounding area". A letter is defined as "a written, typed or printed communication, sent in an envelope by post or messenger".

There was no letter. There was a nondescript pamphlet placed in some letterboxes along with other junk mail. There was **no** correspondence or letter sent to the registered owners of any of the surrounding properties.

As a result, a large number of owners and/or residences did not receive any communication from the developer in respect of this proposed non-complying development.

The flow on impact of this was that all "Community Engagement" was predicated on finding the nondescript pamphlet. Discussions with a significant number of local residences and owners have established that many were in the dark until after the SSD Application was lodged on 9 May. Even then, awareness was only created by other neighbours.

Quite simply, no pamphlet = no awareness. No awareness meant any website, drop-in sessions, surveys and enquiry email were all rendered unusable. Without knowledge of the development, there was no opportunity to attend the Community drop in; to be aware of any website; to complete any survey; or to conduct an enquiry of the developer.

With just 5 respondents from a claimed 500 recipients, this equates to a response rate of just 1%. For a development with such a contentious proposed structure, this response rate is ludicrous and clearly shows that any attempted community engagement was intentionally downplayed as much as possible by not following an acceptable process.

The real response from the community can be simply gauged by the strength of the opposition to this proposed non-complying development now that people have been made aware of it. Since becoming aware of the application, residents and owners have bombarded Ku-ring-ai Council, Councillors, State Politicians, Lawyers, Town Planners; Heritage Consultants; traffic experts and various other professionals in order to have this proposed development properly lodged and assessed.

Recommendation in relation to community engagement

The residents and owners of surrounding properties request that the consent authority refuse this application and request the applicant be made to recommence the process from the beginning, paying particular care to engaging residents and owners of the surrounding buildings from the outset. Such a request also fits in with providing the

applicant with the opportunity to correct the numerous errors, inconsistencies and omissions from the EIS and supporting documentation which makes an accurate assessment by the consent authority as extremely difficult, if not impossible.



2 June 2025

Our Ref: 0363A

Your Ref: SSD-81890707

Stanhope Road Residents Association
4a Stanhope Road
KILLARA NSW 2071

Attention: Mr Jeff Bresnahan

By Email: jeff.bresnahan1@gmail.com

Dear Sir,

**OBJECTION TO PROPOSED SSD-81890707
PROPOSED RESIDENTIAL FLAT BUILDINGS WITH INFILL AFFORDABLE HOUSING
10, 14 and 14A STANHOPE ROAD, KILLARA NSW 2071**

State Planning Services Pty Limited (**SPS**) has been commissioned by the Stanhope Road Residents Association (**our client**) to provide an independent town planning review of SSD-81890707 at Nos. 10, 14 and 14A Stanhope Road, Killara (**the site**).

An assessment having regard to the relevant matters for consideration under section 4.15 (**s.4.15**) of the *Environmental Planning and Assessment Act 1979* (**EPA Act**) indicates that the proposal will create significant adverse environmental impacts that in our view, preclude the NSW Minister for Planning and Public Spaces (**the Minister**) from recommending approval of SSD-81890707.

In summary, SPS has identified that SSD-81890707 should be **REFUSED** by the Minister for the reasons outlined herein.

SUBJECT SITE

The site is located at 10, 14 and 14a Stanhope Road, Killara and is approximately 450m from Killara railway station. The site is an irregular-shaped lot with a frontage of approximately 30m (together with an additional "access handle" approximately 5m wide) and a site area of approximately 7,864m².

The site is located within the R2 Low Density Residential zone under *Ku-ring-gai Local Environmental Plan 2015* (**KLEP**). The site adjoins a heritage item and part of the site is within Stanhope Road Conservation Area. A portion of the site is also mapped as containing biodiversity attributes.

PROPOSED DEVELOPMENT

The proposed development includes a Part 3 to Part 10 storey residential flat building (**RFB**) comprising 135 units with 195 car parking spaces together with an infill affordable housing component at Nos. 10, 14 and 14a Stanhope Road, Killara.

The proposed development seeks to utilise the Planning Controls in *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)* – namely Chapter 5 regarding Transport Oriented Development (**TOD**), and Chapter 2 regarding in-fill affordable housing.

The site is mapped as being able to benefit from these TOD provisions recently introduced by the NSW State Government. Chapter 5 of the Housing SEPP allows a maximum FSR of 2.5:1 and a maximum building height of 22m for such sites.

In addition, Chapter 2 of the Housing SEPP allows an additional 30% FSR and height incentive where 15% of the total GFA is provided as affordable housing – and the development seeks to utilise these provisions by providing an affordable housing component. These provisions effectively increase the allowable FSR to 3.25:1 and the allowable height to 28.6m.

However, following assessment of SSD-81890707, in our opinion, there are numerous, fundamental issues with the application that justify an objection to SSD-81890707 as summarised below.

OBJECTION TO SSD-81890707

Overdevelopment / Suitability of the Site for the Development

The suitability of the site for the development is a key consideration under s.4.15(1)(c) of the EPA Act, yet the proposal has not demonstrated to the consent authority that it satisfies this provision.

The site consists of 3 lots, two of which are battle-axe lots which comprise the majority of the site. Redeveloping battle-axe lots is problematic as this results in the impacting of an excessive number of adjoining properties in terms of overshadowing, privacy, noise and visual impacts, and those impacts occur to the rear of, and usually the private open spaces of the adjoining residential properties, as is demonstrated in this case.

The location of the development in the middle of a street block is also far from ideal, however where proposed, development standards such as density and specifically height, should be adhered to and maximum permitted heights may not even be achievable without significant adverse impacts on adjoining properties.

Given the constraints of the site, including, but not limited to, biodiversity, heritage, lot configuration and slope, an RFB development of a much lower scale that is compliant with the height controls under the Housing SEPP is required in this instance.

The development is generally considered to be a significant overdevelopment of the site as evidenced by the significant breaches to the height controls and the impacts that the development will have on adjoining properties in this location - particularly No. 12 Stanhope Street to the south and west of the subject site.

The TOD controls already provide a significant uplift in development potential, in terms of greater FSR and height allowed (i.e. compared to the maximum 9.5m height and maximum 0.3:1 FSR under the existing KLEP controls). The proposal also utilises a long, narrow access handle exclusively for pedestrians, which is separate from the main vehicular entry associated with the site and this offers minimal passive surveillance from the apartments within the development itself.

This aspect of the design is undesirable having regard to *Crime Prevention Through Environmental Design (CPTED)* principles as it would rely upon excessive lighting and closed-circuit television cameras in which to provide for improved safety and security. The undesirable outcome and inability to properly address CPTED principles indicates that the site is unsuitable for the development.

Excessive Height Non-Compliance / Unsatisfactory Clause 4.6 Request

The planning controls allow a maximum 28.6m height as the development includes an affordable housing component. However, the proposed development has a maximum height of 35m – which is a breach of some 6.4m or 22.4%.

When considering an RFB, it is common to allow minor breaches to a height control, for specific parts of the building such as a lift over-run (at the centre of the building), or for small parts of a roof edge that may breach the height control to a very minor extent – particularly on sloping sites. In contrast, the development proposes significant breaches.

As shown on the “*Building Height Plane*” drawings (provided in the applicant’s Clause 4.6 request for variation), the development proposes 2 full levels of the building and rooftop structure (at the northern side) above the maximum height. Further, there is also another part of the building which breaches by up to 3.1m (or 10.8%) i.e. effectively one full level of the building on the western side.



Figure 2: Building height plane (Source: PBD Architects)

The Clause 4.6 request for variation that has been submitted regarding the height non-compliance does not provide sufficient environmental planning grounds to demonstrate why compliance, and in particular the extent of the non-compliance as proposed, is unreasonable or unnecessary in the circumstances of the case.

In considering a clause 4.6 request for variation, it is generally necessary to consider whether or not there are unique circumstances of the site or proposed development that would support the extent of variation proposed. In terms of the site, it is a standard residential parcel of 3 separate lots. There is a gentle and even slope (from RL120.09 at the south-eastern corner at Stanhope Road to RL111.99 at the north-eastern corner and RL113.59 at the north-western corner), however otherwise there are no site features or topographical constraints that would justify a breach to the height control to the extent proposed in this application.

The proposal already receives a bonus on height and therefore a further bonus that is non-complying with the height is not reasonable. This is particularly relevant because an RFB of this scale would not be supported in the R2 Low Density Residential zone without the TOD provisions associated with the Housing SEPP.

The above contention is supported by the fact that the proposed development is sited within a street block surrounded by residential buildings and dwelling houses, and, in particular, their areas of private open space. The higher the building, the greater the amenity impacts the proposal will have on the adjoining properties.

The request for a building height exceeding the already generous 'bonus' height is both unreasonable and unacceptable and furthermore, sets an undesirable precedent. The planning controls such as FSR and height are 'maximum' controls, not minimum standards and proponents should not automatically assume that every development is able to achieve these maximums, let alone further variations under Clause 4.6.

The Clause 4.6 variation states that compliance with the maximum building height would impact on the heritage item as the same number of units would be provided in a larger built form adjacent to the heritage item. No information has been submitted in support of maintaining the same number of units, (i.e. no economic study stating that a reduction of six units in the same built form as proposed is not economically feasible). In addition, no information has been submitted from a heritage consultant to state that the impact would be greater in the alternate format stated.

Page 11 of the Clause 4.6 variation states that the majority of the development sits well below the maximum building height and therefore a compromise should be granted by allowing six units to be above the maximum building height. However, this demonstrates that the development in its entirety is able to comply with the height limits by moving those units elsewhere on the site.

Section 4.4 states that the height of building standard has been abandoned by Council as development consents have been issued varying the control, but only one example is provided. However, the *Guide to Varying Development Standards* document specifically states that a small number of circumstances is not likely to establish abandonment or destruction.

Compliance with the height requirement would allow greater solar access to the heritage item as well as to No. 8 Stanhope Road.

Section 4 of the Clause 4.6 addresses the non-compliance against clause 4.3 of KLEP when, in our view, it should be addressing the TOD height standard within the Housing SEPP in particular both clause 18(2) and clause 155(2).

Section 5 of the Clause 4.6 variation as well as the *Guide to Varying Development Standards* states that the focus should be on the element of development that contravenes the standard - not the development as a whole. However, in addressing the objectives of the EPA Act, justification is given for the entire development, not the element of the building contravening the height.

The site is constrained by the adjacent heritage item and the topography at the rear of the site and as such, this should not be used as justification to exceed development controls for a new RFB. Any development needs to be designed as such to take into account the constraints as well as complying with development controls particularly when there are already allowances made in terms of having an increased density and higher buildings than what would otherwise be allowable within the zone.

The development is well below the FSR control and therefore the height of the buildings has the potential to comply in the same regard – whilst still providing for affordable housing on the site.

The statutory compliance table submitted states on Page 3 that the proposed development has been designed to reference the existing environmental and built character of the area. However, the Clause 4.6 request is stating that a higher building height is required because of the topography of the site. Therefore, the development has not been designed to reference the existing environmental character of the area.

In addition, there are currently no other residential apartment buildings existing in the same zone within the locality that have been approved with a higher building height. Therefore, the proposal is not consistent with the existing built character of the area.

The development has not been designed to follow the topography of the land where it is significantly steeper at the rear, (i.e. by stepping the buildings down the slope of the block). Instead, the development increases the impact of the topography by constructing a higher building on the land where it is steeper - which is the portion that is contravening the height control.



The above diagram indicates a development that is not consistent with the R2 Low Density Residential zone under KLEP. The above diagram also shows that the six units above the height limit can be moved to the rear of the front building which would not impact on the heritage item and this would mean that both buildings are compliant with the height. By reducing the height of the rear building, the form of the development is evenly distributed across the site and the lower height would be in keeping with the front building.

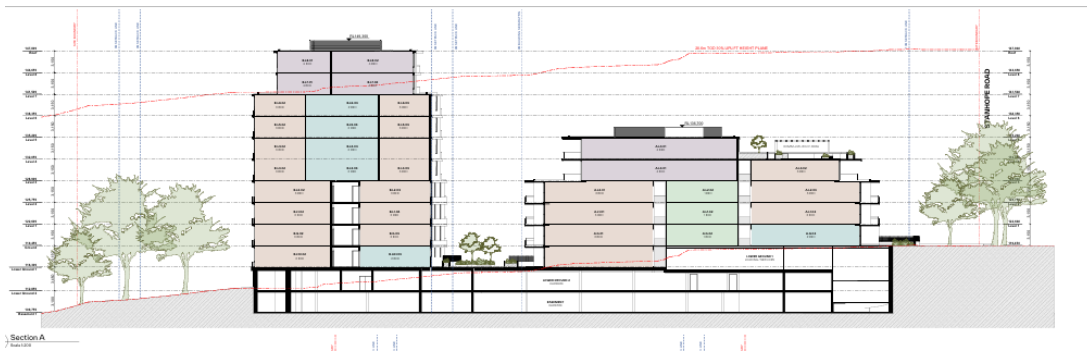
Figures 9 and 10 in the Clause 4.6 do not appear to be correct given that the existing residential apartment buildings are shown to have significantly less storey's than the proposed development and given the difference in maximum height levels.

The *Guide to Varying Development Standards* has a section on cumulative impact (s.4.2.2). This section states that the consent authority must consider the potential cumulative impacts of any potential variations.

Given this is the one of the first proposals under the TOD provisions, any variations to any controls will potentially set a precedent where further variations approved incrementally over time may undermine the planning objectives relating to the site or the area. In this case, a 30% uplift is already allowed due to the affordable housing component, so in our opinion, there should be no further allowances given for the breaches in height particularly when existing development in the area is already largely compliant.

Comparing existing RFB's in the area to the proposed development is neither a fair, nor reasonable comparison, given that the adjoining zones are high-density residential zones and are not in a heritage conservation area, or adjacent to the heritage item in question. This demonstrates that the KLEP mapping accurately reflects the existing site characteristics and constraints whereas the TOD planning controls do not.

Compliance with the height control would provide a cohesive development which would only be one storey higher than the building at the front of the site (as shown in the section plan below) as well as being consistent with other residential apartment buildings in the area and therefore would provide a development that would fit in with the existing streetscape as well as the desired future character.



Inconsistent with the Existing and Desired Future Character of the Area

The proposed development will be inconsistent with the existing and desired future character of the area because the existing character is generally a low-density residential area with large dwelling houses on similarly large allotments. This area also has extensive landscaped areas both within the front and side setback areas of individual sites and also the footpath/road reserve areas.

Although the TOD development controls over-ride the local controls under the KLEP and KDCP, given that the site is also within a conservation area, it is reasonable to expect the existing character of the street to be retained despite uplifted development being allowed for under any alternative environmental planning instrument. Based on both the prescriptive and merit-based non-compliances with the applicable planning controls, the proposed development is inconsistent with the desired future character of the area.

Whilst the principles and intended design outcomes of the State Government's TOD controls are noted – it is considered that not all sites that are mapped for TOD will be suitable for such development given the impacts that will result upon neighbouring properties. In particular, whilst Stanhope Road is mapped as being within the TOD area, this conflicts with the fact that this is also mapped as being in a Heritage Conservation Area (Stanhope Road HCA).

The development proposed in this application will have significant adverse impacts on neighbouring properties and on the overall character of the streetscape. In particular, the significant breach to the height controls will produce buildings which are visually dominant and will be out of character with this location.

Adverse Impacts on the Built Environment - Heritage Conservation

The proposal is unsatisfactory having regard to s.4.15(1)(b) of the EPA Act due to its adverse impacts on the built environment as noted from the height non-compliance and the unsatisfactory heritage impacts associated with the site being immediately adjoining a heritage item (1388 at No. 12 Stanhope Road) and there are several other individual heritage items in Stanhope Road.

The consent authority is required to consider the development in terms of Clause 5.10 under KLEP, which includes consideration in terms of impacts on adjoining heritage items. Overall, the development would have significant adverse impacts on the heritage significance of the dwelling at No. 12 Stanhope Road and is unsatisfactory when considered in terms of Clause 5.10 under KLEP.

The site is also (partly) located within the Stanhope Road Heritage Conservation Area. The development will be contrary to the controls for the Stanhope Road Heritage Conservation Area and is therefore unacceptable. In addition, the proposed development would have specific impacts on the adjoining site and dwelling at No. 12 Stanhope Road. The development proposes two separate buildings to the eastern and northern sides of No. 12 Stanhope Road which will surround this site with a visually dominant, overpowering building.

The proposed development's non-compliance with the building height control will cause excessive impacts of bulk and scale upon No. 12 Stanhope Road and poor amenity associated with the item of heritage significance being "hemmed in" by such a large building.

Further, the proposed development will have significant impacts in terms of privacy and overlooking upon No. 12 Stanhope Road. A review of the floor plans shows that there will not only be key living areas of the proposed units affected (i.e. kitchen, living and dining areas), but also lower-level terraces and upper-level balconies connected to those living areas which are excessively large (e.g. up to 75.9m²). This type of design outcome will have significant visual and aural privacy impacts to No. 12 Stanhope Road.

The proposed development will cause site isolation of No 12 Stanhope Road. The site configuration (which includes a 5m wide access handle to the west and Nos. 14-14A Stanhope Road to the east of No. 12 Stanhope Road) effectively isolates No. 12 Stanhope Road. Although it is noted that No. 12 Stanhope Road is a heritage item, the design as currently proposed will cause site isolation issues for No. 12 Stanhope Road. Isolation of No.12 Stanhope Road and use of the battle axe portion of No. 10 for pedestrian access precludes the site from consolidating with No. 8 Stanhope Road.

The orientation of the site and the nature of the proposed development will cause significant overshadowing impacts, which will be felt mostly on No. 12 Stanhope Road, but also on No. 8 Stanhope Road, which is immediately to the west of No. 12.

The shadow diagrams submitted as part of the architectural plans show that there will be significant overshadowing at each hourly interval between 9am and 3pm during the winter solstice (22 June) onto the rear yard areas and to a lesser extent the rear of the dwellings at No. 12 and No. 8. It will not be possible for the rear yard of No. 12 Stanhope to receive 3 hours sunlight to the principal private open space of this property, which will have a significant impact on the amenity and usability of this property and is a poor design outcome.

Noise / Privacy / Overlooking Impacts and Non-compliance with ADG

As a minimum, the proposed development should comply with the Apartment Design Guide (ADG). The balconies of units B.L8.01 and B.L8.02 are directly overlooking the private open space areas of the adjoining properties. These two units are above the maximum height control. These balconies can be moved to other elevations in order to eliminate overlooking.

The balcony on the north eastern corner of the building on the ground level and levels 1 and 2 encroaches within the setback area and is non-complying with the ADG. The noise report does not provide an assessment of potential noise impacts from the communal open space area on the roof at Level 2 and at Level 4.

Non-compliance with ADG guidelines for building separation: The building in the south western corner of the site encroaches within the 9m requirement. The balconies do not meet the minimum depth of 2m and therefore, the area of the balcony is non-compliant. E.g. C.L6.01 and C.L6.02.

Bicycle parking spaces do not comply with the relevant Australian Standards as stated in the traffic report (page 17). In addition, B99 passing B85 on lower ground 2 ramp shows vehicles accessing very close to the door to the MSB room in the smaller corner as well as the access door opening into the vehicle path of travel adjacent to the car share area. Furthermore, it is noted that no accessible car parking spaces are detailed on architectural plans.

Adverse Impact on Natural Environment - Tree / Vegetation and Biodiversity Impacts

The proposal is unsatisfactory having regard to s.4.15(1)b) of the EPA Act due to its significant adverse impacts on the natural environment. The development involves unsatisfactory removal of most existing site vegetation while retaining the vegetation and topographical features in the north-eastern corner. This will cause significant impacts on the natural environment as this existing site vegetation makes a significant contribution to the amenity of this locality.

Although only two (2) trees T9 and T12, are specified for removal, trees T6 and T7 on the subject property, and, trees T18 and T19 on adjoining properties will be impacted as the proposed buildings encroach on their driplines. Pruning of these trees, and more importantly excavation for the carpark level, is likely to impact root systems and their viability is unlikely. The site plan and landscape plan do not show the mapped biodiversity area in regard to the location of the proposed building and trees to be removed. The adverse ecological impacts on the site warrant further investigation of the Biodiversity Development Assessment Report (**BDAR**) submitted with this application.

Public Interest

The supporting documentation submitted with SSD-81890707 lacks accuracy and consistency as required in which to properly address clause 24 of *Environmental Planning and Assessment Regulation 2021*. In addition, for a development to be considered within the public interest, it should meet the 'Objects of Act' contained within s.1.3 of the EPA Act as follows (SPS emphasis in **bold**).

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the **orderly and economic use and development of land,***
- (d) *to promote the **delivery and maintenance of affordable housing,***
- (e) *to **protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,***
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) *to promote **good design and amenity of the built environment,***
- (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The significant height breach is neither necessary, nor reasonable in justifying the provision of affordable housing on the site. Likewise, affordable housing should not be provided at the expense of amenity currently enjoyed by residents of surrounding development. The resultant overdevelopment of the site with minimal (if any) regard to the site constraints cannot be reasonably construed as 'economic and orderly development' – particularly when there are resultant adverse amenity impacts on surrounding development, which is ultimately an indicator that the development does not possess 'good design and amenity of the built environment'.

Consequently, the proposed development fails to meet the 'Objects of Act' contained within s.1.3 of the EPA Act (as identified in bold above) and has not submitted satisfactory information consistent with the requirements of clause 24 of the EPA Regulation and for these reasons, cannot be supported as being in the public interest.

CONCLUSION

SPS has undertaken assessment of SSD-81890707 for the proposed residential flat buildings and infill affordable housing at Nos. 10, 14 and 14A Stanhope Road, Killara on behalf of the Stanhope Road Residents Association.

Having regard to the relevant matters for consideration under s.4.15 of the *Environmental Planning and Assessment Act 1979*, the proposal will create significant adverse environmental impacts that in our view, preclude the NSW Minister for Planning and Public Spaces from recommending approval of SSD-81890707 in its current state.

In particular, SSD-81890707 for the proposed residential flat buildings and infill affordable housing at Nos. 10, 14 and 14A Stanhope Road, Killara should be **REFUSED** by the Minister for the reasons outlined below.

Site is Unsuitable for the Development

1. The constraints of the site, including, but not limited to, biodiversity, heritage, lot configuration and slope, require an RFB development of a much lower scale that is compliant with the height controls under *State Environmental Planning Policy (Housing) 2021*.

The long narrow access handle that is exclusively for pedestrians is unsatisfactory having regard to *Crime Prevention Through Environmental Design* principles as it would rely upon excessive lighting and closed-circuit television cameras in which to provide for improved safety and security which is clearly an undesirable outcome.

Non-compliant Height / Inadequate Clause 4.6 Request

2. The proposed height of 35m exceeds the relevant height standard provided by both clause 18(2) and clause 155(2) of the Housing SEPP – and represents a breach of some 6.4m or 22.4%.
3. The clause 4.6 request does not demonstrate that strict numerical compliance with both clause 18(2) and 155(2) of the Housing SEPP (i.e. the relevant height standard) is unnecessary or unreasonable – and to the contrary, it is evident from the supporting documentation provided by the Applicant that the provision of infill affordable housing (i.e. the reason for the standard as outlined in clause 15A of the Housing SEPP) can be provided on the site with a fully compliant development.
4. As such, there are no environmental planning grounds in which to support the proposed clause 4.6 variation to the relevant height control of 28.6m.

Overshadowing, Loss of Solar Access and Noise/Overlooking and Privacy Impacts

5. The orientation of the site and the nature of the proposed development will cause significant overshadowing impacts, which will be incurred mostly by No. 12 Stanhope Road, but also by No. 8 Stanhope Road.

Given the sensitivities associated with an R2 Low Density Residential zone, the proposed development should be amended to ensure that no overshadowing or loss of solar access occurs. The proposal is unsatisfactory having regard to the Apartment Design Guide and will result in numerous, avoidable noise/privacy and overlooking impacts.

Adverse Impacts on Heritage Conservation

6. The proposal is unsatisfactory having regard to clause 5.10 of KLEP with respect to heritage conservation as the site adjoins a heritage item (I388 at No. 12 Stanhope Road) and is also partly located within the Stanhope Road Conservation Area. In particular, the development proposes two separate buildings to the eastern and northern sides of No. 12 Stanhope Road which will surround this site with a visually dominant, overpowering building. The proposed development will have significant impacts in terms of privacy and overlooking upon No. 12 Stanhope Road.

Inconsistent with Existing and Desired Future Character of the Locality

7. The proposal exhibits unnecessary visual bulk and does not respect the objectives of the R2 Low Density Residential zone under *Ku-ring-gai Local Environmental Plan 2015*. Whilst the principles and intended design outcomes of the State Government's TOD controls are noted – it is considered that not all sites that are mapped for TOD will be suitable for such development given the impacts that will result upon neighbouring properties. In particular, whilst Stanhope Road is mapped as being within the TOD area, this conflicts with the fact that this is also mapped as being partly within the Stanhope Road Heritage Conservation Area.

The development proposed in this application will have significant adverse impacts on neighbouring properties and on the overall character of the streetscape, as discussed in this submission. In particular, the significant breach to the height controls will produce buildings which are visually dominant and will be out of character with this zone and location.

Not in the Public Interest

8. Much of the information submitted with SSD-81890707 lacks accuracy and consistency as required in which to properly address clause 24 of *Environmental Planning and Assessment Regulation 2021* and the proposal is not in the public interest as it fails to meet the 'Objects of Act' contained within s.1.3 of the *Environmental Planning and Assessment Act 1979*.

Should you require clarification of any matter, please do not hesitate to telephone the writer on 9552 1525.

Yours sincerely,

STATE PLANNING SERVICES PTY LIMITED



**JOHN MCFADDEN
MANAGING DIRECTOR**

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27 May 2025

Mr Jeff Bresnahan
Stanhope Road Residents Association
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Killara, NSW
Supplied by e-mail: jeff.bresnahan1@gmail.com

Dear Mr Bresnahan,

Re: Review of Assessment of Biodiversity and Ecological matters for State Significant Development at 10, 14 & 14A Stanhope Road Killara, NSW - Ku-ring-gai Local Government Area

Background

Thank you for providing AES with the opportunity to provide input to the Stanhope Road community stakeholder groups concern about the adequacy of the required assessment process undertaken in support of the State Significant Development proposal. It is understood that the proposal is currently on public exhibition and seeking submissions regarding the proposal to the Department of Planning Housing and Infrastructure (DPHI).

Mindful of time constraints related to the exhibition period, I have primarily focused on the potential biodiversity impacts of the proposal on the subject land, the assessment documents dealing with these values and how thoroughly this has been addressed within consultant reports. But I have also unavoidably spent some time evaluating the broader implications of the layers of NSW State and Commonwealth legislation relevant to the threatened entities implicated by the proposal as well as Local Environment Plan (LEP) and DCP related matters that should also gain some considerations.

Thus, in accordance with your brief and my review task proposal, I have now reviewed sections of the Environmental Impact Statement by *Gyde Consulting* and its relevant appendices that include the Biodiversity Development Assessment Report (BDAR) by *Keystone Ecological*, the Arboriculture Report by *NSW Trees – Arboricultural Consultants*, and Heritage Impact Statement by *Urbis* as well as various policy, procedure and guideline documents developed by the State and/or Commonwealth DCCEEWs as they relate to the proposal and its likely impacts on significant biodiversity entities along with their assessment and the approval process.

Proposal

The proposal by Stanhope Road Residence Holdings Pty Limited is understood to be for a high density residential development of 3 medium rise apartment blocks up to 10 storey in height and comprised of 135 units within a low density R2 zone covering three existing R2 lots. The proponents are seeking to invoke special development approval concessions under the Housing SEPP (Transport Oriented Development – TOD and Floor Space Ratio - FSR), although strictly outside the proximity zone if measured as an access distance and otherwise, a proposal in scale and density certainly outside any typical planning provisions under the existing R2 zone.

The proposal is thus variously described and or emphasised as a development that will demolish three existing houses, replacing them with a high density (in part up to 10 level) structure providing, 'affordable' housing through provision of 135 apartments and 195 car parking spaces located in a deeply excavated underground car park.

Assessment Review

I have reviewed the various assessment documents indicated and have also undertaken various other searches, as well as made enquiries to provide further perspective.

It is apparent that there are or would be if approved, clearing requirements for several trees and in all likelihood indirect impacts on several others within at least two patches of BV mapping on or in the vicinity of the subject land. That described within proposal assessment documents there will be only two (2), 'low significance' trees needing removal; or perhaps more depending on which other of the assessment documents being read and considered and/or any interpretations made on descriptions of works required within them.

When closer scrutiny is applied to the assessment documents it is revealed that there are several trees of far greater significance that in all likelihood will also be lost due to the scale of the structures and the level of excavation below ground that would be required to undertake the projects development.

Some additional number of trees, perhaps most of the trees onsite as well as adjacent to it, will be likely all lost, due to direct and indirect impacts on them over time – this would be varying due to loss of light, the deep excavation impacts (direct and indirect) on tree roots and changes to the hydrology. Furthermore, some trees immediately adjacent to the subject land as well as significant street trees are also likely to be lost but do not appear to have been assessed as part of the proposal, despite having either direct or likely indirect or prescribed impacts on them.

The BDAR emphasis is the *Avoid and Minimise Impacts* section of the BDAR (page 33) where it states: *“the Biodiversity Conservation Act 2016 requires as a legislative imperative that impacts are to be avoided, then minimised by implementation of ameliorative measures, with offsetting only for unavoidable impacts. Prior to the commencement of this Act, this cascade of principles was only good practice and not enforceable”*. What this section fails to mention is that CEEC/SAIL entities and principles are also now in place under current legislation and provide the community with an expectation that SAIL categorised development losses do not occur at all as offsetting of them is no longer realistically possible.

The significance of the vegetation on site has thus been downplayed in the various assessment documents and these unavoidable tree losses and other impacts are described in a way that makes the losses sound trivialised or might be perceived that way. For example, the EIS (p.15) initially describes the high biodiversity vegetation as follows - *“biodiversity values understood to be associated with the Blue Gum High Forest which is a common tree found in the Ku-ring-gai area”*. When in reality the vegetation is an example of a Critically Endangered Ecological Community (CEEC) with the highest level of conservation importance possible. An entity listed at the highest category under NSW (BC Act) and Commonwealth (EPBC Act) level and so consequently this entity is also identified as an SAIL (Serious And Irreversible Impact) entity. Whilst this might be automatically considered to be a referable matter to the Commonwealth the Conservation Advice notices of the Commonwealth for both BGHF and STIF recognise small patches of the entity as the CEEC, but they provide a caveat that reduces the impact threshold for these CEECs to patches of 1Ha or more. This precludes such referrals in this instance whilst still recognising the reservoir and conservation resilience values provided by such smaller elements under the EPBC Act.

The concept of serious and irreversible impact is about protecting threatened entities most at risk of extinction potential from development related impact. The Biodiversity Offsets Scheme recognises that there are some types of serious and irreversible impacts that the community expects will not occur except in certain extenuating circumstances. Potential serious and irreversible impacts are meant to be identified by accredited assessors in the Biodiversity Development Assessment Report outlined in a way to draw focused attention of the SAIL to the consent or determining authority who then make such an important determination.

The BDAR by *Keystone Ecological* does make mention of SAI as is required, but it is couched somewhat obscurely under the heading “Thresholds” (page 39) where the Principles of SAI are listed but then with the mere statement “*Within the development site, the only entity that occurs that is classified as at risk of a SAI is Blue Gum High Forest (BGHF), being the TEC associated with PCT 3136.*”

There are though special considerations related to SAI entities on a site that must both be provided and addressed clearly in the BDAR for the consent authority to consider AND similarly specific criteria that the consent or determining authority must take into their consideration in their assessment of a proposal before approving such a development application. Where an SAI impact from a proposal might present a red flag to a standard Part 4 development matter, SSD applications may override the otherwise automatic red flag to an approval for a local development. Nevertheless, SSD must still take into account SAI matters in making a careful consideration as to whether SSD status might override the Biodiversity value significance of a CEEC entity and the SAI consequence of approving the proposal. BGHF is understood to be at less than 95% of its former extent meaning in the converse less than 5% remains and this reality needs to be taken into account.

This SAI detail has not been as clearly or transparently provided in the BDAR as it should be nor delivered openly within the EIS. There are for example actually three (3) patches of vegetation that are mapped as having Biodiversity Value affectation on the subject land and immediately adjacent to it. All these BV patches are exposed to direct or prescribed impacts from the proposal. However, only one of these BV mapped vegetation patches receives any serious consideration in the Biodiversity Development Assessment Report. An independently sought BV Mapping ‘Explanatory Report’ has been received from the NSW Departments Map Review Team. It highlights the BV Mapping patch that is immediately adjacent to the development footprint and hence is an affectation deemed as being Sydney Turpentine Ironbark Forest (STIF). STIF is another PCT entity additional to that addressed within the BDAR, but it too is a Critically Endangered Ecological Community (CEEC) and similarly an SAI candidate. The potential for indirect or prescribed impacts on this entity as well, have not been considered or addressed within the BDAR either.

The other BV patches do not currently have explanatory reports available (at least to the writer) but are considered herein likely to be Blue Gum High Forest (BGHF). This is the PCT that is addressed and in accord with the BDAR by *Keystone Ecological* but only with primary reference to the BV patch in the north east corner of the project area. *Keystone Ecological* purport that the other BV mapped patch along the frontage with Stanhope Road is no longer present, since a single large Blue Gum specimen from that part of the subject land was removed sometime earlier. This may have not since been assessed and updated in the BV mapping by the Departments map review team. But this earlier removal of a large senescing *Eucalyptus saligna* specimen (Blue Gum), does not take into consideration or rule out other BGHF ground covers, sprouting shrub layer elements or even persisting soil seed bank components of the CEEC entity that might still persist within this BV patch area. The BDAR does not adequately or clearly address this area or these issues. It also needs to be remembered that depending on the PCT entered into the BAM-C offset calculator will determine and potentially alter which candidate threatened species that also need to be considered in the BDAR. Thus, using PCT 3136 (BGHF) we apparently get Eastern Pygmy Possum *Cercartetus nanus* and Squirrel Glider *Petaurus norfolcensis* as candidate ‘species credit’ species needing to be either surveyed for and if not eliminated then offset or if assumed present also offset. What is unknown is what if any additional candidate ‘species credit’ species might be flagged were PCT 3262 STIF given assessment consideration within the BDAR as well. As it is likely there will be impact on it too in the western patch of BV Mapped vegetation but which has been omitted from consideration within the BDAR.

Notably, local planning matters are not negated from needing to be necessarily complied with when a BDAR is undertaken. Whilst LEP zone compliance might potentially be overridden by the

Housing SEPP under certain circumstances, DCP related matters are not compromised merely by the preparation of a BDAR dealing with BC Act considerations.

The Ku-ring-gai Development Control Plan (DCP) has Biodiversity and 'Greenweb' network considerations that are required to be met as part of any development proposal within the LGA. The loss of vegetation likely to accrue from the proposal as already described, as well as the likely additional losses occurring over time from the unconceded but unavoidable indirect impacts of the proposal. This includes two patches of BV mapped vegetation and hence clearly with biodiversity value significance along with further unassessed, but DCP regulated significant street trees. The details and intent of the DCP as they relate to Biodiversity, Greenweb connectivity and riparian zones are elaborated on in the DCP instrument. But fundamentally they are intended to maintain the well known leafy ambience of the LGA as well as maintain biodiversity including maintenance of connectivity and the 'stepping stone' element provided by patches of remnant vegetation as mapped within the KC on-site web mapping (see Map below). These mapping and DCP related matters are compromised and non-compliant within the development proposal.

The consequent conclusion of the above assessment summary is that the proposal has been undertaken in a perfunctory manner that addresses the essential requirements of the SEARs and its outlined BAM assessment requirements. However, in so far as the biodiversity assessment is concerned, although a technically compliant process has been undertaken it has been simplistically carried out and downplayed several factors needing consideration.

Most particularly has been the trivialising of the CEEC matters impacted by the proposal including the avoidance of the SAIL issue in a serious manner. Consequently, and despite conceding a potential loss of CEEC and then demonstrating a small offset obligation for it, the BDAR does not concede the likely indirect losses of other CEEC element patches and/or highlight the serious 'red flag' nature of SAIL consequences arising.

All the issues discussed above are supported in greater detail within various State and Commonwealth Government Guidance materials and recommendations are based on a detailed analysis of these and the assessment documents prepared in support of the proposal and are provided below.

Recommendations

1. That the BDAR by Keystone Ecological should be revised to include consideration of the BV mapped area of CEEC (BGHF) along the street frontage of Stanhope Road. This should also include a detailed analysis of any CEEC (BGHF) ground cover and understorey elements and an evaluation of soil seed bank potential for the entire patch represented within the BV mapped area of the patch on the site and adjacent to it.
2. The BDAR by Keystone Ecological should evaluate the likelihood of prescribed impacts on all the BV mapped areas within the subject land as well as immediately adjacent to it. This should include an evaluation of the PCT and CEEC status of the BV patch to the west (identified herein as STIF) as well as the values of the BV patch (BGHF) in the north east of the subject land as well as adjacent. These patches unequivocally will suffer prescribed impacts from the proposal and should be evaluated accordingly. This should be with consideration with the CEEC status and SAIL impact likelihood at the forefront due to the likely unavoidable impacts from extensive and deep earth works and tree root zone impacts conceded within the Arboriculture Report. The prescribed impacts due to unequivocal and unavoidable changes to hydrology, direct and indirect root damage and light/shading impacts from a development of such scale and height should be the focus of the considerations.
3. The status of BGHF and STIF their CEEC status and the precarious conservation status of these should be emphasised in any submission to the Consent or Determining authority and articulate the purpose of SAIL to prevent further incremental losses of either of the implicated CEECs on site

or adjacent that are so categorised due to their precarious conservation status. Further, emphasising with clarity to the determining authority that the mere SSD status of a proposal is not meant to automatically override the otherwise red flag status of SAI matters that would otherwise apply under a standard LEP approval. Especially when considering the application of questionably applicable Housing SEPP exemptions that might financially enable an otherwise excessive development in the location and its surrounding setting.

4. That BAM-C have the other PCT for the site added to evaluate whether any additional species credit entities should have been added to those already flagged and conceded as having an offset obligation.
5. That local DCP requirements are given due consideration in any evaluation of the assessment for proposal approval including the loss of several components of the stepping stone elements of the Ku-ring-gai Greenweb and Corridor network.

If you have any further questions about this assessment/review, the writer Ross Wellington, can be contacted on +61 407 489489 or by email at rwrossco@gmail.com

Yours sincerely



ROSS WELLINGTON

Australian Environmental Surveys - AES
Principal
Senior Ecologist
Accredited Biodiversity Expert
Conservation Planner
Environmental Educator



Biodiversity Values Map depicting the three important vegetation patches implicated either directly or indirectly by the proposal and referred to in the development proposal assessment review.

Author Profile

This review was undertaken by Ross Wellington Principal of AES – Australian Environmental Surveys that has operated for over 30 years and has undertaken many studies including pioneering conservation related surveys on the Five-Forests Studies on the South Coast of NSW as well as regional scale surveys forming part of the CRA/RFA survey process and NSW State Forests Regional Assessments in addition to numerous other ecological survey and assessment projects across NSW and interstate.

He has also previously been relevantly employed by the NSW State Government in various roles and functions.

These have included:

- NSW Department of Education and Training - High School Science Teacher, Teacher-in-Charge/Principal at an Environmental Education School
- NSW National Parks and Wildlife Service – Senior Threatened Species Officer
- Department of Environment and Conservation and Department of Environment and Climate Change – Recovery Planning Officer & State-wide Threatened Species Coordinator and Senior Biodiversity Conservation Officer
- Environment Protection Authority – Forestry Compliance Officer
- Office of Environment and Heritage – Conservation Planning Officer

In the Private sector he has also worked for medium and large environmental consultancy firms Molino Stewart, Eco Logical Australia and Eco Planning on a myriad of environmental and primarily ecologically related studies including offsetting, Biobanking and Biodiversity Stewardship related projects. He has prepared numerous threatened species assessments and expert reports under BAM and liaised with the BCT in doing so.

Consequently, Ross has had over 30 years involved with environmental and biodiversity related issues and projects and the legislative framework within which these matters are considered and operate. This has included involvement within policy development, and biodiversity conservation legislative change. He has reviewed and/or prepared all manner of development assessment documents such as EIS, SIS, SEE, REF, management plans, plans of management as well as BDARs and the like.

Ross has prepared various Government Department Best Practice Guides, Environmental Impact Assessment Guidelines, Threatened Species Profiles, Policy Guidelines, Recovery Plans and contributed to Threat Abatement Plans and other statutory documents.

He is a recognised expert in Biodiversity Conservation and has been accredited as a Biodiversity Expert for several threatened entities. Ross has been engaged on numerous occasions as an expert in the NSW Land and Environment Court to advise on biodiversity conservation and associated development related matters and also assisted the NSW Scientific Committee and the Commonwealth DCCEEW in its preparation of Conservation Advice Notices informing the wider community

Ross is thus well positioned and qualified to provide this review.



LISA TRUEMAN
HERITAGE ADVISOR

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2 June 2025

Mr Jeff Bresnahan
c/- Landers & Rogers
Level 19, 123 Pitt Street
Sydney NSW 2000

SSD-81890707 – 10,14 and 14A Stanhope Road, Killara
Heritage Response to EIS

1. Background

Mr Jeff Bresnahan has engaged me to provide independent heritage advice in response to the Environmental Impact Statement (EIS) for SSD-81890707, which is currently on public exhibition. The SSD relates to a proposed residential development with infill affordable housing, at 10, 14 and 14A Stanhope Road, Killara. The development site is partially located within the Stanhope Road Conservation Area (Stanhope Road HCA) as listed in Schedule 5 Part 2 of the Ku-ring-gai Local Environmental Plan (C25). The EIS includes a Heritage Impact Statement (HIS), prepared by URBIS (URBIS HIS), at Appendix 21. This letter reviews the URBIS HIS and provides a high level independent assessment of the likely heritage impacts of the proposed development.

In preparing this advice, I have reviewed the publicly available information in relation to the proposed development, undertaken a visual inspection of the site and surrounding area, and reviewed other documents relevant to the Stanhope Road HCA to form an evidence-based opinion on the heritage impacts of the proposal.

2. Relevant documents

A review of other relevant documents has been undertaken to inform this report, including, but not limited to:

- Ku-ring-gai Heritage Conservation Area Review, Tanner Kibble Denton, 2024
- Comparative Study: Conservation Areas of Ku-ring-gai and Sydney's Suburbs - Ku-ring-gai Council, 2024
- Review of Potential Heritage Items in Ku-ring-gai LGA, Perumal Murphy Alessi, April 2006
- Heritage Item by Heritage Conservation Area, from Ku-ring-gai Council website
- Municipality of Ku-ring-gai Heritage Study, Robert Moore et al, 1987



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- Ku-ring-gai Heritage and Neighbourhood Character Study, David Logan et al, 2000
- Focus on Ku-ring-gai, Ku-ring-gai Historical Society, 1996.

3. The site

The development site is located at 10, 14 and 14A Stanhope Road, in Killara, and includes the following properties:

- 10 Stanhope Road, Lot B DP326483
- 14 Stanhope Road, Lot 1 DP224907
- 14A Stanhope Road), Lot 2 DP224907

The site is currently zoned R2 Low Density Residential

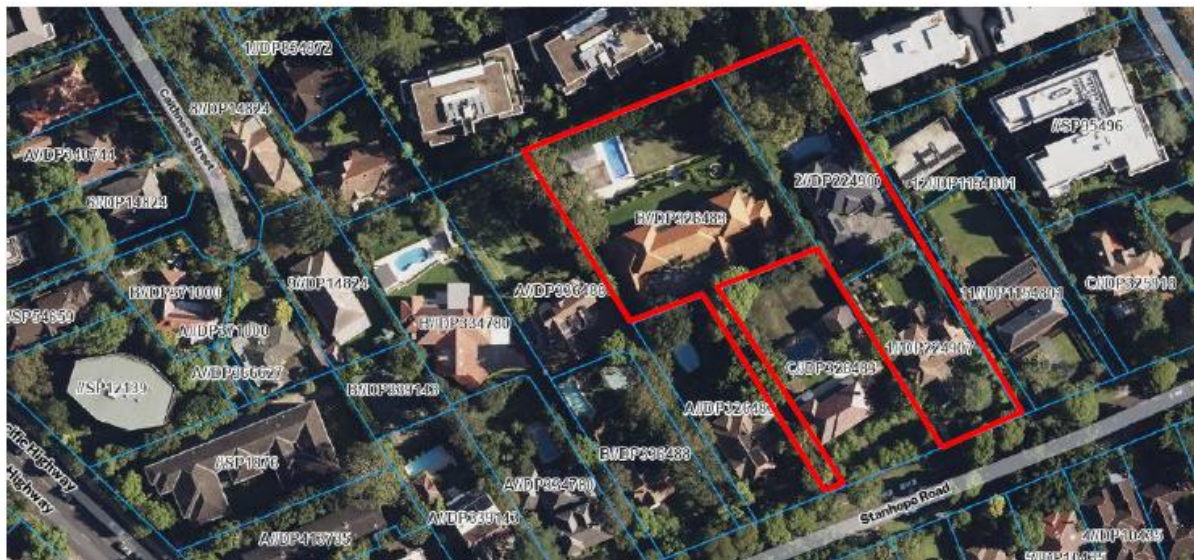


Figure 1 – Location of the development site (Source: URBIS)

4. Transport Oriented Development and Council's Preferred Scenario

The development site is located in an area identified by the NSW Government under the Transport Oriented Development (TOD) policy, introduced in May 2024. The policy rezoned traditionally low-density areas within 400 metres of railway between Roseville and Gordon stations to permit apartment buildings ranging from six to eight storeys.



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In November and December 2024, Ku-ring-gai Council (Council) exhibited four alternative scenarios to the TOD policy. These alternatives provided approximately the same number of new homes as the government's TOD policy. After the community consultation period, Council identified and further exhibited its TOD Preferred Scenario, which reflects community feedback, technical studies and the need to meet dwelling targets, and is designed to meet Council's seven principles for good planning in the Roseville to Gordon corridor. The Preferred Scenario will be considered by Council on 5 June 2025.

The development site is zoned R2 at the street and R4 at the rear, under the Preferred Scenario for Killara, as shown on Figure 2 Below, with a maximum height limit of 9.5m at Stanhope Road and 12m at the rear.



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Land Zoning (LZN)

- Proposed alternative TOD boundary
- Railway corridor
- Arterial road
- Pedestrian overpass/underpass
- E1 - Local Centre
- MU1 - Mixed Use
- R1 - High Density Residential
- R2 - Medium Density Residential
- R3 - Low Density Residential
- R11 - Public Recreation
- R12 - Private Recreation
- SP2 - Infrastructure
- C2 - Environmental Conservation
- C6 - Environmental Living



Exhibition Document

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Height of Building (HOB)

- Proposed alternative TOD boundary
- Railway corridor
- Arterial road
- Pedestrian overpass/underpass
- 9.5m
- 11.5m
- 12m
- 17.5m
- 18.5m
- 21.5m
- 22.5m
- 26.5m
- 29m
- 32.5m
- 38.5m
- 51.5m
- 54.5m
- 61m
- 82.5m
- 93m



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Figure 2 – Council's TOD Preferred Scenario for Killara



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5. The proposal

The proposal is for the demolition of 3 existing houses, and their garden settings, site amalgamation, and the construction of a part 3 to 5 storey, and part 10 storey multi-unit residential development with 135 units (of which 26 are proposed to be affordable housing), above three levels of basement parking, accessed from Stanhope Road.

6. Heritage context

The development site is located within the Stanhope Road HCA (C25) as listed in Schedule 5 of the Ku-ring-gai Local Environmental Plan. It is also located directly adjacent to a heritage item at 12 Stanhope Road and within the vicinity of locally listed heritage items as indicated on the table and in the maps below. Note that of the properties listed, only the houses at 12, 7 and 6 Stanhope Road have been identified or considered in the URBIS HIS. The development site is also located within the vicinity of many contributory properties along both sides of Stanhope Road.



Figure 3: Map of development site (in blue) and its heritage context (Source: Ku-ring-gai Council Maps with LTHA overlay)



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7. Stanhope Road Conservation Area

As noted above, the development site is located within the Stanhope Road HCA. A map of the Stanhope Road HCA is provided at figure 4.



Figure 4: Map of the Stanhope Road HCA (Source: Ku-ring-gai Council website https://www.krg.nsw.gov.au/files/assets/public/v1/hprim/information-management-publications-public-website-ku-ring-gai-council-website-planning-and-development/c25_stanhope_conservation_area.pdf)



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The following information is extracted from the State Heritage Inventory (a copy of the full Inventory Sheet is attached to this report at Appendix A):

Statement of Significance

Historically, the area represents the fine residential development of Killara during the nineteenth and twentieth centuries. The area provides evidence of the 1821 land grant to Henry Oliver, the 1821 land grant to Daniel McNally, and the 1839 land grant to Jane Bradley. The area also illustrates the subsequent subdivision of these grants by Alfred Hordern, Marshall Warwick Johnson and the New South Wales Realty Company in the at the end of the nineteenth century and in the early years of the twentieth century. This subdivision demonstrates the development resulting from the construction of the North Shore rail line in the 1880s. The area retains evidence of its early layout and subdivision with its predominant component of significant buildings and mature gardens and street planting.

The area is of aesthetic significance for its high quality intact residential buildings, predominantly from the Federation and inter-war periods. Many of these were designed by prominent architects and represent the diversity and range of styles within each period. Their heritage values are enhanced by their garden settings and vegetation throughout the area, including strands of remnant eucalypt and avenue plantings.

The area is of local heritage significance in terms of its historical and aesthetic value. This satisfies two of the Heritage Council criteria of local heritage significance for local listing.

Assessment of Significance:

Criterion (a) Historical significance

Historically, the area represents the fine residential development of Killara during the nineteenth and twentieth centuries. The area provides evidence of the 1821 land grant to Henry Oliver, the 1821 land grant to Daniel McNally, and the 1839 land grant to Jane Bradley. The area also illustrates the subsequent subdivision of these grants by Alfred Hordern, Marshall Warwick Johnson and the New South Wales Realty Company in the at the end of the nineteenth century and in the early years of the twentieth century. This subdivision demonstrates the development resulting from the construction of the North Shore rail line in the 1880s. The area retains evidence of its early layout and subdivision with its predominant component of significant buildings and mature gardens and street planting. Meets this criterion at a local level.

Criterion (c) Aesthetic significance

The area is of aesthetic significance for its high quality intact residential buildings, predominantly from the Federation and inter-war periods. Many of these were designed by prominent architects and represent the diversity and range of styles within each period. Their heritage values are enhanced by their garden settings and vegetation throughout the area, including strands of remnant eucalypt and avenue plantings. Meets this criterion at a local level.

Description:

The Stanhope Road Conservation Area lies between the Pacific Highway and North Shore railway line in Killara and extends from the northern side of Stanhope Road to the southern side of Treatts Road. The area excludes the Pacific Highway and Nos. 1-17 (southern side) and 2a-14 (northern side) Killara Avenue. The street pattern is set out on an east-west axis, generated by the alignment of the North Shore rail line. Most of the area is flat to mildly undulating.

The area comprises single and two storey residences, with varied architectural styles. There is a high consistency of intact buildings within the area. The predominant architectural style is Federation, and this



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varies from Arts and Crafts to Queen Anne and bungalow. There are also some significant inter-war Californian bungalows, and some examples of post-war American Colonial style homes.

Setbacks are generous and in many instances the side boundaries provide areas with landscaped gardens. Private gardens are consistently extensive and support many significant feature trees. Conifers, silky oaks and magnolias are particular features in private blocks, providing good vertical scale in gardens and hiding the rooflines of many of the more dominant houses in the area. Houses are often screened from street view by having front setbacks with well-established trees and medium to high front boundary fencing. Front fence are often styles in relation to the architectural treatment of the house.

Car accommodation is typically provided at the side or beyond the rear of the building.

The overall visual amenity of the area is high, based on the large body of vegetation that provides buffering, height and texture. Streets range between two and three lanes wide and have hard edge kerbs and grasses verges. The mature street tree planting provides bold and uniform avenues whilst allowing visual accessibility to the historic homes and substantial private gardens that border each streetscape. Most streets contain the same quantities and species of trees throughout. Footpaths are present; however they are not consistently allocated to provide a full network.

Detracting elements within the area include enclosed verandahs, rendered and painted face brick work, and uncharacteristic colour schemes.

8. What is an HCA?

HCAs are streetscapes, suburbs, areas and precincts that are recognised by a community for their distinctive historical character. HCAs most often provide evidence of the historical development of an area through their high proportion of original historic buildings. HCAs are protected through statutory listings because they demonstrate a distinctive identity, a particular sense of place and character that is valued by the community. The significance of an HCA is usually demonstrated in its subdivision layout and street pattern, and buildings that share common periods of development, with historical associations, and consistent typology, form, scale, materials and details. They often include trees and landscaping, and public domain elements.

Heritage Conservation Areas are listed within Schedule 5 of Local Environmental Plans. This statutory listing is underpinned by detailed heritage assessments against the NSW standard criteria for heritage assessment and supported by thorough strategic planning and extensive community consultation. They are highly regarded by communities and visitors and provide NSW with historic layers that are evident for current and future generations.

9. What is a contributory property?

Contributory items are part of the collective significance of a particular conservation area in which they are located. They are important for what they contribute to the significance and streetscape character of the heritage conservation area. As a result, the focus for contributory items is how the building presents in the public domain, and especially from the street.



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The following definition is extracted from Section B Part 19 of the Ku-ring-gai Development Control Plan 2014 (KDCP):

Contributory Properties are buildings and sites within a HCA which are deemed to exhibit one or more of the following characteristics:

- i) buildings and sites that make an important contribution to the character and significance of the HCA. They can be from a key historical layer, true to an architectural type, style or period, or highly or substantially intact including their garden setting. Where subdivision has occurred, the subdivision is within the key historical period or the area.
- ii) buildings and sites which are altered from their original form but are recognisable and could be reasonably reinstated to that condition or the alterations are not considered to be detrimental to the integrity of the building; for example, a building that has been rendered or painted or where the roof cladding has been replaced but the form is otherwise legible.
- iii) buildings and sites with new layers/additions sensitive to the style, form, bulk, scale and materials of the original building.

Note: Contributory buildings do not necessarily need to be high-quality buildings but should represent the key historical period of the HCA. An HCA may also contain high-quality buildings which are not necessarily from the key historical period.

10. Analysis of the Existing Dwellings on the Development Site

An analysis of the existing dwellings on the development site has been undertaken, informed by a visual assessment and available resources including heritage studies, previous HIS reports, the URBIS HIS and other relevant documents. The analysis of the contribution of the individual properties to the Stanhope HCA has been based on the Statement and Assessment of Significance for the HCA as provided in the SHI Datasheet, and the definition of contributory properties provided in the DCP:

Property	Year Built	Style	Key Features	Modifications	Contribution to HCA
14 Stanhope Road	1908-1909	Federation Bungalow with two storey addition	Presents to street as single storey Gabled roof section with two bay windows Rendered Facebrick	Two storey addition to rear within new raised roofline. Contemporary decorative panel to front gable Low stacked sandstone front boundary fence	The property contributes to the historic and aesthetic and representative significance of the HCA through its era of construction as part of the early residential development of Killara, its retained original Federation form and features at the street, and association with notable local people.



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Property	Year Built	Style	Key Features	Modifications	Contribution to HCA
14A Stanhope Road	2016	Contemporary	Battle axe block – only driveway visible from street		Neutral – not visible from street
10 Stanhope Road	1997-1998	Contemporary	Battle axe block – only driveway visible from street		Neutral – not visible from street

11. Heritage Items in the Vicinity of the Site

As shown on Figure 3 above, there are many heritage items located adjacent to and in the near vicinity of the site that will be impacted by the proposal. Of these, only 12, 6 and 7 Stanhope Road have been identified in the URBIS HIS

Table 1: Heritage Items in the vicinity of the development site

Description	Address	Location	Significance	Item No.
Dwelling House	12 Stanhope Road	Directly adjacent	Local	I388
Dwelling House	18 Stanhope Road	25m east	Local	I389
Dwelling House	6 Stanhope Road	10m west	Local	I386
Dwelling House	4 Stanhope Road	25m west	Local	I384
Dwelling House	2 Stanhope Road	50m west	Local	I382
Dwelling House	3 Stanhope Road	50m south-west	Local	I383
Rydal Mount, Dwelling House	5 Stanhope Road	Across road	Local	I385
Dwelling House	7 Stanhope Road	Across road	Local	I387
Delville, Dwelling House	21 Stanhope Road	75m east	Local	I390

The State Heritage Inventory (SHI) provides the following Statements of Significance for the heritage items adjacent to and in the vicinity of the site:

12 Stanhope Road

The property is significant as part of the residential development of the suburb during the 1920s-30s when the construction of large houses on large, landscaped allotments was at its peak. Although having undergone some modifications to the original building, the house remains largely intact externally with its original Georgian Revival stylistic detailing. The mature gardens at the front of the house contribute to the streetscape character and are representative of the original curtilage to this significant residence. The building is an important component in the understanding of the early twentieth century subdivision of the immediate area along the western section of Stanhope Road. The house makes a significant contribution to the variety of inter-war style residences within the immediate area and to the mix of houses of Federation and inter-war styles which are important to the character of the street which marked the main



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southern entrance to the suburb of Killara. The item is of local heritage significance in terms of its historical, aesthetic and representative value. This satisfies three of the Heritage Council criteria of local heritage significance for local listing.

18 Stanhope Road

The property is significant as part of the residential development of the suburb of Killara at the turn of the twentieth century when the construction of large houses on large, landscaped allotments was at its peak. Although having undergone some modifications to the original building, the house remains largely intact externally. The building is an important component in the understanding of the late nineteenth century subdivision of the immediate area along the western section of Stanhope Road. The house is significant contribution to the variety of Federation style residences within the immediate area and to the mix of houses of Federation and inter-war styles which are important to the character of the street which marked the main southern entrance to the suburb of Killara. The item is of local heritage significance in terms of its historical, aesthetic and representative value. This satisfies three of the Heritage Council criteria of local heritage significance for local listing.

6 Stanhope Road

The property contains a large Federation style residential building which reflects the early evolving pattern of residential development within the suburb of Killara. The building has historic significance as one of the very early twentieth century residences of substantial size which reflected the status and social standing of the occupants of houses within this street. The property is associated with John Gilmour Lockley, for whom the house was built in 1900. John Gilmour Lockley, who worked as a journalist, served on the Kuring-gai Shire Council for many years, serving as the President in 1923-24. The property remained in the Lockley family for over forty years. The dwelling has aesthetic significance as an example of a substantial Federation period residence designed by Sydney architects of the period for their well-to-do clients. The building is significant as a fine and largely intact example of Federation style residence, and as an example of the variety of Federation period styles which were popular with the new owners as a reflection of their status within the community. The item is of local heritage significance in terms of its historical, associations, aesthetic and representative value. This satisfies four of the Heritage Council criteria of local heritage significance for local listing.

4 Stanhope Road

The property is significant as part of the residential development of the suburb of Killara at the turn of the twentieth century when the construction of large houses on large, landscaped allotments was at its peak. Although having undergone some modifications to the original building, the house remains largely intact externally. The building is an important component in the understanding of the late nineteenth century subdivision of the immediate area along the western section of Stanhope Road. The house is significant contribution to the variety of Federation style residences within the immediate area and to the mix of houses of Federation and inter-war styles which are important to the character of the street which marked the main southern entrance to the suburb of Killara. The item is of local heritage significance in terms of its historical, aesthetic and representative value. This satisfies three of the Heritage Council criteria of local heritage significance for local listing.

2 Stanhope Road

The property is significant as part of the residential development of the suburb of Killara during the 1920s-30s when the construction of large houses on large, landscaped allotments was at its peak. Although having undergone some modifications to the original building, the house remains largely intact externally.



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The building is an important component in the understanding of the early twentieth century subdivision of the immediate area along the western section of Stanhope Road. The house is significant for its association with the prominent local architect Oliver Harley, responsible for the designs of many residences within the area. It is also significant for its contribution to the variety of inter-war style residences within the immediate area and to the mix of houses of Federation and inter-war styles which are important to the character of the street which marked the main southern entrance to the suburb of Killara. The item is of local heritage significance in terms of its historical, association, aesthetic and representative value. This satisfies four of the Heritage Council criteria of local heritage significance for local listing.

3 Stanhope Road

The property is of local historic and aesthetic significance as a good and representative example of a Federation period dwelling constructed in c.1907. The building appears to have been designed by architect Oliver Harley who designed a number of dwellings in Ku-ring-gai in the early decades of the twentieth century. Despite some changes and modifications, the building retains its overall form, character and details particularly rendered and roughcast facades, main roof form, chimneys and terracotta roof tiles, an open verandah and timber framed windows and doors. It also retains a sense of the internal layout about the entry and secondary halls and stair and some early internal fabric and details. The front of the building benefits from a wide street frontage and front garden setting which overall makes a positive visual contribution to Stanhope Road streetscape and area. The building also retains a deep side and rear garden area and tennis court. The item is of local heritage significance in terms of its historical, associations, aesthetic and representative value. This satisfies four of the Heritage Council criteria of local heritage significance for local listing.

5 Stanhope Road, Rydal Mount

The property is significant as part of the residential development of the suburb of Killara during the 1920s-30s when the construction of large houses on large, landscaped allotments was at its peak. Although having undergone some modifications to the original building, the house remains largely intact externally. The building is an important component in the understanding of the early twentieth century subdivision of the immediate area along the western section of Stanhope Road. The house is significant for its contribution to the variety of inter-war style residences within the immediate area and to the mix of houses of Federation and inter-war styles which are important to the character of the street which marked the main southern entrance to the suburb of Killara. The property is of local heritage significance in terms of its historical, aesthetic and representative value. This satisfies three of the Heritage Council criteria of local heritage significance for local listing.

7 Stanhope Road

The property is significant as part of the residential development of the suburb of Killara during the 1920s-30s when the construction of large houses on large, landscaped allotments was at its peak. Although having undergone some modifications to the original building, the house remains largely intact externally. The building is an important component in the understanding of the early twentieth century subdivision of the immediate area along the western section of Stanhope Road. The property is significant for its association with the prominent Hudsons Timber company, the largest timber supplier in the southern hemisphere in the late nineteenth and early twentieth century and with Harold Stanley Hudson. Hudson, who headed the firm from 1929, and his wife Elizabeth built the house as their family home. Harold lived there from 1926 his death in 1948 aged 62. His wife Elizabeth Hudson continued to live in the home until her death in 1984 in her 100th year. The house is significant for its contribution to the variety of inter-war style residences within the immediate area and to the mix of houses of Federation and inter-war styles



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which are important to the character of the street which marked the main southern entrance to the suburb of Killara. The item is of local heritage significance in terms of its historical, association, aesthetic and representative value. This satisfies four of the Heritage Council criteria of local heritage significance for local listing.

21 Stanhope Road, Delville

The property presents in a reasonably high state of external intactness in terms of the dwelling itself, while the tableau of the property has been well integrated over time into general precinct identity. The building has historical significance as part of the story of the development of suburban Killara and is an important part of legibility within its local precinct. This is enhanced both by its relationship to its own garden setting as well as its prominence at the intersection of two garden streetscape areas. Moreover, the dwelling, from both an aesthetic and technical perspective is also a fine example of the early twentieth century work of architect Thomas J. Darling, expressed in the international vogue of the larger Californian bungalow. The item is of local heritage significance in terms of its historical, associations, aesthetic and representative value. This satisfies four of the Heritage Council criteria of local heritage significance for local listing.

12. No. 14 Stanhope Road

The following information is provided to supplement the information provided in the HIS. The existing house at 14 Stanhope Road is located within the Stanhope Road HCA and is proposed to be demolished.

Additional Historic Background

The house was built for Patrick Vincent Ryan after he purchased the lot from Charles Danvers, who also owned lots 2 and 3. Danvers' own home, "Culworth" (built c. 1898) survives and is located at 18 Stanhope Road (KLEP I389). Ryan was born in 1857 in Bathurst, NSW. By 1899 he had relocated to Sydney and, in 1900, married Catherine Elizabeth Katie Manning in Ashfield, NSW. In 1899 Ryan established P.V. Ryan and Co., a hotel and business brokerage located at 111a Pitt Street Sydney (Sydney Morning Herald, 12 February 1900, p. 5). Kate and Patrick had one daughter, Kathleen Eileen, born 1901 in Burwood, NSW. Patrick died 21 March 1924 on board a ship while travelling to Colombo.



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Mr P. V Ryan

This gentleman, who is almost as well known in Orange as in Bathurst, has started business in Sydney in conjunction with his brother, Mr. Martin Ryan. The new firm will trade as P. V. Ryan & Co., and will do all commission work, hotel-broking, etc., etc. From our knowledge of Mr. P. V. Ryan, extending over some years, we have no doubt of his fitness for such a business, and we are sure his friends in Western N.S.W. will join with us in wishing him every success in his new venture.

Figure 3: Source: The Leader, 21 January 1899,

PRETTIEST GIRL

Miss Ryan of Killara

Mrs. P. V. Ryan, of Killara, who, with her daughter, Miss Eileen K. Ryan, returned to Sydney to-day by the R.M.S. Niagara. Mrs. Ryan, who travelled to England by the Mooltan, had the misfortune to lose her husband, who died two days before the vessel reached London. His body is to be brought back to Australia.

While crossing from London to New York on the White Star liner Cedric, Miss Eileen Ryan was voted the prettiest girl aboard the ship. She received great publicity in the New York papers, and her mother gave strict instructions that there was to be nothing on the same scale in Sydney. She was surprised to learn that the news of the Cedric and photos of her daughter had already reached Sydney.



p. 4

The Sun, 13 December 1924, p. 8)



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RYAN.—March 18, on board R.M.S. Mooltan, suddenly, Patrick Vincent, beloved husband of Katie Ryan and father of Eileen Ryan, of Springdale Road, Killara.

RYAN.—March 18, on board R.M.S. Mooltan, suddenly, Patrick Vincent Ryan, of Springdale Road, Killara, and formerly of Bathurst, aged 66 years. (By cable from Colombo.)

The Daily Telegraph, 21 March 1924, p. 4

Obituary.

P. V. RYAN.

Yesterday morning Mr. J. A. Ryan, of Bultge-street, received the sad news by cable that his brother, P. V. Ryan, had died suddenly at Colombo. The late Mr. Ryan will be remembered by all old Dubbo residents as engaged in business pursuits in this town some years ago. Latterly he had been successful in business in the city, and, together with his wife and daughter, started a few weeks ago on a world tour, which was to have embraced the British Empire Exhibition and a stay in America. Dr. McKillop, of Brisbane, who it will be remembered paid a visit to his venerable uncle, Mr. J. A. Ryan, a week or two ago, on his way to England, was travelling by the Cape, and was to have met his uncle in England, and thereafter travelled with him. The late Mr. P. V. Ryan was 66 years of age. The sympathy of all Dubbo will go out freely to Mr. J. A. Ryan in this sad and sudden fraternal bereavement.

The Dubbo Liberal and Macquarie Advocate 21 March 1924, p. 4

The property was transferred to Ryan widow Kate Ryan in 1925. In 1928 the property was transferred to Edith May Hentze who retained it until 1964.

Sands Directory entries date the Ryans as first residing on the site in 1909, making a likely construction date of 1908. Most dwellings on the north side of present-day Stanhope Road between the Pacific Highway and the railway dating from the late 1890s to the early 1900s were substantial, two storey homes. Ryan purchased Lot 4 a decade after the original sales had taken place from Charles Danvers, who had purchased three adjoining lots. As such his



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house at No. 14 was constructed approx. 8-10 years after Nos 2,4,6,12 and 18 and is unusual as a more modest example of a Federation dwelling (at the time of construction).

While the reason for the relatively modest home is uncertain, Ryan's occupation is listed as a hotel broker, while other owners in the street at the time included a professor, medical practitioner, surgeon and JG Edwards, developer and 'Father of Killara'. It is reasonable to suggest Ryan was less affluent than his neighbours and as such built a smaller home for his family than the others that had already been built along the northern side of present-day Stanhope Road. Additionally, during its early development, Ku-ring-gai was known as area popular with protestant, professional men and their families. This is reflected in the churches and schools established in the area at time. Both Ryan's religion and business interests would not have been typical for the area at the time, particularly in this desirable location with JG Edwards as his neighbour. (Ku-ring-gai Council (2024) Comparative Study: Conservation Areas of Ku-ring-gai and Sydney's Suburbs).

Katie Elizabeth Ryan sold the property to Edith May Hentze in 1928. Edith May Hentze was the daughter of politician Sir Graham Berry. Her only child, Dr. Margaret "Margot" Edith Hentze (1909-1947) was born in Melbourne. Margot and her parents moved into 14 Stanhope Road after it was purchased 1928 and lived there for 18 years. Dr. Hentze was the first woman appointed to the permanent staff of lecturers at the University of Sydney and she made noteworthy contributions to historical scholarship and in advancing women's positions in academia. Dr Hentze lived at 14 Stanhope Road until 1946, when she was sent to London as a recruit in the United Nations Relief and Rehabilitation Administration following World War II.

Aerial images (provided by Urbis HIS) suggest there had been little alteration to the primary house between its construction c. 1908 and additions carried out in 1994. At this time, the rear half of the dwelling was demolished. A two-storey addition was added to the rear and east elevation of the building. As the land slopes downwards to the north at the rear of the site, the additions appear more extensive from the rear elevation than the front (Urbis HIS, p. 8).


Changes to the rear roof line can be seen from the primary façade, indicating the additions to the rear of the dwelling. Other work included a new entry, a garage on the ground floor of the eastern wing of the addition, accessed via a brick paved driveway. A pool has been added to the rear yard.



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Review of Urbis Assessment of Significance

Criterion	Urbis Assessment	Comments
Criterion A – Historic	<p>“The original lot is no longer represented”</p> <p>“The original subdivision pattern of 14 Stanhope Road is therefore no longer legible and does not contribute to the site’s historic significance”</p>	<p>While the originally 4 has been subdivided to create a rear battle axe lot, the original dwelling and frontage remain intact.</p> <p>The original Springfield Estate Subdivision plan is still apparent from Stanhope Road. Almost all original lots have only been subdivided to the rear and as such the original Stanhope Road remains visually intact (below, 1943 and current aerial illustrate intact lots to Stanhope Road)</p> 
Criterion B - Association	<p>“No important person, organisation or series of events has been identified in association with the subject site.”</p>	<p>The property is associated with JG Edwards, Patrick Vincent Ryan and Dr Margot Hentze. Dr Hentze was a notable female academic and historian and the second woman to be appointed to permanent academic staff at the University of Sydney Faculty of Arts. Dr Hentze has been recognised as a ‘Lady of Killara’ by the Ku-ring-gai Historical Society.</p>
Criterion C – Aesthetic	<p>“The dwelling at 14 Stanhope Road, Killara does not possess any characteristics indicative of architectural excellence. It is a common example of a dwelling which appears to date from the interwar period”</p>	<p>The dwelling does not date from the interwar period. It retains the front section of the original modest single storey Federation dwelling constructed c. 1908 for Mr Patrick Vincent Ryan.</p>
Criterion D – Social		



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Criterion	Urbis Assessment	Comments
Criterion E – Research	“No possibility for further research potential has been identified”	Further research is required to establish whether or not this criterion is met
Criterion F – Rarity	“The subject dwelling features common elements reflective of the interwar dwelling typology, no unique or rare elements have been identified.”	The subject site is not an interwar dwelling, and as no comparative analysis has been provided, it is not possible to establish whether or not this criterion is met
Criterion G – Representative	“Due to extensive internal and external contemporary modifications ... the dwelling no longer qualifies as a representative example of the “gentleman’s” early-mid 20th entry federation dwelling typology which characterises the Stanhope Road Conservation Area.”	The remnant front, principal portion of the dwelling is retained as a representative example of a gentlemen’s Federation dwelling , particularly of note for its modest size representing the background of its original owner, Patrick Vincent Ryan.

Updated Significance of 14 Stanhope Road

In summary, the assessment of significance provided in the URBIS HIS is not based on sufficient historic research and analysis to support its conclusions.

Whilst the house is unlikely to reach the threshold for heritage listing as an individual item, due to the extent of modifications, it contributes to the collective significance of the Stanhope Road HCA through its part in the early residential development of Killara, being built in 1908; through its retained original Federation form and features that contribute to the variety of early house styles which are important to the character of the area; and its associations with notable local people. The house at 14 Stanhope Road contributes to the significance of the Stanhope Road Heritage Conservation Area.

13. Review of URBIS HIS

A review of the URBIS HIS provided at Appendix 21 of the EIS has been undertaken. The URBIS HIS is significantly flawed for the following primary reasons:

- The report does not follow the appropriate guidelines for assessing heritage significance or heritage impacts (*Guidelines for Preparing a Statement of Heritage Impact*, NSW Department of Planning and Environment, 2023).
- The report is not informed by an analysis of the conservation area as a whole and fails to consider the contribution of the house at 14 Stanhope Road to the collective



significance of the Stanhope Road HCA. It fails to identify or acknowledge the key characteristics that contribute to the significance and character of the HCA. This undermines statements made about the impacts of the proposal on the HCA.

- The assessment of the significance of the dwelling at 14 Stanhope Road is inaccurate and lacks detail to support its conclusions. A lack of photos, both external and internal, make an adequate assessment of the building at 14 Stanhope Street impossible. While the Urbis HIS makes note of “extensive historical and fabric analysis” (p. 54), none has been provided with this report.
- The report has not referenced critical documents such as previous and recent heritage studies which must inform any assessment of the impacts of the proposed development.
- The report fails to identify numerous heritage items and contributory properties in the vicinity of the site that will be impacted by the proposed development or consider the impacts of the proposal on those heritage items.
- The report fails to properly analyse and significantly understates the impact of the scale and massing of the development on the adjacent heritage item at 12 Stanhope Road, the other heritage items in the vicinity, and the significance and character if the Stanhope Road HCA.
- The assessment against the DCP controls has omitted an assessment against Section 19A – Subdivision and Site Consolidation, and 19F – Development in the Vicinity of Heritage Items and HCAs

The table below summarises key inaccuracies (I), omissions (O) and unfounded statements (U) in the URBIS HIS


Table 3: Review of URBIS HIS

Page	I/O/U	Urbis HIS	Comment
EXECUTIVE SUMMARY			
SITE DESCRIPTION			
5	O	Description of Stanhope Street	It is important to note the topography of Stanhope Road. It is located on the crest a ridge, running east west from the Pacific Highway to the railway line. As such, the houses are visible from the surrounding area and the views to and from the HCA and items should be considered
5	O	"The properties that neighbour the subject site along Stanhope Road are part of the Stanhope Road Conservation Area..."	No. 14 Stanhope Road is also part of the HCA



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5	O	"Numerous properties of individual significance exist within the Conservation Area along Stanhope Street" – goes on to list 4 with limited/no further detail	Within the same block on Stanhope Road as the subject site there are 9 items of significance - 5 items on the north side of the road, (2, 4, 6, 12, 18 Stanhope) and 4 on the south side of the road (3, 5, 7 and 21 Stanhope) All are within 100m. Out of the 19 properties on this section of Stanhope Road, (between the railway and the Pacific Highway), 9 are items of significance.
6	I	The images provided of the items and neighbouring properties are very poor images – generally showing front fences	
6	I	"Figure 12 rear of apartments at 6-8 Culworth Avenue, east of subject site, looking from backyard of 14A Stanhope Road	14A does not back onto the apartments on Culworth Avenue. Fig 12 is taken from a streetfront, not a backyard (red dot is 14A Stanhope Road) 
SUBJECT SITE DESCRIPTION			
7	O	"The residential dwelling [10 Stanhope Road]...constructed in 1997-98..."	The location and height of 10 Stanhope Road, on a battleaxe block behind Nos. 8 and 12 Stanhope Rd, means it cannot be seen from Stanhope Rd and as such has little to no impact on the significance of the Conservation Area.
8	I	"14 Stanhope Road...is an interwar double storey rendered dwelling..."	Historical records indicate the dwelling at 14 Stanhope Road was constructed between 1908 and 1909 (Sands Directory and Title records)
8	O	"14A Stanhope Road...has no visibility form the public realm"	The location and height of 14A Stanhope Road, on a battleaxe block behind No. 14 Stanhope Rd, means it cannot be seen Stanhope Rd and as such has little to no impact on the significance of the Conservation Area.
10 STANHOPE ROAD Lot B DP 326483			



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Page	I/O/U	Urbis HIS	Comment
15	I	"10 Stanhope Road... previously part of Lots 5 and 6...lots were first owned by Leslie Hoskins, merchant, and purchased in 1924" (Ref: Vol-Fol 3667-77)	The lots were first sold to private owners in 1897. Lots 5 and 6 were both originally sold by Marshall Warwick Jackson to Herbert Henry Rice (Lot 5 on 1897 Vol Fol 1214-12; Lot 6 on 30 March 1897 Vol Fol 1217-52)
14 STANHOPE ROAD Lot 1 DP 2249906			
15	I	"14 Stanhope Road was originally Lot 4 of the third subdivision..."	14 Stanhope Road comprises part of the original Lot 4 of the third subdivision. It has since been subdivided
15	O	"Historical aerial photographs show the subject building on the site existed by 1930"	Historical research indicates there was a house on the site by 1909 (Sands Directory, subdivision maps)
15	I	"The building was originally a single storey dwelling with main gable roof presenting to the street"	Construction dates and early site plans indicate the original building was a two storey Federation dwelling
15	I	"The architectural styling suggests an interwar period of development"	The house was constructed between 1908 and 1909, indicating a Federation period dwelling
15	I	"Between 1955 and 1965 the original parcel was subdivided..."	Lot 4 was subdivided in two lots (Lots 1 and 2 of DP 224907) in 1965 (Vol-Fol 1297-20)
19	I	"Figure 25 - Extract of auction plan for the nearby Springdale Estate c.1930"	SLNSW Map shown is c.1909
			Lot 4 Certificates of Title: Vol-Fol 1297-30 – Transfer from Marshall Warwick Jackson to Charles Danvers and Amelia Mary Danvers (1899) – Vol-Fol 1297-209 Transfer to Amelia Mary Danvers (1902) – Transfer to Patrick Vincent Ryan (1907) – Transfer to Katie Elizabeth Ryan (1925) – Transfer to Edith May Hentze (1928) – Transfer to Glenmore Holdings Pty Ltd (1964) – Vol-Fol 10019-201 and 202 (Lots 1 and 2 of DP 224907) (1965)
			Danvers and his wife also purchased Lot 2 on 9 February 1897 (Vol-Fol 1184-154); and Lot 3 on 11 February 1907 (Vol-Fol 1914-18). Danvers built 'Culworth' at 18 Stanhope Road (KLEP 1389) .



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14. Independent Heritage Impact Assessment

An assessment of the heritage impacts of the proposal has been undertaken against the relevant KLEP and KDCP controls relating to heritage.

Table 4: Assessment of the proposal against the relevant provisions of KLEP and KDCP

Relevant Clause in KLEP 2015		Comment
Clause 5.10 Heritage Conservation		
5.10 (1)	Objectives	The proposal involves the demolition of the existing dwelling houses that contributes to the heritage significance of the Stanhope Road HCA. The demolition of the house, and the scale, massing and character of the proposed replacement building will have a major detrimental impact on the significance and setting of the HCA. As such, it is contrary to the objective of Clause 5.10, as it does not conserve the heritage of Ku-ring-gai.
5.10 (2)	Requirement for consent	Consent is required and has been sought for the development on this site
5.10 (4)	Effect of proposed development on heritage significance	The impacts of the proposal on the Stanhope Road HCA and the many heritage items adjacent to and in the vicinity of the site must be considered in the assessment of this application
5.10 (5)	Heritage Assessment	The HIS provided with the application does not follow the relevant guidelines and contains many inaccuracies. It fails to identify and assess key aspects of the Stanhope Road HCA and fails to identify and assess impacts to the heritage items and contributory properties within the vicinity of the site.
5.10 (6)	Heritage Conservation Management Plans	A Conservation Management Plan is not required.
5.10 (7)	Archaeological sites	The subject site is not an identified archaeological site.
5.10 (8)	Aboriginal Places of heritage significance	The subject site is not an identified Aboriginal Place of heritage significance.

Relevant Clause in KDCP 2014	Relevant Objectives and Controls	Comment
19A.1 Subdivision and Site Consolidation for new development within an HCA	<p>Objectives:</p> <p>1 To retain the historic subdivision patterns within HCAs, that reflect the age and circumstances of the early and later subdivisions including the characteristic rhythm and built form spacing.</p> <p>2 To ensure that new development respects the established streetscape, and the historical patterns of development.</p> <p>3 To ensure new subdivisions and lot consolidations do not have an adverse impact upon the curtilage of Heritage Items, the streetscape setting of</p>	<p>The proposal is contrary to the objectives of this section, by proposing the amalgamation of 3 existing lots that reflect layers of the historic subdivision rhythm and built form spacing of the HCA.</p> <p>The new amalgamated lot is entirely different to the established streetscape and historical subdivision pattern, with resultant major adverse impact on the streetscape and identified character of the HCA and the adjacent and nearby heritage items.</p>



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Relevant Clause in KDCP 2014	Relevant Objectives and Controls	Comment
	<p>significant buildings and the identified character of the HCA as a whole</p> <p>Controls:</p> <p>1. Applications for subdivision and site consolidation within an HCA is discouraged and will only be considered if the application:</p> <p>i) will have no adverse affect the significance of the HCA;</p> <p>ii) retains the typical block width characteristics and historic subdivision pattern of the area, including rear lanes;</p> <p>iii) the setting and curtilage of Heritage Items or significant buildings in the vicinity, including important structures and landscape elements, are retained;</p> <p>iv) vistas and views to and from Heritage Items and contributory properties, especially the principal elevations of buildings, are not interrupted or obscured;</p> <p>v) the landscape quality of the streetscape is retained;</p> <p>vi) the contours and any natural features of the site have been retained and respected;</p> <p>vii) will not result in future development which will adversely affect the significance, character or appearance of the HCA.</p> <p>2 Subdivision or consolidation will not generally be permitted where the setting or curtilage of any Heritage Items and contributory properties within or adjoining the site, would be compromised.</p> <p>3 Applications for subdivision and site consolidation within an HCA will require a curtilage assessment.</p>	<p>The proposal is contrary to the specific controls of this section, in that:</p> <ul style="list-style-type: none"> • The proposed site amalgamation does not retain the typical block width characteristics and historic subdivision pattern of the area • The proposal isolates the adjacent heritage item and will have an adverse impact on its setting and visual curtilage, including views and vistas • The proposed site amalgamation will result in a future development which will adversely affect the significance, character and appearance of the HCA. • The proposed amalgamation will compromise the setting and curtilage of the heritage item and contributory properties in the vicinity of the site • No curtilage assessment has been provided with the Application
19B.1 Demolition within HCAs	<p>Objectives</p> <p>1 To ensure that sites, buildings and landscape features that contribute to the significance of an HCA are retained.</p> <p>Controls</p> <p>2 The demolition of Heritage Items and contributory properties within HCAs is not supported.</p>	<p>The proposal is contrary to the objectives of this section, as it proposes the full demolition of an existing dwelling that contributes to the significance of the Stanhope Road HCA.</p> <p>The proposal is contrary to the controls of this section, in that:</p>



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Relevant Clause in KDCP 2014	Relevant Objectives and Controls	Comment
	<p>3 Whole demolition of buildings, structures and landscape features (including significant trees) is generally not supported unless the applicant can satisfactorily demonstrate:</p> <p>i) demolition will not result in any adverse impacts on the streetscape or character of the HCA;</p> <p>ii) retention and stabilisation of the building or structure is unreasonable; iii) all alternatives to demolition have been considered with reasons provided why the alternatives are not acceptable;</p> <p>v) the replacement building is compatible with the identified significance and character of the streetscape and the HCA as a whole.</p>	<ul style="list-style-type: none"> • The proposal is for the demolition of an existing dwelling that contribute to the significance of the HCA • The proposed demolition will result in adverse impacts on the streetscape and character of the HCA through loss of contributory fabric and setting • Retention of the existing building is not unreasonable • Alternatives to demolition have not been considered • The replacement building is entirely incompatible with the identified significance and character of the HCA as a whole

19C Development within HCAs

19C1 Local Character and Streetscape	<p>Objectives</p> <p>1 To ensure that sites, buildings and landscape features that contribute to the significance of an HCA are retained.</p> <p>2 To conserve and enhance the character and significant elements of the HCA.</p> <p>3 To ensure that additions or changes to contributory properties within HCAs respect their original, built form, architectural style and character.</p> <p>4 To ensure the visual impact of new work is minimised through appropriate design, detail, proportion, scale and massing.</p> <p>5 To promote high quality new design that complements the streetscape character and heritage significance of the HCA.</p> <p>6 To ensure that new development retains the identified historic character of the HCA in which it is situated.</p> <p>Controls</p> <p>Additional Requirements for New Buildings</p> <p>4 The scale and massing of new buildings is to be integrated into the established character of the HCA and respect the scale, form and character of adjacent or nearby development. They are to incorporate design elements such</p>	<p>The proposal is contrary to the objectives of this section, as it:</p> <ul style="list-style-type: none"> • proposes the full demolition of an existing dwellings that contribute to the significance of the Stanhope Road HCA. • does not retain the character of significant elements of the HCA • does not respect the original built form, style or character • does not minimise visual impact through appropriate design, particularly scale and massing • does not complement the streetscape character and significance of the HCA, introducing a part 3-5, part 10 storey building into a low scale residential precinct • does not retain the identified historic character of the HCA <p>The proposal is contrary to the controls of this section, as</p> <ul style="list-style-type: none"> • The scale and massing of the proposed development has not been integrated into the established character of the HCA and does not respect the scale, form and character of adjacent and nearby development.
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Relevant Clause in KDCP 2014	Relevant Objectives and Controls	Comment
	<p>as the roof forms, facade and parapet heights, door, window and verandah proportions of contributory properties in the HCA, particularly neighbouring buildings from the same key development period.</p> <p>5 The design and character of any new buildings are to be informed by the:</p> <p>i) date and style of contributory properties;</p> <p>ii) scale and form of contributory properties;</p> <p>iii) street and subdivision patterns of the HCA;</p> <p>iv) setbacks of neighbouring contributory properties;</p> <p>v) materials, building techniques and details used in the HCA; and</p> <p>vi) views, vistas and skylines in the HCA.</p> <p>6 Facades of new buildings are to be modulated to break down the scale of new development.</p> <p>7 The height of new buildings is not to be higher than contributory properties.</p> <p>8 New building roofs visible from the street are to reflect the size, shape, pitch, eaves and ridge heights, and bulk of contributory properties and roofs. They are to respect the complexity and patterns of predominant roof shapes and skylines of the HCA.</p> <p>9 New buildings may be contemporary in design, however, their scale, form and detail is not to detract from the scale, form, unity, cohesion and predominant character of streetscape elements around it.</p> <p>10 Where an HCA is characterised by single-storey development, single-storey development on infill sites is preferred.</p>	<ul style="list-style-type: none"> • It does not incorporate design elements such as the roof forms, facade and parapet heights, door, window and verandah proportions of contributory properties in the HCA • The design and character of the 10 storey proposal is not informed by the date, style, scale, form, street and subdivision patterns, setbacks, materials, details of neighbouring properties, or views and vistas of the HCA. • The long, monotonous facades of the proposed development is not sufficiently modulated to break down its 10 storey scale • At 3 storeys plus covered roof terrace at the street, stepping up to 5 storeys, the proposal is significantly higher than surrounding heritage items and contributory dwellings which are generally one or two storey in scale • The proposed flat roof does not reflect the pitched roof forms that characterise the area • The new building is contemporary in design, however its scale, form and detail significantly detracts from the scale, form, cohesion and predominant character of the streetscape. • The HCA is characterised by single and two-storey development, however the proposal is up to 10 storeys
19C.2 Setbacks and Building Separation	<p>Objectives</p> <p>1 To conserve and maintain the character and significance of individual properties and streetscapes in the HCA by maintaining the established pattern of front and side boundary setbacks.</p>	<p>The proposal is contrary to the objectives of this section, as it:</p> <ul style="list-style-type: none"> • Does not maintain the established pattern of front and side setbacks • The location and siting of the proposal does not respect the established pattern of the streetscape



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	<p>3 To ensure the location and siting of new development respects the established pattern of built elements in the streetscape and the HCA.</p> <p>4 To ensure new development does not adversely impact on the immediate streetscape or significant views within the HCA.</p> <p>Controls</p> <p>1 The siting of alterations, additions and new buildings are to maintain the established streetscape pattern, including principal dwellings, garages, carports and garden structures.</p> <p>2 Where there is a uniform building setback within streets, alterations and additions and new buildings are to respect the established pattern and not be located forward of adjacent buildings. Where variations in setback exist, the larger setback will apply. Side setbacks are to be consistent with historic patterns.</p> <p>3 Where variations in setbacks exist within the immediate vicinity and the streetscape, the larger setback will apply.</p> <p>Additional Requirements for New Buildings</p> <p>4 New buildings are not to be orientated across sites contrary to the established alignment pattern.</p> <p>5 The location of new buildings is to ensure that significant views to and from places within the HCA are retained.</p>	<ul style="list-style-type: none"> • The proposal will have a very high level of adverse impact on the immediate streetscape and views within the HCA. <p>The proposal is contrary to the controls of this section, as</p> <ul style="list-style-type: none"> • The siting and setbacks of the building are such that they destroy, rather than maintain, the established streetscape pattern • The front setbacks of the proposed building does not reflect the established pattern of the street • The building is oriented contrary to the established alignment pattern • Significant views to and from places in the HCA are obstructed.
19C.3 Gardens and Landscaping	<p>Objectives</p> <p>1 To retain the garden character of Kuring-gai's HCAs which is largely due to the deep frontages and large lots that support remnant trees, early surviving gardens with established introduced trees and built garden features such as fences, walls and paving. The street tree planting and pattern of soft and hard road verges also contribute to the landscape character.</p> <p>2 To conserve, retain and enhance the significance of the garden and landscape character within individual</p>	<p>The proposal is contrary to the objectives of this section, as it:</p> <ul style="list-style-type: none"> • Does not retain the garden character of the HCA • Does not provide substantial front gardens and introduces excessive and uncharacteristic hard paved areas • Does not retain and conserve the significance of the gardens and landscape character of the site.



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	<p>properties, streetscapes and the HCA as a whole.</p> <p>3 To ensure streetscapes within the HCAs are characterised by front gardens with substantial landscaped area and minimum hard surfaces.</p> <p>4 To provide landscape screening to neighbouring properties.</p> <p>Controls</p> <p>1 The established landscape character (height of the tree canopy, early gardens, remnant trees, historic tree plantings) that contributes to the significance of the streetscape and the HCA as a whole are to be retained and conserved in any new development. The reinstatement of original planting, where known, is encouraged.</p> <p>2 Original garden features such as gates, paths, stonework, garden terracing, tiling, cement crazy paving, walling and garden edging are to be retained and conserved. 3 New paving and hard surfacing, particularly to front setbacks is to be limited.</p> <p>4 Front gardens are to avoid screening buildings from the street and:</p> <p>i) have a minimum of 70% landscaped area;</p> <p>ii) include substantial tree and shrub planting along street frontages.</p> <p>iii) front boundary hedges are to be a maximum 1.2m.</p> <p>5 Materials for new garden paving or pathways are to be appropriate to the architectural style of the HCA, such as gravel for Federation style and sandstone flagging for Inter-war styles. Plain or stencilled concrete is not acceptable.</p> <p>6 New driveways are to provide landscaping on side boundaries.</p> <p>7 New, traditionally designed gardens that enhance historic and aesthetic character of the streetscape and the HCA as a whole are encouraged.</p> <p>8 New gardens should be horticulturally and stylistically sympathetic to the period of the HCA. The use of similar</p>	<p>The proposal is contrary to the controls of this section, as</p> <ul style="list-style-type: none"> • The established landscape character that contributes to the significance of the streetscape and the HCA as a whole is not retained and conserved in the new development. • Original gardens are removed • Front gardens and setbacks contain large areas of hard paving and do not allow for substantial tree and shrub planting • The landscape design is not horticulturally or stylistically sympathetic to the period of the HCA



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	<p>materials such as sandstone, brick and gravel is encouraged.</p> <p>9 The use of a variety of plant species to avoid mono-cultural plantings along street frontages and as screen planting is encouraged.</p>	
19C.4 Access and Parking	<p>1 To ensure that modifications to provide access do not adversely affect significant built fabric of either individual buildings or the HCA as a whole.</p> <p>2 To allow for on-site car parking where possible while retaining the character of the property, the streetscape and significance of the HCA.</p> <p>3 To ensure that driveways do not have any adverse visual impact on the immediate streetscape and historic patterns in the HCA.</p> <p>4 To minimise the visual impact of new car parking by locating it at the side or rear of properties, where possible</p> <p>Controls</p> <p>4 New parking areas, garages and driveways are to be designed carefully so that they do not dominate the principal elevations or detract from the immediate streetscape and incorporate provisions for landscaping.</p> <p>5 The siting of new driveways are to be consistent with the established pattern in the immediate streetscape and the HCA as a whole.</p> <p>8 No excavation for a driveway is permitted in any front setback.</p> <p>9 Excavation for a driveway is only permitted:</p> <p>i) in the side setback, at a minimum 3m behind the front building line;</p> <p>ii) a minimum 1m from the original building foundation;</p> <p>iii) where side setback requirements in the DCP are met;</p> <p>iv) only if a side gate is provided to hide the commencement of the excavated driveway slope.</p>	<p>The proposal is contrary to the objectives of this section, as:</p> <ul style="list-style-type: none"> • The impact of the proposed basement carparking and access has a major level of adverse impact on the built fabric of the HCA and the HCA as a whole • The proposed carparking and access has major adverse visual impact on the immediate streetscape <p>The proposal is contrary to the controls of this section, as:</p> <ul style="list-style-type: none"> • The proposed parking access dominates the principal elevation of the building at street level and detracts from the immediate streetscape • The proposed driveway is not consistent with the established pattern in the immediate streetscape and the HCA as a whole. • Excavation is proposed in the front setback.
19C.5 Building Design	Materials, Colours and Details Objectives	The proposal is contrary to the objectives of this section, as:



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	<p>1 To retain significant materials and details within HCAs.</p> <p>2 To ensure that the materials and colours of new work complements the identified character of the HCA</p> <p>3 To ensure that the selection of materials and colours for new work is based on an understanding of the materials, finishes and colours predominant within the HCA.</p> <p>5 To ensure new development respects the character of, and minimises the visual impact upon, the HCA and its streetscapes.</p> <p>Controls</p> <p>Additional Requirements for New Buildings</p> <p>8 Materials used for new buildings are to be similar to, or compatible with, the original buildings in the HCA.</p> <p>9 Development applications for new buildings are to provide a material board and details of colour scheme and finishes.</p> <p>10 New buildings are to incorporate architectural language such as massing, proportions, coursing lines, materials and finishes, which are sympathetic to and complement the predominant character of the HCA.</p> <p>11 New building colour schemes are not to detract from colour schemes in the streetscape and not to be in visual contrast with the colours of the contributory properties in the HCA. Recessive colours and traditional materials are preferred</p>	<ul style="list-style-type: none"> significant materials and details of the HCA are not retained the materials and colours of the new work do not complement the identified character of the HCA. The proposal is for light coloured brick, rendered concrete, dark metallic bronze cladding, glazed balustrades, dark metallic louvres and fences, all of which are entirely uncharacteristic to the materials and colours of the HCA the selection of materials and colours for new work is not based on an understanding of the materials, finishes and colours predominant within the HCA <p>The proposal is contrary to the controls of this section, as</p> <ul style="list-style-type: none"> Materials proposed for the new buildings are not similar to, or compatible with, the original buildings in the HCA. The proposal does not incorporate architectural language such as massing, proportions, coursing lines, materials and finishes, which are sympathetic to and complement the predominant character of the HCA. The proposed colour scheme will detract from colour schemes in the streetscape is in visual contrast with the colours of the contributory properties in the HCA

19F Development within the Vicinity of Heritage Items and HCAs

19F.1 Local Character and Streetscape	<p>Objectives</p> <p>1 To consider the impact on the historic curtilage and setting of the Heritage Item or HCA and related heritage features such as views, streetscape context, historical subdivisions, garden settings, alienated trees and other landscape features.</p> <p>2 To retain the significance of Heritage Items or HCAs in their settings.</p>	<p>The proposal is contrary to the objectives of this section, in that</p> <ul style="list-style-type: none"> The proposal has not adequately considered the impact on the historic curtilage and setting of the adjacent and nearby heritage items, contributory properties and HCA, including streetscape context, views and landscape features
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Relevant Clause in KDCP 2014	Relevant Objectives and Controls	Comment
	<p>3 To ensure that the scale of new development does not dominate, detract from or compete with Heritage Items or HCAs in the vicinity.</p> <p>4 To ensure that new development respects and conserves the significance of any nearby Heritage Items or HCA and their settings.</p> <p>5 To ensure that new development does not visually dominate the adjoining or nearby Heritage Item or HCA.</p> <p>6 To ensure that the scale of new development in the vicinity of a heritage item and HCA is in harmony with the streetscape and does not dominate, detract from or compete with the Heritage Item or HCA.</p> <p>7 To protect significant views and vistas to and from the Heritage Item or HCA.</p> <p>Controls</p> <p>1 All development in the vicinity of a Heritage Item or HCA is to include a Heritage Impact Statement (HIS). The HIS is to address the effect of the proposed development on a Heritage Item or HCA and demonstrate that the proposed works will not adversely impact upon significance, including any related heritage features within the identified curtilage and setting.</p> <p>Built form</p> <p>2 Development on sites that either directly adjoin or are in the vicinity of a Heritage Item or an HCA is to have regard to:</p> <p>i) the form of the existing building or buildings including height, roofline, setbacks and building alignment;</p>	<ul style="list-style-type: none"> • The HIS has failed to identify or assess the impacts of the proposal on numerous heritage items in the near vicinity of the site, as detailed in section 5 of this report • The proposal does not retain the setting of the adjacent and nearby heritage items • the scale of the proposal, at up to 10 storeys, will dominate, detract from and compete with the single and two-storey heritage items in the vicinity, particularly 12 Stanhope Road. • The proposal does not respect or conserve the setting of the nearby Heritage Items, introducing a very significantly larger building height and mass into the historic low-scale setting of the items • The proposal will visually dominate the adjoining and nearby Heritage Items due to its scale and massing. • The scale of the proposal is not in harmony with the streetscape and will dominate, detract from and compete with the items. • significant views and vistas to and from the Heritage Items are not protected. <p>The proposal is contrary to the controls of this section, as</p> <ul style="list-style-type: none"> • The HIS has failed to identify or assess the impacts of the proposal on numerous heritage items in the near vicinity of the site, as detailed in section 5 of this report • The proposal does not have regard to the built form of the nearby heritage items • The proposal will impair views to and from the adjacent heritage item from the public domain.



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Relevant Clause in KDCP 2014	Relevant Objectives and Controls	Comment
	<p>ii) dominant architectural language such as horizontal lines and vertical segmentation;</p> <p>iii) proportions including door and window openings, bays, floor-to ceiling heights and coursing levels;</p> <p>iv) materials and colours;</p> <p>v) siting and orientation;</p> <p>vi) setting and context;</p> <p>vii) streetscape patterns</p> <p>Views</p> <p>New development in the vicinity of a Heritage Item or HCA is to demonstrate that it will not reduce or impair important views to and from the Heritage Item from the public domain.</p>	
19F.2 Building Setbacks	<p>Objectives</p> <p>1 To ensure new work in the vicinity of a Heritage Item or HCA respects and contributes to the established streetscape patterns through careful siting of new buildings.</p> <p>2 To ensure new development provides an interface of scale and bulk to preserve the amenity to the adjacent Heritage Item or building within a HCA.</p> <p>3 To ensure new medium and high density development does not visually dominate the Heritage Item or building within the HCA.</p> <p>Controls</p> <p>1 The front setback of development adjacent to a Heritage Item or buildings within an HCA is to be greater than that of the Heritage Item or building within the HCA. Where variations in setbacks exist, the larger setback will apply.</p> <p>Residential Context</p> <p>2 All medium and high density development is to have a stepped facade to any common boundary with a Heritage Item or building within the HCA. The facade is to be stepped back above an 8m height from natural ground level. Facades greater than 8m high will not be permitted adjacent to a Heritage Item or building with an HCA.</p> <p>3 In addition to the side and rear setback controls in Section A of this</p>	<p>The proposal is contrary to the objectives of this section, in that</p> <ul style="list-style-type: none"> • The proposal has not been sited with respect to the established streetscape pattern • The proposal does not provide an appropriate interface of bulk and scale in relation to the adjacent heritage item and items in the vicinity, which are predominantly single storey in scale • The proposal will visually dominate the adjacent and nearby heritage items and due to its excessive scale, bulk and massing, resulting in major adverse impacts <p>The proposal is contrary to the controls of this section, as</p> <ul style="list-style-type: none"> • The front setback of the proposal is less than the front setback of the adjacent and nearby heritage items • The façade of the development is not appropriately stepped in relation to the adjacent and nearby heritage items



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Relevant Clause in KDCP 2014	Relevant Objectives and Controls	Comment
	<p>DCP, new development adjacent to a Heritage Item or building within an HCA, is to comply with the following:</p> <p>i) adjacent developments are to have a minimum 12m building separation to the Heritage Item or building in the HCA (more if setback requirements are not met within the 12m)</p> <p>ii) adjacent development is to not exceed a facade height of 8m from existing ground level, including balustrades;</p> <p>iii) adjacent development with a building mass above 8m high from existing ground level is to be stepped back an additional 6m from the Heritage Item. Where variations in setbacks exist the larger setback will apply</p> <p>4 Any new development is to provide the following building separation to the building eaves or wall, whichever is closest, of: i) a neighbouring Heritage Item building; or ii) a neighbouring building within a Heritage Conservation Area:</p> <p>New Development Height</p> <p>1 or 2 levels Minimum 6m</p> <p>3 or more levels Min 12 m</p> <p>5 Where the building separation requirements of this Part result in a greater setback requirements than stated in Section A of this DCP, the building separation controls of this Part prevail.</p> <p>6 New development adjacent to a Heritage Item or adjacent to the HCA that has more than 2 levels or has a height more than 8m, is to step back the upper levels</p>	
19F.3 Gardens and Landscaping	<p>Objectives</p> <p>1 To ensure that new development does not impact on the landscape character and garden setting of any nearby Heritage Item or HCA.</p> <p>Controls</p> <p>Gardens, Setting and Curtilage</p> <p>1 Development in the vicinity of a Heritage Item or an HCA is to:</p>	<p>The proposal is contrary to the objectives and controls of this section, in that</p> <ul style="list-style-type: none"> the proposal will have a high level of adverse impact on the garden settings of the nearby heritage items, through loss of existing established trees and gardens that contribute to that setting. The proposed landscaping is fundamentally reduced and different to the existing landscaping on the development site, with adverse impacts



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Relevant Clause in KDCP 2014	Relevant Objectives and Controls	Comment
	<p>i) retain original or significant landscape features associated with the Heritage Item or HCA, or which contribute to its setting. In particular, garden settings in the vicinity are not to be adversely affected in terms of overshadowing or physical impacts on significant trees;</p> <p>ii) retain the established landscape character of the Heritage Item or HCA including height of the tree canopy and density of boundary landscape plantings or otherwise reinstated them in the new development;</p> <p>iii) include appropriate screen planting on side and rear boundaries</p>	<p>on the setting of the adjacent and nearby heritage items</p> <ul style="list-style-type: none"> • Appropriate screen planting has not been provided and is not able to be provided due to the excessive scale of the development in relation to the heritage items in the vicinity
19F.4 Fencing	<p>Objectives</p> <p>1 To retain early and original fences, gates and retaining walls where they survive, and where they reinforce the original landscape character of the garden and streetscape.</p> <p>2 To retain those streetscapes where front and side fencing do not form part of the original streetscape.</p> <p>3 To encourage the reinstatement of the original form of fencing and gates, where known.</p> <p>4 To encourage new front fences and gates which contribute to the streetscape character of the HCA by being consistent with the established pattern of existing original fences</p> <p>Controls</p> <p>5 Replacement of unsympathetic fences, gates and walls with new elements of appropriate height, style and materials is encouraged.</p> <p>6 Where historic records and physical evidence exists, new front fencing and gates, including vehicular access gates, are to reinstate the original.</p> <p>7 Where no evidence is available to guide reconstruction of missing fences and gates to contributory properties, new front fencing, pedestrian and vehicular access gates are to match the architectural style and period of the house.</p>	<p>The proposal is contrary to the objectives and controls of this section, in that the proposal is for the removal of characteristic fencing that contributes to the streetscape and its replacement with uncharacteristic dark metal slatted fencing that will detract from the adjacent heritage item and heritage items in the vicinity.</p>



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Relevant Clause in KDCP 2014	Relevant Objectives and Controls	Comment
	8 No metal panel fencing is to be constructed on any boundary to a heritage item. 11 Sloping driveways to basement parking is not acceptable except if the gradient down begins behind the front building line and is less visible from the street.	

15. Conclusion

This report provides an independent heritage review in response to the Environmental Impact Statement (EIS) for SSD-81890707, which is currently on public exhibition. The SSD relates to a proposed residential development with infill affordable housing, at 10, 14 and 14A Stanhope Road, Killara. The development site is partially located within the Stanhope Road HCA. The EIS includes an HIS, prepared by URBIS, at Appendix 21. This letter reviews the URBIS HIS and provides a high level independent assessment of the likely heritage impacts of the proposed development.

In preparing this advice, I have reviewed the publicly available information in relation to the proposed development, undertaken a visual inspection of the site and surrounding area, and reviewed other documents relevant to the Stanhope Road HCA to form an evidence-based opinion on the heritage impacts of the proposal.

A review of the URBIS HIS provided at Appendix 21 of the EIS has been undertaken. The URBIS HIS is fundamentally flawed for the following primary reasons:

- The report does not follow the appropriate guidelines for assessing heritage significance or heritage impacts (*Guidelines for Preparing a Statement of Heritage Impact*, NSW Department of Planning and Environment, 2023).
- The report is not informed by an analysis of the conservation area as a whole and fails to consider the contribution of the house at 14 Stanhope Road to the collective significance of the Stanhope Road HCA. It fails to identify or acknowledge the key characteristics that contribute to the significance and character of the HCA. This undermines statements made about the impacts of the proposal on the HCA.
- The assessment of the significance of the dwelling at 14 Stanhope Road is inaccurate and lacks detail to support its conclusions. A lack of photos, both external and internal, make an adequate assessment of the building at 14 Stanhope Street impossible. While the Urbis HIS makes note of “extensive historical and fabric analysis” which has not been provided with the report.



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- The report has not referenced critical documents such as previous and recent heritage studies which must inform any assessment of the impacts of the proposed development.
- The report fails to identify numerous heritage items and contributory properties in the vicinity of the site that will be impacted by the proposed development or consider the impacts of the proposal on those heritage items.
- The report fails to properly analyse and significantly understates the impact of the scale and massing of the development on the adjacent heritage item at 12 Stanhope Road, the other heritage items in the vicinity, and the significance and character of the Stanhope Road HCA.
- The assessment against the DCP controls has omitted an assessment against Section 19A – Subdivision and Site Consolidation, and 19F – Development in the Vicinity of Heritage Items and HCAs

A detailed list of the inaccuracies and omissions of the Urbis HIS is in section 13 of this report.

The assessment of the impacts of the proposal contained in this report concludes that the proposed development will have a major adverse impact on the significance and character of the Stanhope Road HCA, and the adjacent and nearby heritage items and HCA, due to:

- The loss of the dwelling at 14 Stanhope Road, which contributes to the identified and endorsed significance of the Stanhope Rd HCA. through its part in the early residential development of Killara, being built in 1908; through its retained original Federation form and features that contribute to the variety of early house styles which are important to the character of the area; and its associations with notable local people.
- The impact of the scale, bulk, design, materiality, site amalgamation, car parking arrangements and landscaping of the proposed development on the significance, setting and character of the Stanhope Road HCA.
- The impact of the proposed development on the heritage listed house at 12 Stanhope Road, which is immediately adjacent to the site, due to the scale, bulk, setbacks and design of the proposed development.
- The impact of the proposed development on the setting of the many heritage items in the near vicinity due to the scale, bulk, setbacks and design of the proposed development.

The proposal is contrary to the objectives of Clause 5.10 of the KLEP, as it does not conserve, but will have a major detrimental impact on the Stanhope Road HCA and adjacent and nearby heritage items. In addition, the proposal is contrary to all of the relevant heritage objectives and controls contained within the KDCP 2015, as detailed in Section 14 above.



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Accordingly, significant objections are raised to this proposal on heritage grounds. The consent authority is requested to consider this assessment in detail in its consideration of the proposed development.

Yours sincerely

LISA TRUEMAN

BSc(Arch) BArch(Hons) M. ICOMOS, M.PIA, Associate RAIA

Attachments

Inventory Sheet – Stanhope Road HCA

Lisa Trueman Curriculum Vitae



LISA TRUEMAN - CURRICULUM VITAE

Lisa Trueman is a heritage consultant with over 30 years' experience in built heritage conservation, including 15 years as a heritage adviser in local government. Lisa has qualifications in architecture and specialises in providing heritage advice and statutory guidance to local and state government agencies and private developers in order to facilitate outcomes based on heritage best practice.

Lisa has extensive knowledge of conservation practice and heritage legislation at both local and state level. She has worked on numerous local government heritage studies and reviews and provided advice on, and assessment of, the heritage impact of proposed works to heritage listed places for state and local government agencies.

Lisa has over 20 years' experience as an independent expert witness on heritage issues in the Land and Environment Court of NSW (LEC) and is a sought-after heritage expert for many local councils. Her LEC expertise includes facilitation of Section 34 agreements and provision of evidence.

Lisa is a current member of the NSW Heritage Council and of numerous committees and panels advising local, state and federal government agencies on heritage and planning matters.

Qualifications

Bachelor of Architecture (Honours), University of Sydney, 1990

Bachelor of Science (Architecture), University of Sydney, 1987

Committees and Panels

Member, Heritage Council of NSW, 2025-2028

Member, State Heritage Register Committee of the NSW Heritage Council, 2021–2027

Member, Sydney Harbour Federation Trust Community Advisory Committee 2022–2025

Member, Sydney North Planning Panel 2024-2028

Expert Member, Inner West Local Planning Panel, 2021–2027

Expert Member, Penrith Local Planning Panel, 2023-2027

Expert Member, Woollahra Local Planning Panel, 2024-2027

Expert Member, North Sydney Cove Local Planning Panel, 2024-2027

Expert Member, Lane Cove Local Planning Panel, 2024-2027

Expert Member, Willoughby Local Planning Panel, 2024–2027

Expert Member, Hornsby Local Planning Panel, 2024–2027

Expert Member, Hunters Hill Local Planning Panel, 2024–2027

Expert Member, Burwood Local Planning Panel, 2021–2027

Professional affiliations

Full Member, Planning Institute of Australia (Allied Professional 95352)

Associate Member, Australian Institute of Architects

Australia ICOMOS (International Council on Monuments and Sites) (Full International)



Relevant Professional background

Principal, Lisa Trueman Heritage Advisor, 2021 – present

Principal Heritage Advisor, Extent Heritage, 2022- 2023

Senior Associate, GML Heritage, 2017– 2022

Conservation Planner, North Sydney Council, 2008–2017

Heritage Planner, Manly Council, 2007–2008

Heritage Advisor, Hornsby Council, 2002–2004

Expert Witness Experience

Expert Witness (Heritage) in numerous matters in the NSW Land and Environment Court, with over 20 years experience—representing local and state government agencies including:

- | | | |
|---------------------------|-------------------------|------------------------------|
| - Heritage Council of NSW | - Strathfield Council | - Shoalhaven Council |
| - Inner West Council | - Wingecarribee Council | - City of Ryde Council |
| - North Sydney Council | - Burwood Council | - Woollahra Council |
| - Hunters Hill Council | - Blacktown Council | - City of Parramatta Council |
| - Willoughby Council | - Bayside Council | - Newcastle City Council |

Recent Judgements

Feros Hotel Group Pty Limited v Shoalhaven City Council [2025] NSWLEC 1052

Cooney v North Sydney Council [2025] NSWLEC 1022

Metro Donnelly Road Pty Ltd v Willoughby City Council [2024] NSWLEC 1736

Hrsto v Burwood Council [2024] NSWLEC 1483

Key Heritage Studies

Hornsby Heritage Development Control Plan—Client: Hornsby Shire Council

Central Coast Heritage Development Control Plan—Client: Central Coast Council

Oxford Street Properties and Centennial Flats – Heritage Significance Assessment – Client: Woollahra Council

Neutral Bay Heritage Conservation Areas Review – Client: North Sydney Council

Hornsby Shire Heritage Conservation Areas Review—Client: Hornsby Shire Council

Hornsby Shire Landscape Heritage Study—Client: Hornsby Shire Council

Manly Heritage Conservation Areas Review—Client: Northern Beaches Council

Inner West Residential Heritage Review—Client: Inner West Council

Kiama Town Centre Heritage Review—Client: Kiama Council

Central Coast Heritage Gap Analysis—Client: Central Coast Council

City of Ryde Heritage Review—Client: City of Ryde Council

Hornsby Shire Heritage Gap Analysis and Action Plan—Client: Hornsby Shire Council

Bayside Heritage Study—Client: Bayside Council



Independent Heritage Assessments

Regular independent heritage assessments and peer reviews for Burwood, Penrith, North Sydney, Woollahra and Shoalhaven Councils

Pathways Cremorne SSDA, Independent Heritage Impact Assessment — Client: NSW Department of Environment and Planning

2A Gregory Place Harris Park, Peer Review and Independent Assessment of SSDA —Client: NSW Department of Environment and Planning

MLC Building North Sydney, Independent Heritage Assessment of Development Application — Client: North Sydney Council

North Sydney Olympic Pool Independent Heritage Assessment of Development Application — Client: North Sydney Council

Cooper Street and Wentworth Street, Burwood, Heritage Peer Review—Client: NSW Department of Environment and Planning

Parramatta CBD Interface Areas – Independent Review —Client: NSW Department of Environment and Planning

Manly Village Public School, Forest High School, Mona Vale Public School, Dee Why Public School, Darcy Road Public School Masterplans– Client: Schools Infrastructure NSW

Item Details

Name
Stanhope Road Conservation Area

SHR/LEP/S170
LEP #C25

Address
, KILLARA NSW 2071

Local Govt Area
Ku-Ring-Gai

Local Aboriginal Land Council
Unknown

Item Type	Group/Collection	Category
Conservation Area	Landscape - Cultural	Streetscape

All Addresses

Addresses								
Records Retrieved: 1								
Street No	Street Name	Suburb/Town/Postcode	Local Govt. Area	LALC	Parish	County	Electorate	Address Type
	,	KILLARA/NSW/2071	Ku-Ring-Gai	Unknown				Primary Address

Boundary Description
Refer to the Heritage Map on the Local Environmental Plan for the listing curtilage.

Significance

Statement Of Significance

Historically, the area represents the fine residential development of Killara during the nineteenth and twentieth centuries. The area provides evidence of the 1821 land grant to Henry Oliver, the 1821 land grant to Daniel McNally, and the 1839 land grant to Jane Bradley. The are also illustrates the subsequent subdivision of these grants by Alfred Hordern, Marshall Warwick Johnson and the New South Wales Realty Company in the at the end of the nineteenth century and in the early years of the twentieth century. This subdivision demonstrates the development resulting from the construction of the North Shore rail line in the 1880s. The area retains evidence of its early layout and subdivision with its predominant component of significant buildings and mature gardens and street planting.

The area is of aesthetic significance for its high quality intact residential buildings, predominantly from the Federation and inter-war periods. Many of these were designed by prominent architects and represent the diversity and range of styles within each period. Their heritage values are enhanced by their garden settings and vegetation throughout the area, including strands of remnant eucalypt and avenue plantings.

The area is of local heritage significance in terms of its historical and aesthetic value. This satisfies two of the Heritage Council criteria of local heritage significance for local listing.

Criteria a)
Historical Significance

Historically, the area represents the fine residential development of Killara during the nineteenth and twentieth centuries. The area provides evidence of the 1821 land grant to Henry Oliver, the 1821 land grant to Daniel McNally, and the 1839 land grant to Jane Bradley. The area also illustrates the subsequent subdivision of these grants by Alfred Hordern, Marshall Warwick Johnson and the New South Wales Realty Company in the at the end of the nineteenth century and in the early years of the twentieth century. This subdivision demonstrates the development resulting from the construction of the North Shore rail line in the 1880s. The area retains evidence of its early layout and subdivision with its predominant component of significant buildings and mature gardens and street planting.

Meets this criterion at a local level.

Criteria b)

Historical Association Significance

Further investigation is required to establish whether this criterion is met.

Criteria c)

Aesthetic/Technical Significance

The area is of aesthetic significance for its high quality intact residential buildings, predominantly from the Federation and inter-war periods. Many of these were designed by prominent architects and represent the diversity and range of styles within each period. Their heritage values are enhanced by their garden settings and vegetation throughout the area, including strands of remnant eucalypt and avenue plantings.

Meets this criterion at a local level.

Criteria d)

Social/Cultural Significance

Further investigation is required to establish whether this criterion is met.

Criteria e)

Research Potential

Further investigation is required to establish whether this criterion is met.

Criteria f)

Rarity

Further investigation is required to establish whether this criterion is met.

Criteria g)

Representative

Further investigation is required to establish whether this criterion is met.

Integrity/Intactness

High level of integrity of the building stock.

Owners

Records Retrieved: 0

Organisation	Stakeholder Category	Date Ownership Updated
No Results Found		

Description

Designer

Builder/Maker

Physical Description

Updated 02/27/2024

The Stanhope Road Conservation Area lies between the Pacific Highway and North Shore railway line in Killara and extends from the northern side of Stanhope Road to the southern side of Treatts Road. The area excludes the Pacific Highway and Nos. 1-17 (southern side) and 2a-14 (northern side) Killara Avenue. The street pattern is set out on an east-west axis, generated by the alignment of the North Shore rail line. Most of the area is flat to mildly undulating.

The area comprises single and two storey residences, with varied architectural styles. There is a high consistency of intact buildings within the area. The predominant architectural style is Federation, and this varies from Arts and Crafts to Queen Anne and bungalow. There are also some significant inter-war Californian bungalows, and some examples of post-war Amercian Colonial style homes.

Setbacks are generous and in many instances the side boundaries provide areas with landscaped gardens. Private gardens are consistently extensive and support many significant feature trees. Conifers, silky oaks and magnolias are particular features in private blocks, providing good vertical scale in gardens and hiding the rooflines of many of the more dominant houses in the area. Houses are often screened from street view by having front setbacks with well-established trees and medium to high front boundary fencing. Front fence are often styles in relation to the architectural treatment of the house.

Car accommodation is typically provided at the side or beyond the rear of the building.

The overall visual amenity of the area is high, based on the large body of vegetation that provides buffering, height and texture. Streets range between two and three lanes wide and have hard edge kerbs and grasses verges. The mature street tree planting provides bold and uniform avenues whilst allowing visual accessibility to the historic homes and substantial private gardens that border each streetscape., Most streets contain the same quantities and species of trees throughout. Footpaths are present; however they are not consistently allocated to provide a full network.

Detracting elements within the area include enclosed verandahs, rendered and painted face brick work, and uncharacteristic colour schemes.

Physical Condition

Updated

Modifications And Dates

Further Comments

These inventories are not comprehensive and should be regarded as a summary and general guide only. Council staff progressively update these inventories as further information becomes available. An inventory sheet with little information may indicate that the place was listed before inventories became common or there has been no building work or updates to the online information recently. It does not mean that the listed place is not significant. Further research is always recommended as part of preparation of development proposals for heritage items. This is necessary for preparing a heritage impact statement and conservation management plan, so that the significance of a listed place can be fully assessed prior to submitting development applications.

A heritage item listing generally covers the whole property including buildings, interiors and grounds. While not all listed features will be significant and warrant conservation, the full listing ensures the significance of features and heritage impacts on the whole place are assessed through the development application process before major changes proceed.

Current Use

Residential/civic

Former Use

Residential/civic

Listings

Listings

Records Retrieved: 1					
Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazzette Number	Gazzette Page
Local Environmental Plan	Ku-ring-gai Local Environmental Plan 2015	C25			

Procedures/Exemptions

Records Retrieved: 0					
Section of Act	Description	Title	Comments	Action Date	Outcome
No Results Found					

History

Historical Notes or Provenance

Updated1/22/2024 2:14:45 PM

Early development of the locality:

For thousands of years before European settlement, the Ku-ring-gai area was home to the Darramurragal people and other First Nations clans, the traditional custodians of land within the Ku-ring-gai Council boundaries. Due to the impact of colonisation on the Indigenous population and lack of records, the exact clan area boundaries in this region are not known. (Aboriginal Heritage Office, Aboriginal Heritage and History within the Ku-ring-gai local Government Area, 2015)

The area is sited almost entirely within the western portion of Henry Oliver's 45-acre land grant of 1821. Oliver's grant extended from Lane Cove Road (Pacific Highway) across the eastern side of the railway line to Nelson Road. The grant was promised to Oliver in 1813 and issued on 5 April 1821. In 1832 when Oliver died intestate, his son William inherited his father's property. William Oliver sold 25 acres of land (the northern strip of land running along Stanhope Road) to John Johnson for £225 in 1838. Johnston named this property "Maidendale" (Book 0 No. 100). That same year his son John Johnson junior was given the five acres adjoining his father's land, by his aunt and uncle Mary and William Oliver. In 1876 John Johnson transferred Maidendale to his son William on payment of the mortgage (Primary Application 11098). When William died in 1885 aged 43, the land was transferred to his widow, Mary Ann Johnson.

Hordern's Killara Estate:

In 1887, John Johnson jnr sold 2 acres 24 perches of his land to Alfred James Hordern (Certificate of Title Vol. 944 Fol. 25). In 1921 this land formed the subdivision known as "Hordern's Killara Estate", containing 11 lots located along the southern side of Springdale Road (now Stanhope Road)

Killara Park Estate:

In 1896, Mary Ann Johnson sold five acres of land to Charles Potter, located on the northern side of Treatts Road between the Pacific Highway and the railway line. The land in between Hordern and Potter's land was retained by Johnson.

Springdale Estate:

Two small sections of the conservation area lay outside Henry Oliver's grant. To the north, a small section of the area is located on the northern side of Stanhope Road, within Jane Bradley's 1839 160-acre land grant "Springdale". The large block was granted to the late Dr J Dunmore Lang and James Bradley, in trust for Mrs McGillivray and her husband, for life. After the end of her marriage, Jane McGillivray moved with her children to Killara in 1856, running a small girls' school close to present day Marian Street. She bequeathed the land in 1861 in portions to her the descendants of her six children. Following the construction of railway through the land in the mid-1890s, councillor of the Killara Progress Association and real estate agent James George Edwards had subdivided part of the 160-acre McGillivray crown grant into large residential blocks ready for sale. Edwards was one of the driving forces behind the construction of the North Shore rail line and was eager to see the expansion of residential development of the area. In 1896 Marshall Warwick Jackson of North Sydney bought 33 acres, bounded by Lane Cove Road, Marian Street, the railway line and McGillivray Road (later renamed Springdale Road and now Stanhope Road). Jackson proceeded to subdivide the land to create the "Springdale Estate" DP 3262, including eight lots along the northern side of Stanhope Road.

The lots were sold between 1897 and 1900, followed by the construction of a number of substantial Federation and inter-war residences. Each of the lots, originally very deep, have been since been subdivided to house a second dwelling at the rear of the block.

Heart of Lindfield Estate:

The second section within the area which was not part of the Henry Oliver land grant is located on the southern side of Treatts Road which lies within the McNally land grant (Nos. 3,5,7,9 & 11 Treatts Road).

Daniel McNally was granted 30 acres of land on 5 April 1821. McNally, a free settler, had applied for 30 acres of land in 1814, and was granted Portion 427 by Governor Lachlan Macquarie (Grant Register Serial 12 Page 155). The grant was recommended by Mayor Cameron (Returns of Free Settlers to Receive Land grants 1811-1855 p. 368). It was a condition of the grant that McNally cultivate 10 acres of the land, and that the government retained the right to construct a public road through the land (Index to Registers of Land Grants and Leases). The construction of the North Shore railway line, which opened in 1890, cut off the western portion of the grant.

In 1892, Thomas Curran consolidated the land into an estate of 45 acres. The land was bordered by Lane Cove Road (now Pacific Highway) to the west, Treatts Road to the north, Woodside Avenue to the south and Nelson Road to the east. Thomas Curran was a politician and merchant. Curran immigrated to Australia where he served on the New South Wales police force. Afterwards he became a publican and subsequently a wine and spirit merchant. He was an Irish nationalist politician from County Donegal who served as an anti-Pamellite Member of Parliament in the United Kingdom House of Commons. He was MP for the Southern division of Sligo 1892-1900, after which date, he returned to Sydney and resume his business as a wine and spirit merchant. Shortly before his death he returned to Ireland where he died in 1913.

In 1910 Power of attorney for the land was granted to the NSW Realty Co. Limited who subdivided the entire land parcel to create the Heart of Lindfield Estate of 1911. The 160 lots were subject to a building covenant, requiring that the house built on the land would have a value of not less than £500, and they type of structure to be of brick and tile. When initially marketed in 1911, the closeness of the railway station, its picturesque surroundings, high-class character, and being 322 feet above sea level were seen as an advantage for middle class families. The five lots within the area were sold between 1915 and 1922.

Historic Themes

Records Retrieved: 0

National Theme	State Theme	Local Theme
No Results Found		

Recommended Management

Management Summary

- Retain and conserve historic buildings and settings that contribute to the conservation area.
- Conserve original or significant early features that contribute to the conservation area.
- Limit alterations to historic features to maintenance and repair.
- Design additions to respect the form and style, without visually dominating, historic buildings in the conservation area.
- Before lodging applications for works, contact Council’s duty planner for pre-application advice on the most efficient process, information requirements and the planned works.
- Prepare a heritage impact statement for development applications.
- Refer to the heritage provisions in Ku-ring-gai Council’s Development Control Plan for more detailed development guidelines within a conservation area.

Management

Records Retrieved: 0

Management Category	Management Name	Date Updated
No Results Found		

Report/Study

Heritage Studies

Records Retrieved: 0

Report/Study Name	Report/Study Code	Report/Study Type	Report/Study Year	Organisation	Author
No Results Found					

Reference & Internet Links

References

Records Retrieved: 10

Type	Author	Year	Title	Link
Written	Paul Davies Pty Ltd	2008	Ku-ring-gai Town Centres Heritage Conservation Areas Review	
Written	Godden Mackay Logan	2005	Ku-ring-gai Urban Conservation Area Study - Stage 4	
Written	Godden Mackay Logan	2005	Ku-ring-gai Urban Conservation Area Study - Stage 3	
Written	Godden Mackay Logan	2002	Ku-ring-gai Urban Conservation Area Study - Stage 2 and 2(a)	
Written	Godden Mackay Logan Keys Young	2000	Ku-ring-gai Heritage and Neighbourhood Character Study Research	
Written	M.A. Schell & Associates	1999	Street by Street Assessment of Visual Character of Ku-Ring-Gai	
Written	Robertson and Hindmarsh Pty Ltd Architects	1996	Housing in NSW between the wars: a study of housing and housing estates constructed and developed in NSW between World War 1 and World War 11, Volume 3	
Written	Moore R., Pike, P., Proudfoot, H. and Tropman, L.	1987	Municipality of Ku-ring-gai Heritage Study	
Map	Sydney Water	1920	Water Board Maps	
Map	Ku-ring-gai Council	1890	Subdivision Maps	

Data Source

The information for this entry comes from the following source:

Data Source	Record Owner	Heritage Item ID
Local Government	Ku-ring-gai Council	1882724

Every effort has been made to ensure that information contained in the State Heritage Inventory is correct. If you find any errors or omissions please send your comments to kmc@kmc.nsw.gov.au

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Mr Jeff Bresnahan
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Sunday, 1 June 2025

**RE: TOD based DA for Nos 10, 14 & 14A Stanhope Road, Killara, NSW
Peer Review of the Statement of Heritage Impacts &
Heritage Related Objections Arising.**

The following report provides a Peer Review of the Project's 'Statement of Heritage Impacts'. It has been prepared at the request of the Stanhope Road Residents Association.

Colin Israel - Heritage Advice previously provided a Heritage Impact Statement for redevelopment of a nearby property and is aware of the heritage context for *The Site* of this Transport Oriented Development DA. (TOD-DA)

PURPOSE OF THIS PEER REVIEW

This Peer Review raises heritage related objections to the proposed TOD DA.

It examines the potential for heritage impacts to:

- Heritage Items adjoining, adjacent and "In the Vicinity"
- The Stanhope Road Conservation Area C25 values.
- Streetscape Values of Stanhope Road.

It considers:

- Sufficiency of arguments for demolition of existing contributory houses within the development of *The Site*.
- The extent to which the TOD-DA satisfies the heritage controls within Ku-Ring-Gai Council's DCP Part 19 - 25 March 2024
...AND
- Whether the proposed development should reflect findings of a previous planning study of the area by Ku-Ring-Gai Council – "Interface Planning Study - Part 1: Impact Assessment - February 2011" (Specifically Killara Precincts 11, 12 & 13.

LIMITATIONS

To the extent that the TOD-DA exhibition time permits, we have analysed the Proposal and URBIS' Heritage Impact Statement 24-04-2025 against Ku-Ring-Gai Council's DCP Part 19 - 2024. (The *TOD-HIS*)

These issues are explored in the body of this Peer Review Report but time has not permitted an exhaustive correlation of the many non-compliances given the overlapping aspects of the controls.

Conservation Management Plans
Heritage Impact Statements
Heritage Item Assessment
Conservation Area Assessment
Heritage Listings
D.A. Design Advice
Pre-Auction Inspection

Heritage Advisor Service
LEP & DCP guidelines
Conditions of Consent
Council DA Assessment
Archival Drawings
Photo Recording
Heritage Interpretation
Maintenance Schedules

Advocacy & Mediation
Land & Environment Court
Expert Witness Reports

THE HERITAGE CONTEXT

The Heritage context should be regarded as complex in terms of the interlocking heritage values. *The Site* is a proposed amalgamation of Nos 14, 14A & 10. *The Site* is interlaced with adjoining properties of varying heritage status as listed below:

- *The Site* is located partly within the Stanhope Road Conservation Area (C 25) as it incorporates No 14.
- *The Site* is otherwise “in the vicinity” of C25 as it adjoins Nos 8, 10 & 12 Stanhope Road.
- *The Site* adjoins Heritage Item I 388 at 12 Stanhope Road.
- It is also “in the vicinity” of Heritage Items I 382, 384 & 386 at Nos 2, 4 & 6 Stanhope Road with likely impacts by virtue of its height, bulk and scale.
- Within Stanhope Road, the scope of the project has potential impacts on streetscape values and on the setting of Items 383; 385 & 387 situated on the southern side of Stanhope Road at Nos 3, 5 & 7 respectively.

The existing houses at Nos 10, 14 & 14A were assessed in the HIS as having no heritage significance by virtue of substantial later additions to the rear or by virtue of being of recent origin. This ignores their actual contributions to the heritage context as sympathetic buildings and is also examined in this Peer Review.

KEY FINDINGS

The findings of this Peer Review are that the *TOD-HIS* does not sufficiently analyse the potential for impacts of the proposal on heritage values within the Stanhope Road Conservation Area.

It brushes aside pertinent controls contained in the KRG DCP Part 19 relating to heritage, apparently on an assumption that Transport Oriented Development confers a carte blanche to dismissal of heritage concerns relating to conservation areas generally; to the curtilage & setting of heritage items; to Heritage Items ‘in the vicinity’; to views to and from Heritage Items and to their setting and to the setting of the Stanhope Road Conservation Area and Streetscape values.

While this is disrespectful to the high regard in which these values are held by the Local Community it is particularly irksome to property owners more directly affected.

This is particularly so because owners of Items or properties in or adjoining C25 have generally shouldered the responsibilities, costs and disadvantages associate with heritage conservation of their properties with good grace.

While it is generally held that owners of heritage properties have no specific rights to compensation for these costs and disadvantages, it is understood that one of the few advantages of heritage listing is that it entails some protection against the excesses of overdevelopment around these properties via application of Ku-Ring-Gai’s LEP & DCP controls.

To find that these controls are ignored by a proponent of development is an affront to conscientious owners of heritage properties.

It is considered neglectful for the proponents of this development to have avoided all questions of mitigation of the heritage impacts by modifications at the design stages simply through lack of analysis against the KRG DCP Part 19 controls.

This is not to say that competing claims for a share of the benefits of living in or close to a heritage precinct should not be facilitated. The pressing need throughout Sydney and NSW for housing calls for an urgent response. But to neglect the carefully studied heritage controls in meeting a portion of those needs in Ku-Ring-Gai is to ignore the opportunity for new housing to be of high amenity as well as close to the Rail Transport Corridor.

Indeed the building of the North Shore Rail Line was historically a generator of suburban development of high aesthetic values in these suburbs. Well-mannered unobtrusive development may in time contribute an additional layer of heritage values in the evolution of such areas.

Summary Findings & Recommendation

Given the extent of non-compliances with KRG-DCP 19 Heritage Controls, this Peer Review Report finds that the proponents are remiss in failing to analyse and fully address the Heritage Controls.

In no way can the Mass, Bulk and Scale of the proposed TOD-DA Development be reconciled with the mixed and interlocking heritage values of its immediate context.

It is disappointing that the lack of thorough analysis of Heritage Values on and around The Site has meant that measures that may have mitigated impact have not been explored and incorporated.

Any further consideration of development of The Site would need to reassess the Heritage Impacts thoroughly before reframing the proposal.

This would likely include substantial reductions in height, bulk, scale and a design more sympathetic in character which responds to the interrelated Heritage Values of the Items, the Stanhope Conservation Area and Stanhope Road Streetscape.

Based on this Peer Review the TOC-DA proposal in its current form has extensive detrimental impact to heritage values and is not in the Public Interest.

Yours truly,



COLIN ISRAEL,

Principal Heritage Consultant – Heritage Advice

Date: 1 June 2025

ATTACHMENT 1 - THE 2011 TRANSITIONAL ZONE

Peer Review of Statement of Heritage Impact

Transport Oriented Development DA

Nos 10; 14 & 14A Stanhope Road

Killara NSW 2071

1.1 Statement of heritage impact for:

[Name of heritage item, item within a conservation area or site in the vicinity of a heritage item.]

The Site at Nos 10, 14 & 14A Stanhope Road, Killara is not listed as a heritage item. It is a site proposed to be consolidated from two battle-axe blocks and another having frontage to Stanhope Road. No 14 is situated within Stanhope Road Conservation Area (C 25A). No 10's driveway is within the C 25 boundary.

The Site adjoins the heritage item at No 12 on two sides and is therefore regarded as being "in the vicinity" of both this Item and C 25 for the purposes of this Peer Review.

The Site is also "in the vicinity" of heritage items as identified below.

1.2 This statement forms part of the statement of environmental effects for:

[A brief description of proposal.]

Multi Dwelling High Density development under Transport Oriented Development provisions of the SEPP.

1.3 Reference:

[Reference number/s for the heritage item and/or conservation area (name the area), taken from LEP or REP schedule, or heritage study inventory.]

The Site is situated to the eastern side and rear of No 12 which is listed as Heritage Item 388 on Schedule 5 of the Ku-Ring-Gai LEP 2015.

It is "in the vicinity" of adjacent items at Nos 2 & 6 Stanhope Road.

Suburb	Item name	Address	Property description	Significance	Item no
Killara	Dwelling house	2 Stanhope Road	Lots A and B, DP 339143	Local	I382
Killara	Dwelling house	4 Stanhope Road	Lot A, DP 334780	Local	I384
Killara	Dwelling house	6 Stanhope Road	Lot B, DP 336488	Local	I386

These properties on the south side of Stanhope Road are considered to be "in the vicinity" in terms of streetscape.

Killara	Dwelling house	3 Stanhope Road	Lot 1, DP 923933	Local	I383
Killara	"Rydal Mount", dwelling house	5 Stanhope Road	Lot 1, DP 302127	Local	I385
Killara	Dwelling house	7 Stanhope Road	Lot 2, DP 302127	Local	I387

1.4 Prepared For:

[Name of client or owner, where manager or owner]

For Stanhope Road Residents Association

1.5 Prepared by:



Colin Israel

B.Sc(Arch), B.Arch, UNSW; M. Herit. Cons. USYD

Principal Heritage Consultant

HERITAGE ADVICE

June 1st 2025

2 KRG-DCP PART 19 HERITAGE – INTRODUCTION -EXCERPT

The heritage controls in this Part of the Ku-ring-gai DCP aim to:

- i) retain, conserve and enhance the Heritage Items, HCAs and their associated settings;*
- ii) ensure the heritage significance, streetscape and landscape character of HCAs are maintained;*
- iii) ensure alterations and additions to Heritage Items and within HCAs respect those buildings and do not compromise the significance and character of the individual Heritage Items or the HCAs;*
- iv) ensure new development in the vicinity of Heritage Items and HCAs respects the heritage context and is sympathetic in terms of form, scale, character, bulk, orientation, setback, colours and textures and does not mimic or adversely affect the significance of Heritage Items or HCAs and their settings.*

Where there is inconsistency between the controls in Part 19 and controls in other parts of this DCP, the controls in Part 19 prevail

Applicants are advised to refer to:

- i) Council's Heritage Inventory Sheets for Heritage Items and HCAs*

What is a Contributory Property?

For the purpose of this DCP, Contributory Properties are buildings and sites within a HCA which are deemed to exhibit one or more of the following characteristics:

- ii) ...buildings and sites which are altered from their original form but are recognizable ...*
- iii) buildings and sites with new layers/additions sensitive to the style, form, bulk, scale and materials of the original building*

Diverges from the intent and objectives of Part 19 in several aspects.

Consequently the HIS fails to recognize and respect the existing heritage values of The Site or its importance as part of the heritage context of the adjoining Items; Items in the vicinity or of the Stanhope Heritage Conservation Area C25 or of Stanhope Road's streetscape. This applies particularly to the following controls within Part 19:

19A Subdivision and Site Consolidation

19A.1 Subdivision and Site

Consolidation for New Development within an HCA

19A.2 Subdivision and Site Consolidation of a Heritage Item

19B Demolition

19B.1 Demolition within HCAs

19B.2 Demolition related to a Heritage Item

19C Development within HCAs: Alterations and Additions and New Buildings

19C.1 Local Character and Streetscape

19C.2 Setbacks and Building Separation

19C.5 Building Design

3 KRG-DCP PART 19 HERITAGE – ISSUES

3.1 19A.1 Subdivision & Site Consolidation for New Development Within HCA

The TOD-DA clearly involves a consolidation of three separate parcels. These have previously been subdivided in battle-axe configurations. As such the DCP controls require assessment against several controls. These have been omitted from any consideration within the TOC-HIS.

The most relevant are listed below with some initial observations.

Controls relating to Site Consolidation to be addressed.

From KRG DCP Part 19 Page 19-6

1 *Applications for subdivision and site consolidation within an HCA is discouraged and will only be considered if the application:*

1.i) *will have no adverse affect the significance of the HCA;*

It is difficult to envision how the proposed development could be said to have “no adverse affect on the conservation area”.

1.iii) *the setting and curtilage of Heritage Items or significant buildings in the vicinity, including important structures and landscape elements, are retained;*

The close proximity of the Item at No 12 requires careful assessment of potential impacts due to mass and scale of the proposed Building A. This is discussed in relation to other controls below but the initial observation would be that development of this scale would have profound impacts on the HCA. The disparity is of several orders of magnitude greater than a simple redevelopment of a single property, say demolition and replacement of the house at No 14.

1.iv) *vistas and views to and from Heritage Items and contributory properties, especially the principal elevations of buildings, are not interrupted or obscured;*

The TOD-DA makes no assessment against this control. Views to and from a Heritage Item are part of the extended visual curtilage of the Item. In the case of development of the scale envisaged comprising up to eight levels set to the North of the Item at No 12, all views from the rear of the house to the North would be cancelled by an almost continuous expanse of new buildings.

That many of the apartments would also be looking directly towards the Item and to the private open space of its rear garden represents an extreme intrusion, destructive of privacy. As well a view analysis from within the streetscape of Stanhope Road looking north at No 12 would show the background of large scale buildings virtually blocking the present open skyline views presently evident. The impact is greater for having development to the east of Building A dominating the immediate context of No 12 and cancelling any views to the east from this Item.

Such disparity in the scale of the proposal likely reduce solar access for the Item as well.

1.vii) *Adverse impacts to significance, character or appearance of HCA*

The plans suggest such impacts would result to the wider setting of the Conservation Area, particularly given the detailed topography of the area. The extent would require detailed view analysis as part of any amended or new proposal.

3.2 Topography and Potential Impacts

Conservation Area C25 relates closely to the surrounding topography with the Stanhope Road ridge branching off east of the Pacific Highway and separated from the sub ridge near Lorne Avenue by the intervening valley below Marian Street.

The Site is situated in the sensitive 'Transition Zone' identified in KRG Studies in 2011. Immediately north of *The Site* is a High Density 4 storey residential development fronting Marian Street. The TOD-DA proposes even higher density as such it reflects abandonment of the 'transition zone' in the 2011 planning study previously mentioned.

Refer Figure 28 Below

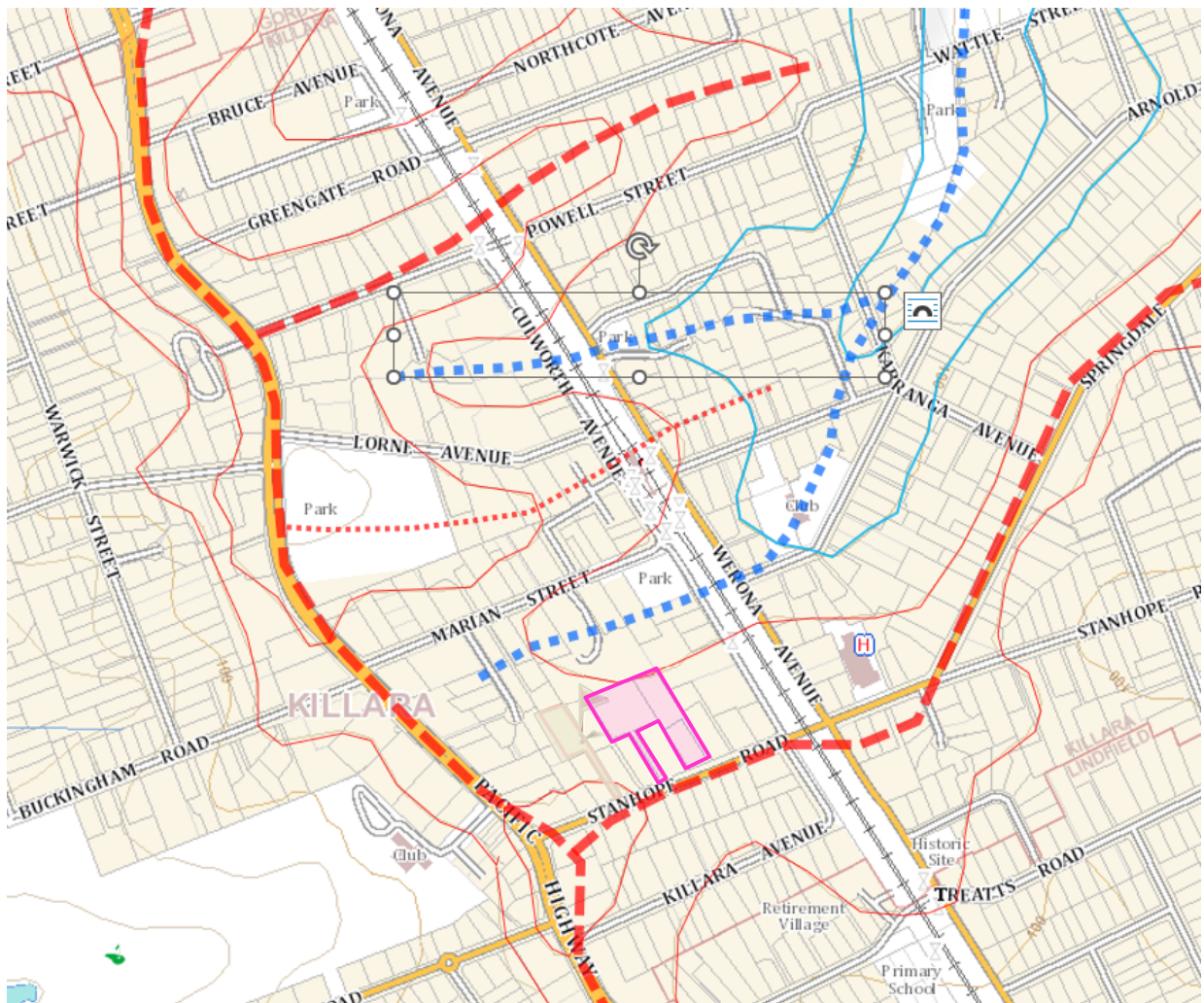


Figure 1: Overlay to local topographical map showing Red fingers representing the ridgelines and Blue representing the watercourses. These are the principal land features of this local topography. The Site (Magenta Outline) sits below the Items on Stanhope Road and The Site directly faces the south elevation of the High Density Development on Marian Street.

3.3 Controls relating to Site Consolidation to be addressed (Cont.)

Further consolidation controls relate to impacts arising from development that may affect the setting & curtilage of a conservation area's contributory properties or Items.

2. Subdivision or consolidation will not generally be permitted where the setting or curtilage of any Heritage Items and contributory properties within or adjoining the site, would be compromised

Figures 2, 3 & 4 show some of the visual impacts to the streetscape, conservation area and Items in Stanhope Road. These amount to virtual isolation of a segment of CA25 from the wider conservation area and its setting. Both views inwards and outwards would be forever compromised.

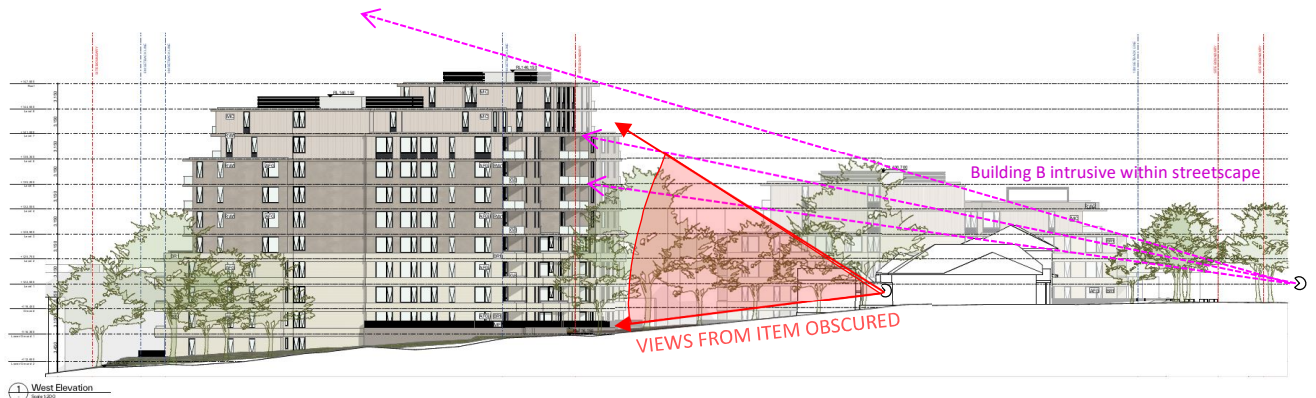


Figure 2: View Lines showing intrusion of Building B in the setting of Item at No 12.

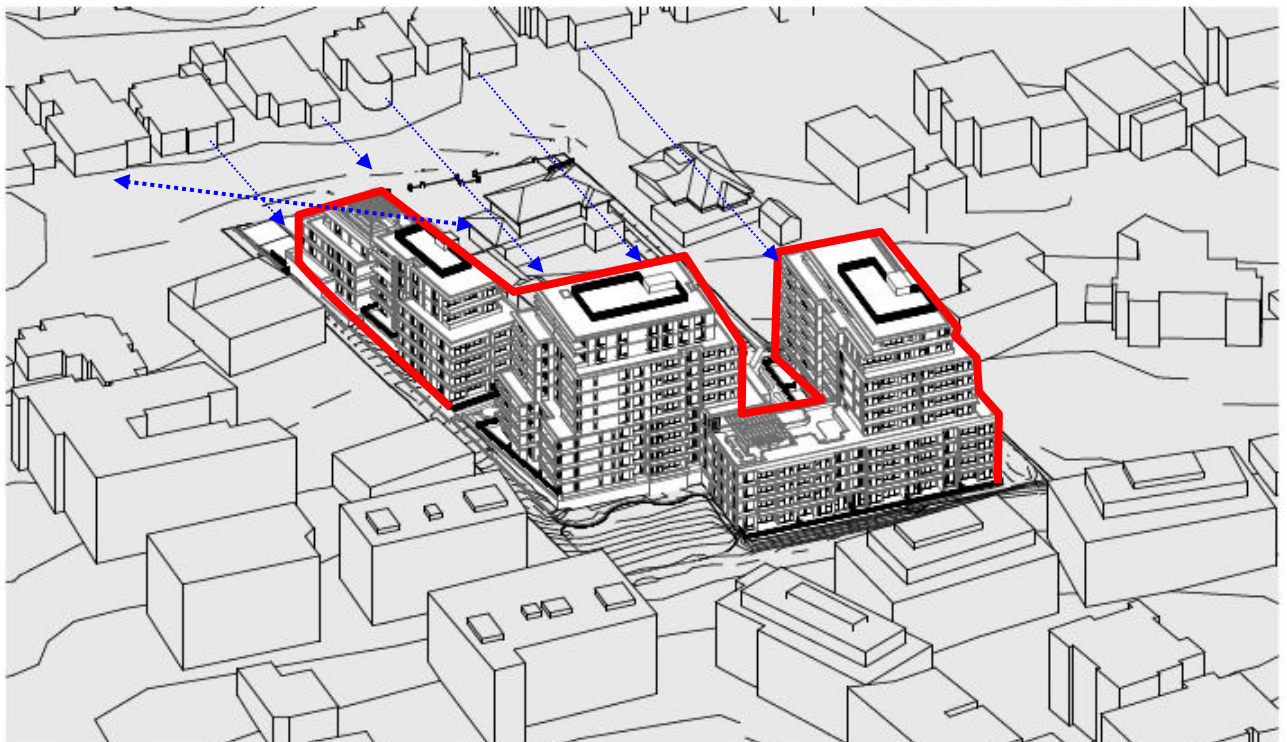


Figure 3: Buildings form a visual barrier (RED LINE) isolating a large section of the Conservation Area and Items from the visual context including loss of views to and from several Items including Nos 2,4,6 and Nos 3,5,7 and the adjoining No 12.

The extent of impact on the setting is likely to alter the present outlook and skyline background given the placement of such large building volumes immediately to the north of the Conservation Area. There are almost certainly associated impacts to solar access, privacy and amenity generally.

The following 'sketch' gives some idea of the visual impacts and is an indication that more detailed 3D survey work needs to be to analyse and quantify those impacts.

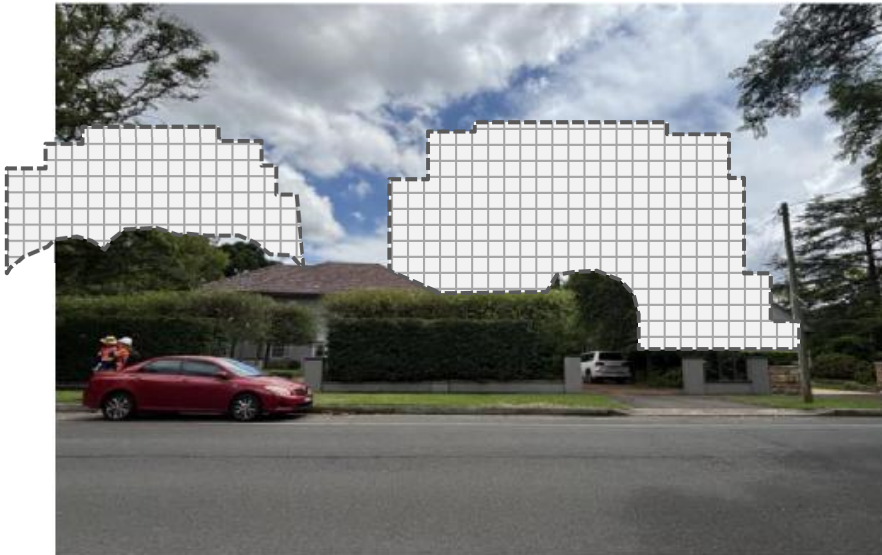


Figure 4: Indicative 'sketch' showing impact of Building B on skyline behind Item at No 12, as seen from Stanhope Road.

Figure 4 shows No 12 from Stanhope Road with an overlay indicating the level of visual intrusion of the proposed Building B in views to the north of the Item at No 12. The height of the proposed building is an imposition on the setting of the Item and intrudes into the streetscape setting. It impacts the skyline and isolates the Conservation Area from the extended view lines to the remnant forest elements interspersed through the valley to the north.

3. Applications for subdivision and site consolidation within an HCA will require a curtilage assessment.

A detailed curtilage assessment including Views Analysis should be required in any addition or further submissions. It would be preferable if this were based on verifiable survey data. In this instance a digital 'cloud survey' that provides a 3D model of the context would be warranted, to allow testing of view impacts during assessment.

3.4 19A.2 Subdivision & Site Consolidation of a Heritage Item

Further controls make reference to Isolation of Heritage Item within Streetscape. While not a direct result of subdivision of a heritage item, the envelopment of the Item at No 12 by surrounding TOC development is identical to that shown in Figure 19A.2-1 in creating an "isolated site" from No 12.

As noted in Figure 3 above, the development is of such scope that a segment of the Conservation Area and several of its Items would also be effectively isolated from the body of C25.

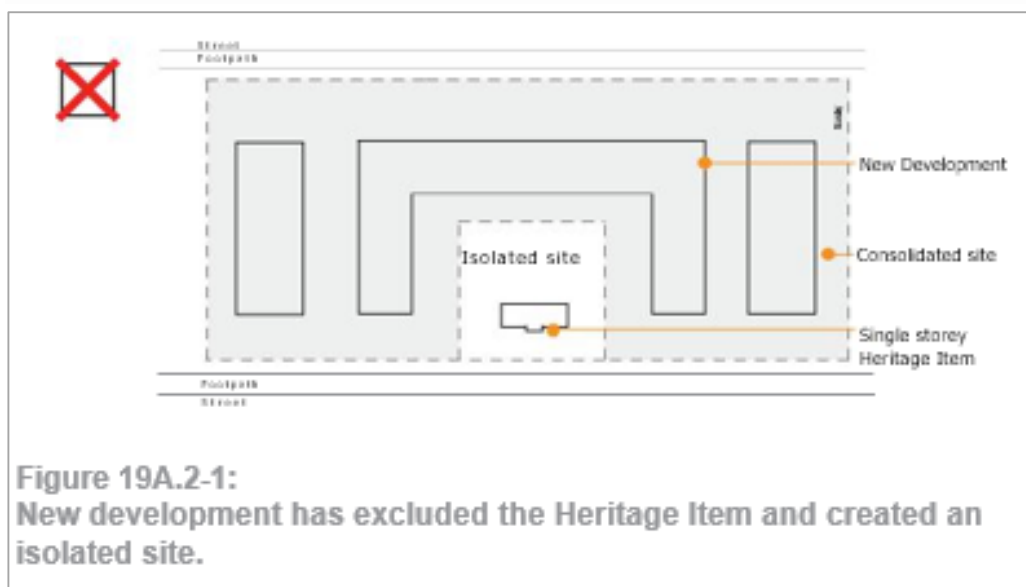


Figure 5: Diagram 'Figure 19A.2-1' Illustrating isolation of an Item by surrounding development. In this proposal development forms an 'L' shape enclosing the Item at No 12 both to the north and east.

3.5 Issue of Demolition of Nos 10 & 14 – (Ref DCP 19B.1 – Demolition Within HCAS)

The existing house at No 10 was assessed in the TOD - HIS as having no heritage significance by virtue of being of recent origin. This substantial residence however is designed in a sympathetic form and style and with compatible materials to complement the adjacent Heritage Item and Conservation Area Values.

The existing house at No 14 was also assessed in the HIS as having no heritage significance by virtue of substantial later additions to the rear. While altered, this retains a form, materials and style characteristic of the Stanhope Road Conservation Area.

In both cases the TOD-HIS ignores the actual contributions of the existing residences to the context of Items and C 25 as sympathetic buildings. The question arises in assessment as to whether the proposed replacement buildings are more sympathetic to the Conservation Area and Items than the present buildings.

This is expressed in DCP Control 19B.1 (3) as follows:

3 Whole demolition of buildings, structures and landscape features (including significant trees) is generally not supported unless the applicant can satisfactorily demonstrate:

iv) the replacement building is compatible with the identified significance and character of the streetscape and the HCA as a whole.

The TOD-HIS, Table 11 in response to this issue declares that:

"The proposed in-fill residential development has been designed to ensure that it appropriately responds to and respects the remaining intact portions of the HCA through careful resolution of its massing, form, and vertical façade articulation."

A more rigorous analysis would find otherwise.

3.6 Impacts of the Replacement to No 14 - Building A.-(Ref DCP 19B.1(3) – Demolition in HCAS)

Some of the considerations would be that the mass and scale of the proposed 'replacement' Building A being of 4 stories would clearly dominate the 2 ½ storey, Apart from the difference in scale, Building A is also set forward of No 12. Being more prominent it would detract from the Item and its relatively intact streetscape contribution.

See Figure 6 - South Elevation Below.

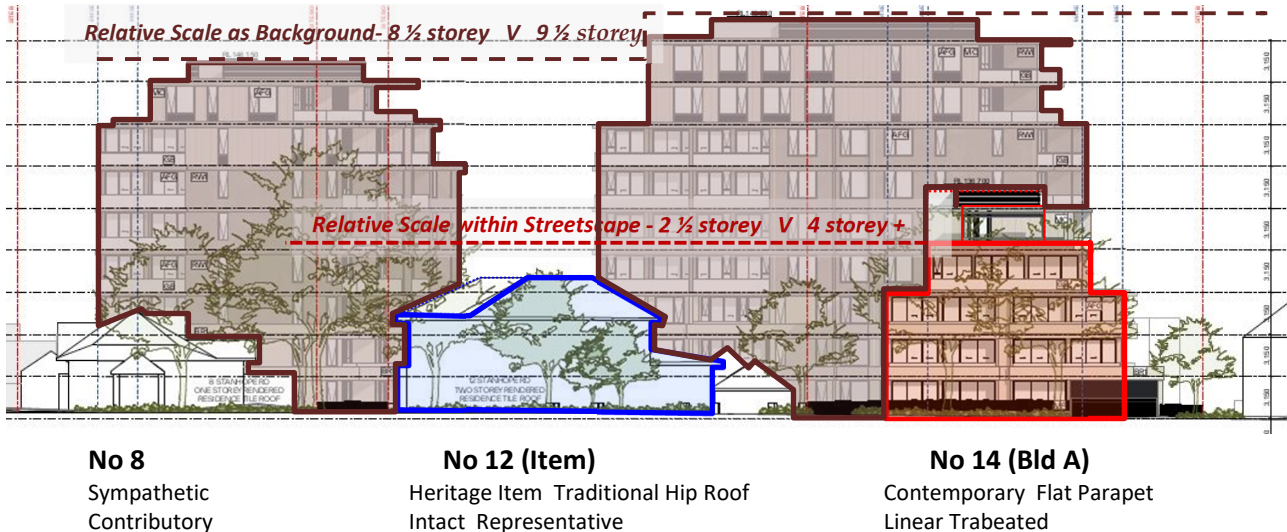


Figure 6: South Elevation facing Stanhope Road marked to show of the Item at No 12 relative to Proposed Bld A & B.

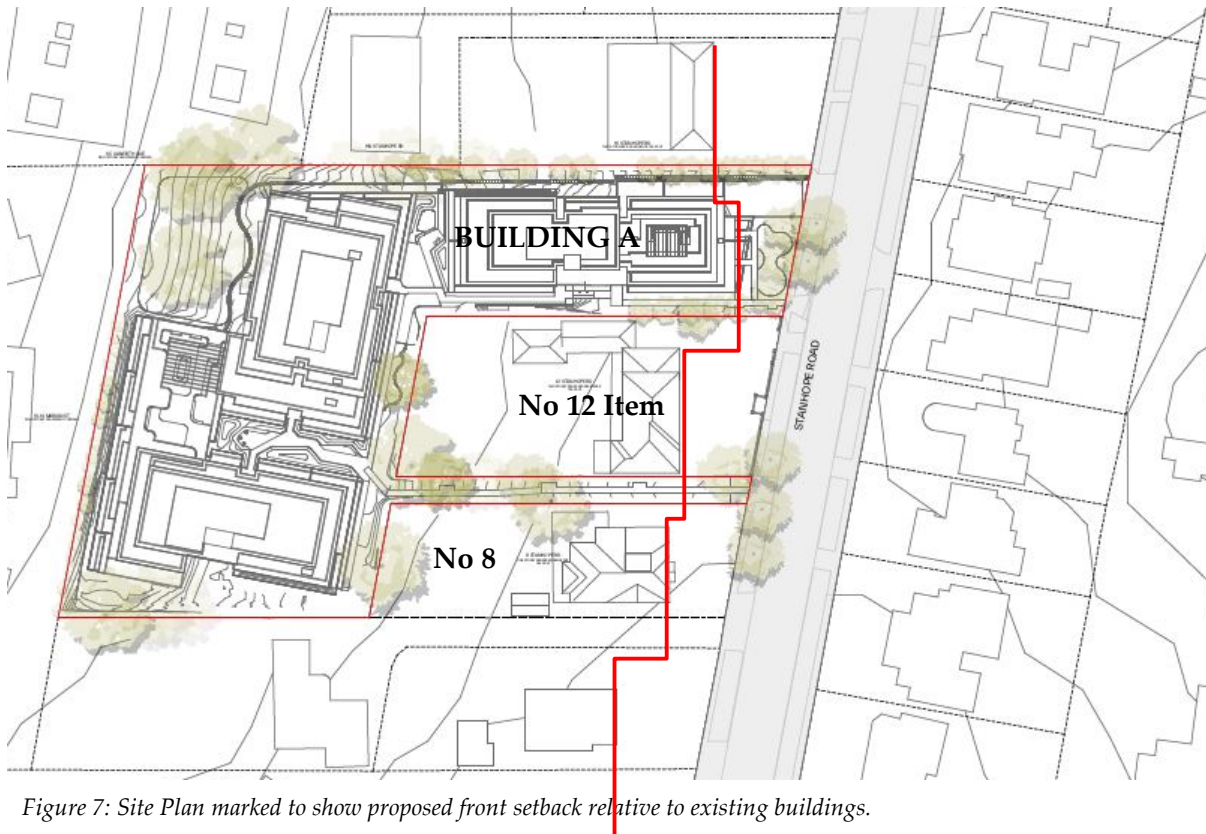


Figure 7: Site Plan marked to show proposed front setback relative to existing buildings.

The Set-Back Line in Figure 4 shows the forward placement of the four storey front of Building A relative to the 2 Storey Item at No 12. The Impacts to the Item, the streetscape and conservation area generally are accentuated by this forward placement.

In summary, Building A would be seen as a more prominent structure within the streetscape. It would dominate the Item at No 12 by virtue of its bulk, scale and forward placement and would detract from the refined Inter-War Georgian Revival style & character of The Item.

The impact warrants an increase the setback. This, combined with a reduction in scale and a more characteristic design in terms of roof form, fenestration and materials may provide sufficient mitigation of the impacts of Building A on the Item and the Conservation Area.

The side setback follows current controls and is generally acceptable providing sympathetic planting can be accommodated.

In order to satisfy control iv) that *“the replacement building is compatible with the identified significance and character of the streetscape and the HCA as a whole”* the TOD-HIS would need to assess the level of contribution that No 14 currently makes to the Conservation Area.

Regarding the contribution of the buildings slated for demolition, No 14, while compromised to some extent by later additions, is by no measure ‘intrusive’ or ‘neutral’ in terms of its contribution to the Conservation Area, streetscape or adjoining Heritage Item.

No 14 retains its original gabled front main roof and single storey front rooms. While there has been substantial demolition and the addition of a two storey rear addition, the form, materials and details maintain a sympathetic character that compliments the Item and Conservation Area values.

As a neighbour to an Item, No 14 maintains a consistent low aided by generous side setbacks. Overall the house retains its sympathetic character and contribution to the general character of the Conservation Area and streetscape.

The proposed replacement, Building A, has all intrusive characteristics of the TOD development. Its style is contemporary in terms of expressed structure, ribbons of windows set in masonry banding of blonde brickwork and rendered concrete slab edges covering the front façade and extending to “3 levels above the podium” (so to a height equivalent to 4 stories). The side elevations of Building A use large glazed openings set in panels of brickwork.

3.7 Contributions of Houses Proposed for Demolition

No 14 retains the original front façade of the house with its gabled front accented by a pair of bay windows with double hung timber windows including multi pane top sashes. The front gable has been rendered and painted but details of mouldings, dentil courses to the bay windows have been retained. These maintain their contribution to the streetscape and conservation area and provide a sympathetic context for the adjoining Item at No 12.

Similarly, No 10 is a newer residence from the late 20th Century. Nevertheless its design consciously emulated the form, character and material that are Stanhope Road Conservation Area which it adjoins. Despite its grand extent it is sympathetic to the Conservation Area values in terms of scale, roof form, material and design. It is situated lower than Houses along Stanhope

Road and does not greatly impede views from those houses across the valley and does not overly intrude within the context of Heritage Items in the vicinity. Its lower siting means it is not visible from within Stanhope Road.



Figure 8: RTA 1943 series aerial photo showing original configuration of No 14 with gabled front outlined in red.



Figure 9: Existing front façade of No 14.

From URBIS Report

No 14A is a single storey (possibly split level) house dating from the 1970's. Subject to more detailed investigation, it would likely be regarded as 'neutral' in the vicinity of the C25 by virtue of its lower scale and siting.

While there is a case to permit the demolition of No 10, 14 & the 'neutral' No 14A, this should only be permitted if it does not result in impacts to the Items in the vicinity, to the Conservation Area or to the Stanhope Road streetscape.

The proposal fails to satisfy the control 19B.1 (3) iv:

The replacement building should be compatible with the identified significance & character of the streetscape and the HCA as a whole.

3.8 19C.1 Local Character & Streetscape

Where an HCA is characterised by a mix of one and two storey buildings, proposed works to contributory properties are to:

- i) retain the original character of a building;
 - ii) match the scale and forms of the existing buildings within the streetscape
- (see Figure 19C.1-2) (Excerpted below)



Figure 10: Characteristic scale of development within the Conservation Area – taken from Figure 19C.1-2

The intent of the control is clear in the diagrams. It emphasizes the requirement that new development be compatible with the streetscape context in terms of scale, form and character. This is more important where the development is located adjacent to a heritage item as in the case of this development as made clear in the accompanying

*Objectives:*¹

4 To ensure the visual impact of new work is minimised through appropriate design, detail, proportion, scale and massing.

The impacts arising from a general lack of compliance with this control have been alluded to in the previous text. It bears repeating that the proposed Buildings have all intrusive characteristics. Their style is contemporary in terms of expressed structure, ribbons of windows set in masonry banding of blonde brickwork and rendered concrete slab edges covering the front. The side elevations use large glazed openings set in panels of brickwork.

¹ p 19-16 Ku-ring-gai Development Control Plan

3.9 Statement of Significance Stanhope Road Conservation Area Values

These bear none of the characteristics of any of the significant periods in the Stanhope Road Conservation Area. The State Heritage Inventory for C25 contains the following descriptions and statements regarding the characteristics of the conservation area. Based on the significance statement, descriptions and recommended 'management policies' within the inventory sheet, the proposed TOD-DA does not satisfy DCP Control 19C.1-4.

3.9.1 Statement of Significance Stanhope Road Conservation Area - Excerpt

Data Source: Local Government

Record Owner: Ku-ring-gai Council

Heritage Item ID: 1882724

...The area is of aesthetic significance for its high quality intact residential buildings, predominantly from the Federation and inter-war periods. Many of these were designed by prominent architects and represent the diversity and range of styles within each period. Their heritage values are enhanced by their garden settings and vegetation throughout the area, including strands of remnant eucalypt and avenue plantings.

...The area is of local heritage significance in terms of its historical and aesthetic value. ...

3.9.2 Physical Description - Excerpt

...The area comprises single and two storey residences, with varied architectural styles. There is a high consistency of intact buildings within the area. The predominant architectural style is Federation, and this varies from Arts and Crafts to Queen Anne and bungalow. There are also some significant inter-war Californian bungalows, and some examples of post-war American Colonial style homes.

Setbacks are generous and in many instances the side boundaries provide areas with landscaped gardens. Private gardens are consistently extensive and support many significant feature trees. Conifers, silky oaks and magnolias are particular features in private blocks, providing good vertical scale in gardens and hiding the rooflines of many of the more dominant houses in the area. Houses are often screened from street view by having front setbacks with well-established trees and medium to high front boundary fencing. Front fence are often styles in relation to the architectural treatment of the house.

3.9.3 Recommended Management

- *Retain and conserve historic buildings and settings that contribute to the conservation area.*
- *Conserve original or significant early features that contribute to the conservation area.*
- *Limit alterations to historic features to maintenance and repair.*
- *Design additions to respect the form and style, without visually dominating, historic buildings in the conservation area.*
- *Before lodging applications for works, contact Council's duty planner for pre-application advice on the most efficient process, information requirements and the planned works.*
- *Prepare a heritage impact statement for development applications.*
- *Refer to the heritage provisions in Ku-ring-gai Council's Development Control Plan for more detailed development guidelines within a conservation area.*

3.10 Additional Controls warranting analysis

In addition to the controls examined in detail in the Peer Review there are others for which time does not permit a thorough examination.

These include:

5 To promote high quality new design that complements the streetscape character and heritage significance of the HCA.

6 To ensure that new development retains the identified historic character of the HCA in which it is situated.

From p 19-16 Ku-ring-gai Development Control Plan

Similarly, the proposal does not meet Objectives or Controls with 19C.5 Building Design, particularly its Objectives. In any subsequent submission and assessment careful consideration should be made of these Objectives.

O.2

To ensure that the materials and colours of new work complements the identified character of the HCA

O.3

To ensure that the selection of materials and colours for new work is based on an understanding of the materials, finishes and colours predominant within the HCA.

O.5

To ensure new development respects the character of, and minimises the visual impact upon, the HCA and its streetscapes.

***Summary Findings & Recommendations
are contained in the body of the covering letter.***

4 ATTACHMENT 1 - THE 2011 TRANSITIONAL ZONE STUDY.

A study prepared by Ku-Ring-Gai Council formed the basis for decisions taken in zoning areas for high density residential. Known as the “Interface Planning Study Part 1: Impact Assessment, February 2011” it identifies The Stanhope Road Conservation Area as part of “Precinct 12”.

It designated the coloured properties as part of an “interface” zone for the purposes of limiting impacts intended High Density redevelopment in the Grey Areas. These areas were subsequently rezoned and developed for higher density residential apartments. (Figure 11 below)

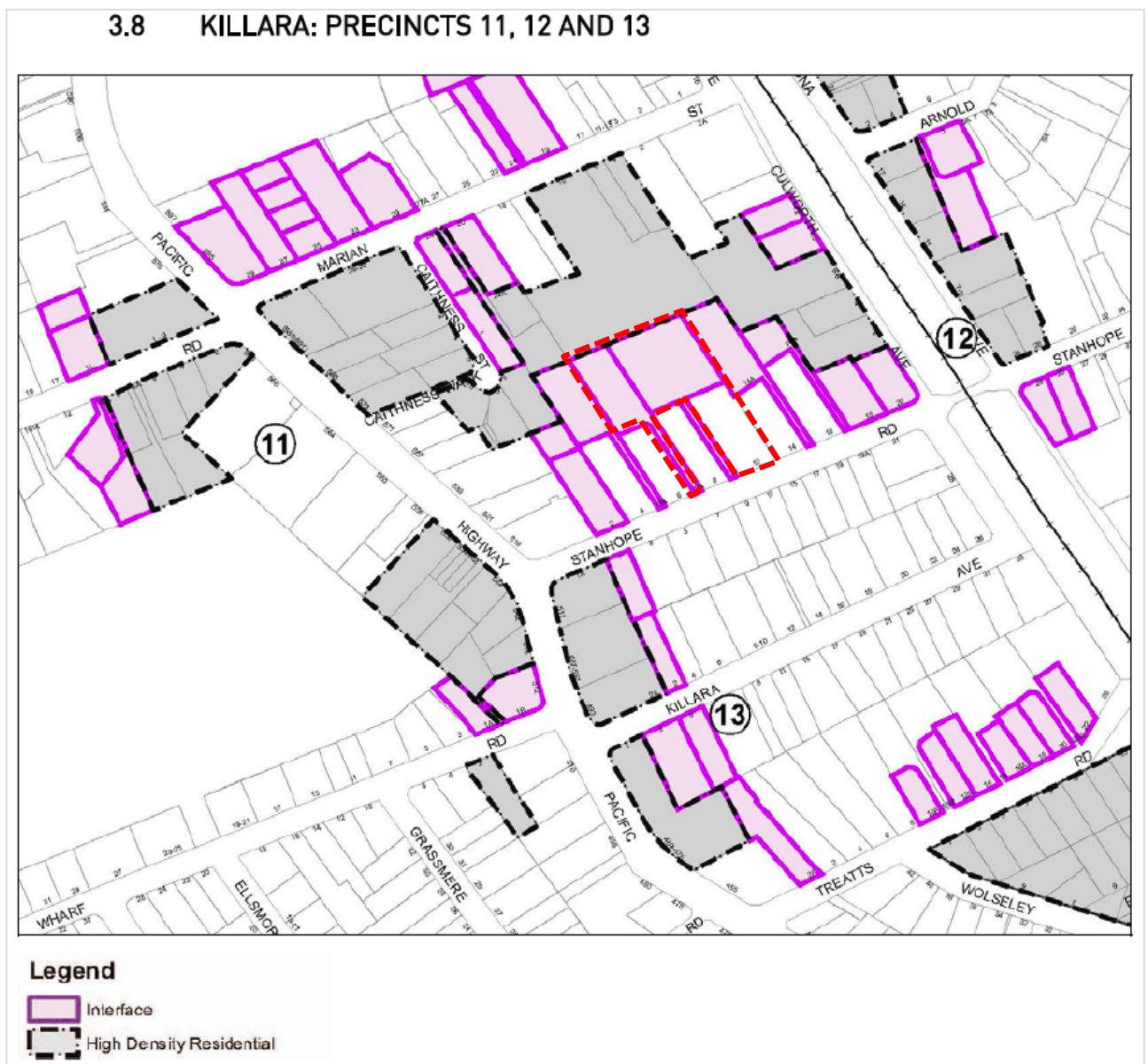


Figure 11: High density development zones examined in 2011 identified Nos 10;14 & 14A (dotted red outline) as “Interface Sites” in “Precinct 12”

Memo

Date 2 June 2025

Matter No. 2128514

To Mr Jeffrey Bresnahan

From Tom White, Partner

Re Proposed development at 10, 14, 14A Stanhope Road, Killara - SSD-81890707

1. We refer to our recent discussions in relation to State Significant Development Application SSD-81890707 (the **SSDA**), which seeks development consent for the "residential flat buildings with infill affordable housing..." (the **Proposed Development**) at 10, 14, 14A Stanhope Road, Killara (the **Development Site**).
2. We have been instructed to review the SSDA and supporting documents to assist with a submission you wish to make in respect of the Proposed Development.
3. We have focussed our review on the Clause 4.6 Variation Request prepared by Gyde dated 22 April 2025 (the **Clause 4.6 Request**).
4. In our view, for the reasons which follow:
 - a. the Clause 4.6 Request in its current form is inadequate and does not justify a departure from the relevant development standard; and
 - b. on this basis, the jurisdictional requirements of clause 4.6 of the *Ku-ring-gai Local Environment Plan 2015* (the **KLEP**) have not been met, and the consent authority cannot grant the SSDA development consent.

The Proposed Development

5. The Clause 4.6 Request appears to seek to vary a development standard related to height. As below, it is not clear which standard it is seeking to vary.
6. We understand the SSDA's approach to the height of the Proposed Development to be:
 - a. The Development Site is zoned R2 Low Density Residential under the KLEP. The maximum height on the relevant *Height of Buildings Map* under the KLEP is 9.5 metres;
 - b. The Proposed Development seeks to utilise the controls under Chapter 5 of the *State Environmental Planning Policy (Housing) 2021* (**Housing SEPP**), which relate to Transport Oriented Development (**TOD**). Under clause 155(2) of the Housing SEPP:

(2) The maximum building height for a residential flat building in a Transport Oriented Development Area is 22m.;

- c. In addition, the Proposed Development seeks to rely on clause 18(2) of the Housing SEPP which relates to In-fill affordable housing:

(2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).

- d. Using the additional height allowance under clause 18(2), a total height of 28.6m is permissible on the Development Site absent a clause 4.6 variation request;
- e. There are two components of the Proposed Development which exceed the 28.6m limit. These are depicted in Figures 2 and 3 of the Clause 4.6 Request. They are:
- i. An exceedance of the 28.6m height standard by a maximum of 3.3m on the north-western tower, which appears to comprise of the majority of a storey plus lift overrun (the **North Western Exceedance**); and
 - ii. An exceedance of the 28.6m height standard by a maximum of 6.4m on the north-eastern tower, which appears to comprise of the majority of two storeys plus lift overrun and associated infrastructure (the **North Eastern Exceedance**).
7. The North Easter Exceedance is depicted in the foreground, below (being Figure 2 in the Clause 4.6 Request), and the North Western Exceedance is depicted on the right of screen.



8. At its highest point, the height of the Proposed Development is 35m which represents a 22.3% exceedance of the maximum building height having regard to the abovementioned provisions.

Clause 4.6 generally

9. Clause 4.6(3) of the KLEP provides as follows:

(3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

10. The Clause 4.6 Request appropriately seeks to address the two key requirements of clause 4.6(3). For the reasons which follow, these requirements have not been satisfied.

Not all relevant development standards are considered by the Clause 4.6 Request

11. The Clause 4.6 Request seeks to vary the standard under clause 18(2) of the Housing SEPP **only**. In our view, this is the first fundamental flaw in the Clause 4.6 Request.
12. As above, the Proposed Development seeks to rely on the height provisions under **both** Chapter 2 (being the infill affordable housing provisions), and Chapter 5 (being the TOD provisions).
13. The 22m height under clause 155(2) is the primary height development standard relevant to the Proposed Development. The additional floor space which may potentially be realised as a result of clause 18(2) is expressed as a percentage of the underlying standard.
14. The two standards work together to add up to a combined height limit.
15. It is, in our view, an incorrect interpretation of clause 4.6 of the KLEP to seek to only justify departure from the bonus provision, rather than from both development standards.
16. In our view, for the Clause 4.6 Request to be lawful and for the Proposed Development to be capable of satisfying clause 4.6 of the KLEP, the variation to the height standards contained in **both** clause 18(2) and 155(2) of the Housing SEPP must be justified.

Unreasonable or unnecessary

17. As above, clause 4.6(3)(a) allows a consent authority to grant consent if an applicant has satisfied that "*compliance with the development standard is unreasonable or unnecessary in the circumstances*".
18. This must consider both the development standard under clause 18(2) and 155(2).
19. The Clause 4.6 Request summarises the principles in *Wehbe v Pittwater Council* (2007) LGERA 446 (**Wehbe**) in which Preston CJ identified five potential tests for determining whether compliance with a development standard can be considered unnecessary. We adopt the references to the First to Fifth Tests as outlined on page 8 of the Clause 4.6 Request.
20. In response to the Second Test, the Clause 4.6 Request says "*The underlying objective or purpose is relevant to development and therefore is not relied upon*". It is understood that the word "not" has been omitted. The underlying objective or purpose is not identified. In our view the underlying objective or purpose to

the development standard can be found in clause 15A of the Housing SEPP, as follows:

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

21. The bare assertion that the underlying purpose (which is not identified) is "not relevant" is not sufficiently compelling.
22. Regardless, it appears that the Third and/or Fourth Test is what the Clause 4.6 relies on in seeking to demonstrate that compliance with the development standard is unreasonable or unnecessary.
23. In relation to the Third Test, the Clause 4.6 Request appears to identify clause 15A as the underlying purpose or objective. The Third Test requires a demonstration that this underlying purpose would be "defeated or thwarted if compliance was required and therefore compliance is unreasonable".
24. The Clause 4.6 Request relies on general comments about the need for affordable housing. It does not demonstrate how compliance with the 28.6m height limit would mean that the underlying objective, being to facilitate the delivery of new in-fill affordable housing, cannot be achieved. It does not demonstrate that compliance with the 28.6m height standard would mean that the 26 affordable housing units cannot be realised. While there is a statement to this effect on page 11, no meaningful justification is provided.
25. Further, in purported satisfaction of the Third Test, the Clause 4.6 Request makes statement such as "*while there are some limited areas of the development that sit above the 28.6m height plane, these will not cause any issues in terms of compatibility with the future character of the area.*" Statements such as this do not address why a departure from the development standard would cause the underlying objective to be "defeated or thwarted".
26. In relation to the Fourth Test, the Clause 4.6 Request provides:

Given the recent commencement of the TOD and in-fill affordable housing provisions, there are no examples where consent has been granted to a variation to the building height development standard. A review of Council's clause 4.6 variations register identifies consent has been granted to variations to clause 4.3 under Ku-ring-gai LEP (which in this case is relevant to the proposed development as both clause 4.3 of Ku-ring-gai LEP and clause 18(2) of the Housing SEPP establish the maximum building height), which therefore demonstrates that the standard has been abandoned or destroyed.

27. This reasoning is flawed.
28. As above, the primary development standard is clause 155 of the Housing SEPP and **not** clause 4.3 of the KLEP. That standard does not apply.
29. The Clause 4.6 Request correctly notes that the TOD provisions (again, despite not seeking to depart from that standard) and the infill housing provisions have only recently been commenced. To our knowledge, there are no successful applications nor clause 4.6 requests which vary clause 18(2). In our view, this alone means that the development standard cannot have been "virtually abandoned or destroyed".

30. The Clause 4.6 Request then cites DA0466/22 at 186 Pacific Highway, Roseville, where development consent was granted including a breach of the height standard by 9.74%. We note that the relevant clause 4.6 request in that case was to seek a variation of the 11.5m height standard to 12.61m. That development application was considered in [*Random Primer Pty Ltd v Ku-ring-gai Council* \[2025\] NSWLEC 1236](#), where it was noted that the "area that exceeds the height development standard is also recessed so that it is not discernible from the public domain".
31. Regardless, this breach of a different height standard cannot reasonably be said to be demonstrative of the height standard(s) in the Housing SEPP having been "abandoned or destroyed".
32. Finally, in respect of the Fifth Test, the Clause 4.6 Request notes that the "zoning of the land is not relevant in this case as the proposal relies on the TOD provisions in Chapter 5 of the Housing SEPP, which prevail over the land zoning and relevant development standards" in the KLEP. This statement appears at odds with the reasoning in relation to the Fourth Test - it acknowledges that the Housing SEPP prevails over the KLEP.
33. For the above reasons, the Clause 4.6 Request has not demonstrated that compliance with the height standard under clause 18(2) of the Housing SEPP is unreasonable or unnecessary. The consent authority cannot grant development consent as clause 4.6(2)(a) of the KLEP is not satisfied.

Are there sufficient environmental planning grounds?

34. This section of the Clause 4.6 Request commences with the oft cited principle of Preston CJ from *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118 (**Initial Action**) at [24], which provides in full:

the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]
35. This principle continues to be affirmed, as seen in *Howe Architects Pty Ltd v Ku-ring-gai Council* [2021] NSWLEC 1233 (**Howe**) at [95]-[98].
36. As an overall point, the Clause 4.6 Request lists a number of broad topics and sections of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**). It is difficult to decipher any clear "grounds".
37. Regardless, much of this section of the Clause 4.6 Request talks to the Proposed Development generally, rather than the North Eastern Exceedance or the North Western Exceedance.
38. This is clearly demonstrated in relation to the Clause 4.6 Request's purported efforts to utilise the objects of the EP&A Act (on page 13).
39. For example, in relation to (c) "to promote the orderly and economic use and development of land", the Clause 4.6 Request provides:

The proposal will provide a significant contribution to the local economy through the orderly development of the land. As outlined in the Environmental Impact Statement and the accompanying consultant reports, the proposal does not result in any impacts that cannot be managed throughout the construction or operational phases of the development. The granting of consent for this development notwithstanding the proposed variation would set an example of promoting orderly and economic development.

40. This fails the Initial Action requirement on two fronts. Firstly, it doesn't relate to the North Eastern Exceedance nor the North Western Exceedance. Secondly, it "simply promotes the benefits of carrying out of the development as a whole", contrary to the words of Preston CJ in Initial Action.

41. It is also noted that on page 13 the Clause 4.6 Request provides:

We note that the proposed development proposes an FSR significantly below that which is permitted on the site and note that this approach has been taken to ensure the land within the north west corner of the site is able to be maintained and the blue gum high forest which is located in this position will be protected from the proposed development... The result is a development which does not maximum GFA and redistributes height from more sensitive to less sensitive locations on the site.

42. As discussed in the case of *Bondi Residence Pty Ltd v Waverley Council* [2024] NSWLEC 1297 (**Bondi Residences**), in which a development application including a clause 4.6 variation seeking to vary the height control by 60cm for a development in a heritage conservation area:

*There is no expectation that the full extent of the FSR development standard can be achieved on every site, or that every site can achieve close to the maximum. That is, the FSR development standard is a maximum, not an entitlement, and the utilisation of floor space that complies with a FSR development standard does not justify a breach of the height development standard (see *Rebel MH Neutral Bay Pty Ltd v North Sydney Council* (2018) 241 LGERA 107; [2018] NSWLEC 191 at [24]-[26] and [63], confirmed on appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130).*

43. That is, the fact that the Proposed Development does not realise the maximum FSR available does not justify the North Eastern Exceedance or the North Western Exceedance.
44. It is also notable that there is focus on the decision to redistribute the floor space to the norther western and north eastern buildings to respect the heritage item at 12 Stanhope Road, Killara. However there is insufficient detail on how the North Western Exceedance or the North Eastern Exceedance impact the Stanhope Road Heritage Conservation Area (**HCA**). While a matter for a heritage expert, it does not seem as though the Clause 4.6 Request adequately considers the HCA listing (available [here](#)) which includes statements such as "The area has aesthetic significance a good and largely intact residential precinct characterised by streetscapes of good, high quality examples of single detached houses from the Federation, Inter-war and Post-war periods".

Public interest

45. It is not clear to us where the requirement to address the public interest in the Clause 4.6 Request seeking to vary the height control under section 18(2) of the Housing SEPP, comes from. In our view this section can be disregarded.