

20 November 2025

Mr Keiron Thomas  
Director  
Housing Delivery Assessments  
4 Parramatta Square, 12 Darcy Street  
Parramatta, NSW 2124

Attention: Mr Keiron Thomas  
By submission: via the NSW Major Projects Planning Portal

**RE: Formal Objection to Proposed Residential Development SSD-83112728 at  
2 Fishburn Crescent, Castle Hill NSW 2154**

We write as the Strata Managing Agents of SP 106632 ("Chateau" – 16 Middleton Avenue, Castle Hill) on behalf of the Chateau Strata Committee to submit this formal objection to the proposed apartment development. This objection is based on substantial non-compliances with the Housing SEPP, Apartment Design Guide (ADG) and The Hills Development Control Plan (DCP), and on significant adverse impacts on surrounding Showground streets, the local community, and neighbouring properties including 16 Middleton Avenue, and 5 Fishburn Crescent.

**1. No Ongoing Consultation - The Hills Shire Council & Arada**

It is noted that on 14 February 2025 a Development Assessment meeting was held between the Applicant "Arada" and The Hills Shire Council. At that meeting the proposal was as follows:

- The proposal is for construction of three buildings, ranging between 4-16 storeys with 50,500m<sup>2</sup> of gross floor area (GFA)
- Approximately 345 apartments are proposed with 15% of the (GFA) nominated for use as affordable housing pursuant to SEPP (Housing) 2021.

However, it is noted on page 46 of the "Environment Impact and Rezoning Statement" prepared by the Sutherland & Associates" the Key Elements of the development are as follows:

- 8-20 Storeys;
- Total Apartments – 431
- Affordable Housing - 5% of GFA
- Affordable Housing – 25 Units.

Clarification added per NSW Department of Planning, Housing and Infrastructure advice: Recent advisement confirms Building A will be 20 storeys and Building B will be 17 storeys. The current submission only discusses Building C (12 storeys). For accuracy, the objection

should reference all three buildings and their proposed heights: - Building A: 20 storeys; - Building B: 17 storeys; - Building C: 12 storeys. This ensures the submission reflects the most current information provided by authorities.

Our initial objection to this development is that due to the significant number of differences in the number of storeys, number of units/apartments, the GFA percentage and number of unit/apartments in relation to Affordable Housing we are of the opinion that it would be reasonable for a subsequent Development Assessment meeting between the Applicant "Arada" and The Hills Shire Council to take place. If such a meeting did in fact take place then we are unable to locate a copy of the Minutes of that meeting within the EIS documents lodged.

## **2. Non-Compliance with Zoning and Planning Controls**

The proposed development is fundamentally inconsistent with the objectives set forth in The Hills Shire Local Environmental Plan (LEP). The LEP is the legally binding planning instrument that governs land use in this area, and any deviation from its provisions must be justified by compelling evidence that aligns with the broader public interest. No such justification exists for this proposal. Any approval of a project that so blatantly disregards established zoning principles would constitute an arbitrary and capricious exercise of discretionary power, exposing the Government to legal challenge. By way of further information, we note on page 46 of the "Environment Impact and Rezoning Statement" prepared by the Sutherland & Associates" the proposed development includes as follows:

Construction of a new residential flat development with a total of 431 apartments above three basement parking levels, comprising the following buildings:

- Building A at the north-western corner which is 20 storeys and contains 135 apartments
- Building B at the north-eastern corner which is part 8 part 17 Storeys and contains 135 apartments
- Building C which is a u-shaped building at the southern end of the site which is in part 11 part 12 storeys and contains 161 units.

Further by way of further information to the reader, The Hills Shire Council, in correspondence dated 14 August 2025 (Reference 8/2025/PLP) proposed amendments to The Hills Local Environment Plan (LEP) 2019 to revise the height limits as follows:

- V2 Area – Residential                      From 12 Storeys to 12 Storeys.
- U2 Area – Residential                      From 8 storeys to 9 storeys

and from the information provided in the above-mentioned correspondence it appears Building A and Building B fall within the V2 Area – Residential while Building C falls within U2 Area – Residential.

We also note on pages 57, 58 and 59 of the “Environment Impact and Rezoning Statement” prepared by the Sutherland & Associates amendments are also being sought to increase the building heights as follows:

V2 Area – Residential – currently 40 metres; and

U2 Area – Residential – currently 27 meters to 72 metres for the entire site.

Therefore, the proposed development exceeds height limit in excess of those proposed by The Hills Shire Council as outlined in correspondence dated 14 August 2025 and community consultation needs to take place before any request is made to increase the height to 72 metres for the entire site.

### **3. Breach of Apartment Design Guide Standards on Solar Access, Privacy, and Amenity**

The Apartment Design Guide (ADG), issued pursuant to State Environmental Planning Policy (SEPP) 65, sets mandatory design standards for residential developments. This proposal falls significantly short of those standards in the following ways:

**Solar Access Deficiencies:** The ADG requires that a minimum of 70% of apartments receive at least two hours of direct sunlight in mid-winter. Given the excessive height of the proposed development, there is a high probability that overshadowing will severely impact not only future occupants but also adjacent residences, including ours. Without a transparent and independently verified solar access study, this proposal cannot be considered compliant.

**Privacy Violations:** The ADG stipulates minimum building separation distances to prevent direct overlooking into private residences. The proposed development flagrantly disregards these requirements, allowing for intrusive sightlines that will significantly erode residential privacy. Any approval of this proposal in its current form may constitute a failure to uphold reasonable expectations of residential amenity, potentially opening the door for affected parties to seek injunctive relief.

**Compromised Amenity and Safety:** The ADG emphasizes the importance of adequate building setbacks, ventilation, and open space to ensure a high standard of livability. This development, in its current iteration, prioritizes density over these essential factors, to the detriment of both future occupants and existing residents. Any deviation from these planning principles must be scrutinized in accordance with the precautionary principle, which requires decision-makers to err on the side of caution when faced with uncertainty regarding potential harm.

By way of further information and notwithstanding the above the development has not demonstrated that adequate regard has been given to the following design quality principles under Schedule 9 of the SEPP (Housing) 2021 and the objectives set out in Parts 3 and 4 of the Apartment Design Guide. In particular:

**The application is inconsistent with Design Quality Principle 1:** Context and neighbourhood character because the built form would not be appropriate in bulk and scale as envisaged in the Showground Station precinct. It is considered that the additional storeys is excessive when compared to adjoining southern properties currently existing within the Precinct.

**The application is inconsistent with Design Quality Principle 2:** Build form and scale because the proposal results in a bulk and scale which is inconsistent with the existing development south of the site. The proposal would result in a development that comprises a height increase from 9 storeys to 12 storeys which is above the approved height on the adjoining southern properties of 9 storeys. This is considered an inappropriate transition to the southern interface.

Consequently, the increase in the height to 12 storeys will detract from the existing building landscape and overall ambience as it will create bigger differences in the overall heights of this development and the three existing developments in Fishburn Crescent.

**Developer Experience and Accreditation:** A query has been raised regarding Arada's experience with developments of this scale and their standing as a quality builder. Arada is an international developer founded in 2017, with over 10,000 homes delivered globally and a \$24 billion portfolio. They entered the Australian market in 2024, acquiring Tier-1 builder Roberts Co and launching several Sydney projects. As of November 2025, Arada does not appear on the NSW Housing Commissioner's iCIRT registry of builders rated 3 gold stars or higher. Bridgestone is an example of a builder on this list. It is recommended that Arada seek iCIRT accreditation to demonstrate their capability and reliability to the local community.

Also, we are of the opinion that Figure 13 on page 50 of the "Environment Impact and Rezoning Statement" prepared by the Sutherland & Associates which we understand to relate to overall building heights in storeys:

- Does not provide sufficient detail when compared to page 46 of the "Environment Impact and Rezoning Statement" prepared by the Sutherland & Associates;
- Does not contain a footnote as to the source of the "Chateau 4-12 storeys" statement. In the absence of the footnote we understand it should read "9 storeys", which is a count of the apartment levels of the building. The statement of 12 storeys may be misleading as this includes 2-3 levels of substructure comprising 2 full levels of basement parking on Basement 2, Basement 1 and additional carparking on ground floor under buildings B and C. To put it another way, the Chateau development comprises 9 apartment levels above natural ground level plus a roof slab.

In relation to Solar Access Deficiencies we also note the statements on pages 103 and 104 of the "Environment Impact and Rezoning Statement" prepared by the Sutherland & Associates in relation to the above subject especially in relation to 16 Middleton Avenue. We are unsure whether "16 Middleton Avenue" also includes or not Tower B of the Chateau site which located in Fishburn Avenue directly opposite the Building C of the proposed development.

Even if the address 16 Middleton Avenue does include Tower B of the Chateau site our objection concerns the very significant amount of overshadowing occurring after 12.00pm midday as indicated in the Winter 1pm, Winter 2pm and Winter 3 pm diagrams on page 248 in Appendix 7 - Verification Statement and Report. Therefore, we are of the opinion the proposed development has not been skillfully designed to have regard to the adjacent building being Tower B and also Towers A, C and D of the Chateau site.

Further, Page 21 in Appendix 7 - Verification Statement and Report states a 10m setback to Middleton Avenue/Fishburn Avenue. However on page 181 it states :

“On Middleton Avenue and Fishburn Crescent, the development includes a 10-metre front setback in accordance with the LEP, and a 7.5-metre setback along Fishburn Crescent in line with the DCP.”

The statement is confusing as it does not state the setback at ground level of Building C in Fishburn Crescent; that is, whether it is a 7.5-metre or a 10-metre setback.

On 20 May 2025 The Hills Shire held a Local Planning Panel meeting to decide whether to approve or not under DA 833/2025/HA – Additional level to an approved Residential Flat Building Development and Associated Works – Lots 1 & 2 DP 879417, Lots 114-117 & 119-122 DP 250610, Lots 3-5 DP 253774 – 2-12 Sexton Avenue and 24-34 Fishburn Crescent Castle Hill. Essentially this application was to increase by one (1) storey the buildings on this site from 9 to 10 storeys. Further the development satisfied the existing requirement of a 10 metre setback to Fishburn Crescent and DA 833/2025/HA did not propose any changes to approved compliant front building setbacks. However, the application was refused and one of the reasons for refusal was:

*“The proposal is not in the public interest due to its departure from the requirements of developmental standards under The Hills LEP 2019 and detrimental impacts to adjoining properties, particularly relating to overshadowing, and future occupants of the development.” (refer point 7 on page 2 of the Minutes Of The Local Planning Panel dated 22 May 2025 The Hills Shire Council).*

Therefore given both Building C and the buildings in the DA833/2025/HA are both on the northern side of Fishburn Crescent and the only separation between these two sets of buildings is Sexton Avenue then we cannot understand why Building C which is 12 storeys would comply with the objectives of the Apartment Design Guide while the proposing neighbouring 10 storey would not comply the objectives of the Apartment Design Guide given both have a 10 metre setback. Therefore, we object to the application until such time as this contradiction can be explained and resolved.

#### **4. Detrimental Impact on Property Values and Livability**

The Hills Shire has historically been regarded as a desirable place to live, owing in large part to well-regulated urban planning. The rapid and unchecked intensification of high-density development, without commensurate investment in infrastructure, threatens to diminish the appeal of the area, leading to decreased property values. Property owners who experience financial loss as a result of adverse planning decisions may be entitled to seek compensation through legal avenues.

#### **Case Law References:**

- Redland City Council v Kozik: In this case, the High Court of Australia ruled that the Redland City Council was required to repay approximately \$10 million collected through unlawful special rates from landholders. The council had imposed these rates for nearby construction works, which were later deemed invalid. The court held that allowing the council to retain the funds would undermine the regulatory regime it was supposed to follow. [Wikipedia](#)
- Caradi Pty Ltd v Secretary to the Department of Transport: This Victorian case involved the compulsory acquisition of land by the Department of Transport. The court awarded compensation to the landowner, emphasizing the importance of fair valuation and the impact of the acquisition on the property's value. [tlfc.com.au](http://tlfc.com.au)
- Robke v Department of Transport and Main Roads: In Queensland, cane farmers David and Kerrie Robke were awarded nearly \$1 million in compensation after part of their farm was resumed for a major road project. The court recognized the significant economic loss due to the division of their farm and potential future inundation issues resulting from the project. [Courier Mail](#)

These cases illustrate that property owners adversely affected by government actions, including improper planning decisions or compulsory acquisitions, have legal avenues to seek compensation. Approving developments that negatively impact property values without proper consideration may expose the NSW Government and Council to similar legal challenges.

#### **5. Improper Use of the State Significant Development (SSD) Pathway**

It is deeply concerning that the proponent is attempting to circumvent the standard local assessment process by seeking approval through the State Significant Development (SSD) pathway. The SSD pathway is intended for projects that deliver demonstrable public benefits on a regional or state level. This proposal does not meet that threshold. Rather, it is a clear attempt to exploit a loophole to override legitimate local planning controls.

The Environmental Planning and Assessment Act 1979 (NSW) grants local councils the statutory responsibility to assess developments in accordance with their own planning instruments. Any effort to subvert that process is a direct affront to the principles of accountable governance and community consultation. We demand that this proposal be assessed strictly under the purview of The Hills Shire Council, without reliance on the SSD framework.

As mentioned in point 1 above “No Ongoing Consultation – The Hills Shire Council and Arada” it was proposed at the meeting on 14 February 2025 that 15% of the (GFA) would be nominated for use as Affordable Housing. Therefore, based upon a GFA of 50,500m<sup>2</sup> covering 345 apartments/units this equates to approximately 22 apartment/units. However, the current application is for 431 apartments/units but of this amount only and additional 4 apartment/units (totalling 25 apartment/units) have been allocated as Affordable Housing. This 25 apartment/units Affordable Housing may be in the correct but is not in the spirit of providing public benefits and therefore exploits a loophole to override local planning controls considering it results in an additional 86 apartments/units being constructed on the same site area.

#### **6. Impact on Chateau (16 Middleton and 5 Fishburn)**

The development’s scale, overshadowing and traffic generation will directly impact Chateau at 16 Middleton Avenue and 5 Fishburn Crescent. Residents will experience increased traffic noise, reduced privacy, and diminished outlook. The overshadowing will reduce sunlight to private open spaces, affecting liveability and potentially lowering property values.

#### **7. Community and Property Value Impacts**

The cumulative effect of overdevelopment without corresponding infrastructure upgrades risks eroding the appeal and property values in the Showground Precinct. The Hills has been sought after for its amenity and planning integrity; this proposal threatens both. Such outcomes may give rise to compensation claims against planning authorities.

#### **Conclusion: Immediate Rejection Required**

Given the breaches of statutory controls, the negative impacts on the Showground streets, community amenity and neighbouring properties, and the traffic and infrastructure concerns, we urge you to reject this application. If not refused outright, it must be significantly redesigned to comply fully with the Housing SEPP, ADG and DCP, reduce building height and parking supply, and mitigate amenity, privacy and traffic impacts.

We formally request timely updates regarding this application’s status and further opportunities for community input.

Failure to give due weight to these concerns will leave us with no alternative but to explore all legal remedies available to protect the interests of our residents.



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Should you wish to discuss any of the Strata Committee's concerns further, please contact the undersigned on either (02) 9137 2320 or [peter@thestratacollective.com.au](mailto:peter@thestratacollective.com.au).

Kind Regards,  
**The Strata Collective Pty Limited**

Peter Domazetovski  
**Senior Strata Manager**