

## **Objection to SSD-78996460 Lord and Roseville Avenue**

The proposal is for the demolition of existing contributory items in a heritage conservation area and for the construction of residential apartments to a height over 30 metres.

It exceeds permissible height under current Transport Oriented Development (TOD) and alternative TOD limits.

It is adjacent to a number of heritage items (and within the vicinity of more) and without any transition in height from adjacent 1-2 storey residential garden setting homes.

In the following important context and for reasons set out below, I object to the proposal.

### **Context**

First, it has been agreed that the Department and Council work together to implement alternative TOD controls that meet or exceed current TOD controls. That alternative would permit housing to be delivered in a way that meets the government's objectives and which better preserves the amenity of area. I welcome that. I have supported (or not objected) to many many applications for development in the area which are appropriate. This development can not enjoy the same endorsement.

Second, it is in the public interest that the new TOD controls be allowed to be implemented and not undermined by this particular development (which for the reasons including those below is not appropriate for approval under new or existing controls). No more should be required from the community by way of submission. However, against the prospect that the original TOD remains in place and this SSD is "saved", allowance of this proposal would still be contrary to the objectives and requirements of the planning legislation and against the public interest for reasons including those set out in this submission.

Third, these submissions supplement (and can be read in complete substitution of) my earlier submission.

Fourth, I grew up in Western Sydney. I have lived in Roseville, Killara and Gordon for over 10 years. My young family chose and worked hard for our home in Roseville because of the heritage of the area and undertook to obtain and execute approvals to restore our heritage home aware of and appreciating the appropriate restrictions in place designed to appropriately preserve the heritage significance of the area. We undertook time and expense in doing so being aware of and expecting that preservation of the significance of our area including our setting and views was protected by legislation. It is in the public interest that cultural heritage which includes built heritage be preserved so that those who came here and worked hard to get here can continue to enjoy it **and** so that others welcomed to the area can too. I came to the area to enjoy its heritage. I did not come to see it degraded.

Fifth, it is in the public interest, and consistent with the treatment of other councils, that community led TOD alternatives be allowed to proceed without being undermined.

Sixth, while development of itself and heritage are not mutually exclusive it should be expected and required (and this is reflected in the legislative controls and guidance documents) that those that seek to develop in heritage conservation areas ensure that heritage places are conserved, maintained and enhanced. A key aspect of this mandates respect for the dominant scale and form of an area.

Seventh, the assessing team have an important role to undertake since it is impossible for individuals to test all of the proponent's material in the time available. Public interest requires that proponents provide complete, accurate and frank information. It cannot be the case that the community or the assessing team need to fact check everything asserted by a proponent. This submission therefore cannot be exhaustive in relation to my concerns but I hope it assists in your consideration.

### **Reasons which should be read with the above**

**1. The Minister and the Department have said contributory items are not to be demolished and, contrary to that position, the proposal proposes the demolition of contributory items.** The proponent's heritage report is inconsistent with heritage reports prepared for and on behalf of the existing registered proprietors of the subject properties when those proprietors have lodged past development applications. That is, the proponent purports to dismiss the properties as non contributory when that is entirely inconsistent with what the current registered proprietors have said about the contribution of their properties. See for example Statement of Heritage Impact for 22 Lord Street Roseville regarding DA0199 and Addendum; Statement of Heritage Impact for 24 Lord Street Roseville prepared by Darren Campbell Architect in relation to DA269\_13.

The assessing team should seek from the applicant all heritage impact statements prepared by current and former registered proprietors in respect of the subject properties since 2010. The assessing team should seek information from the applicant regarding whether any of the registered proprietors have sought heritage home grant funds from Kuringai Council in the last 15 years (which is reserved for items or contributory properties).

The assessing team should have regard to local character statements which have not been challenged and which have been in place for a long time.

The assessing team should have regard to observations of the National Trust and others in relation to the heritage significance of the area.

**2. Views to and from heritage items are to be preserved (see 5.10 of the relevant**

**LEP which is not inconsistent with TOD controls) and, contrary to that position, the views to and from heritage items on Roseville Avenue, Lord Street and Bancroft Avenue are not preserved.** In this regard, the application represents some views from some properties but does not show the scale of the view affected to and from heritage items in the vicinity of the proposal. Although, that in itself shows the bulk and scale of the project in that all that can be shown by the proponent in its view from 17 Lord is the first few floors - probably only half of the view.

**3. The Minister and the Department have explicitly said that any development in an HCA (as well as not involving removal of contributory items) needs to improve and enhance the heritage values of the location. The proposal does not do that.** There is no attempt to do that. See further point 4 below.

4. The proposal does not comply with the government's guidelines in relation to development in a heritage context.

<https://www.planning.nsw.gov.au/sites/default/files/2024-05/guidance-to-transport-oriented-development.pdf> - page 11

[Design Guide for Heritage](#) - see page 24

[Design in context: Guidelines for infill development in the historic environment](#) - page 19

This has been said by Government in those documents at those pages.

- *“Applicants must consider how their proposed development will align with the existing fabric of the HCA in which the development is located. Information on infill developments will be outlined in a local council’s development control plan and accompanying HCA character statement. These documents will set out design elements such as bulk and scale, front and side setbacks, interface with the public domain and materiality that must be considered in the design of the proposed building.”*
- *“Applicants may be required to submit a heritage impact statement (HIS) to accompany the development application. The HIS will outline how the proposal impacts adjoining and surrounding properties in the HCA. It will also need to demonstrate how the proposal will be compatible with the streetscape and appropriate to the heritage context. “*
- *“The Heritage Council of NSW and the Government Architect NSW have collaborated on a guide to help industry understand how we integrate heritage with future development and design. The guide outlines the steps needed to ensure our heritage places are conserved, maintained and enhanced through good design, while realising good development outcomes. Consult the Design Guide for Heritage.”*

- new design in heritage areas would need to *"relate to the predominant scale and grain of the setting....New infill buildings should generally be no higher than neighbouring heritage buildings"*
- *"Infill design should recognise the predominant scale (height, bulk, density, grain) of the setting and then respond sympathetically. The impact of an inappropriately scaled building cannot be compensated for by building form, design or detailing."*

Contrary to those requirements, the design does not at all reflect the predominant scale - garden settings of 1 and 2 storey buildings. It does not reflect the front and side setbacks and separation (and other requirements for site design) set out in the DCP and does not interface with the public domain consistent with the way other buildings do. See in particular parts 7, 13, 19 and 21 of the DCP.

5. The supporting material provides unsatisfactory assurance and is heavily qualified in relation to engineering and affordable housing. The assessing team could not be satisfied that the project is permissible or possible from an engineering perspective. It could not be satisfied the proposed affordable housing will be delivered and that a housing provider has undertaken to agree to the relevant responsibilities.

6. So far as it is said that the development represents the future development of the area, that is false as is it fails to recognise 1) council's preferred scenario which will exclude the area; 2) development constraints of the metro tunnel; 3 development requirements in the vicinity of heritage items. Put simply, it is wrong to suggest that the development scale is ok because the rest of the area will be heavily developed. This was drawn to the attention of proponent and there was no response.

7. On communication, I am in the area identified in the Gyde document as apparently having received flyers. I did not receive any flyers. I have raised my concern in that regard with Gyde and the proponent. Gyde referred me to this submission process but did not otherwise respond to questions I raised. The proponent did not respond at all. For a proponent that asserted it had engaged in effective consultation, it is telling that the proponent and Gyde were disinterested to know how it was I could have missed out and disinterested in providing me any information in relation to my concerns. That raises a real concern in relation to whether the asserted community consultation occurred as represented. That is a very serious matter. I request that the Department investigate representations made in the EIS documents by Gyde, Urbis and the proponent concerning consultation activities and re-consider whether the lodged material complied with the SEARS requirements and community consultation guidelines. This is because it will be against the public interest for the development assessment process to proceed if the Department finds that there were failures to respond to community communications; failure to consult effectively or if consultation did not occur as represented. In this regard,

it is plain that community feedback has not been taken into account based on the dates of the relevant plans and reports (including amendments).

8. It is insufficient in relation to landscaping. It involves the unacceptable removal of mature trees.

9. It will have an adverse impact upon the heritage significance of the heritage conservation area and heritage items in and around it. This will be because of the reasons in this submission and because it will dominate surrounding heritage items and contributory properties and destroy the garden 1-2 level storey setting of the heritage conservation area and destroy views to and from heritage items.

10. This submission does not deal with all of the requirements a proponent is to satisfy. I encourage close and thorough review of the applicant's material as i have real concerns that incomplete, inaccurate or heavily qualified information is provided. I have raised examples of this in relation to engineering and community consultation and heritage reports.

11. I have concerns about parking and flooding and construction hours. Appreciating that it can be anticipated that there might be considerable development in the ku-ring-gai area, hours and days of permitted work should be reduced.

12. The proposal should be refused. If not refused, height reduced dramatically and setbacks increased dramatically and deep soil, plantings and retention of trees significantly increased.

13. The above comments are on the assumption that Lord and Roseville Avenue remain included in TOD zones. If they are excluded, then the development will be entirely impermissible.

14. I rely on what the Heritage Council has said in its submissions to the TOD inquiry and the assessing team should consult with it.

***The Heritage Council believes that it is imperative that local councils undertake strategic planning before the new TOD State Environmental Planning Policy (SEPP) - TOD Part 2- is activated in HCAs.***

*At the Heritage Council meeting on 6 March 2024, DPHI provided a briefing on the Diverse and Well-Located Homes program. We understand that the Diverse and Well-Located Homes program will also be delivered through a new SEPP. The Heritage Council has a strong interest in this program and is*

*working with DPHI to better understand potential heritage impacts. Other measures to mitigate potential heritage impacts **The Heritage Council also has an interest in minimising the impacts to heritage from development adjacent to heritage places, through sensitive design which preserves the essential character of an area.***

*The Heritage Council hopes that new places and precincts created because of the Government priority housing programs (similar to the turn of the century apartment buildings we value today) are of such excellence that they form part of that heritage of the future. **The development of design guidelines for adjacent development will help create precincts which are sensitive to, and integrated with, the heritage values and character of suburbs.** The accelerated nature of these priority housing programs runs the risk of local councils making piecemeal and rushed planning decisions, particularly for sites within HCAs. Incremental changes could irrevocably change the character and amenity of these important areas, particularly when impacts are cumulative.*

*The Heritage Council understands DPHI has indicated they are preparing additional guidance about interpretation and implementation for local councils and the wider industry. The Heritage Council would welcome these resources and is working with DPHI to participate in their development. The Heritage Council has offered to work with DPHI in the development of other guidance materials to assist in the assessment of applications within heritage conservation areas and adjacent to both local and state heritage items. Suitable heritage guidance material would provide consistency of decision making and avoid unnecessary impacts to heritage values whilst supporting the timely delivering of the TOD program*

15. Trying to summarise the above by reference to the SEARS and without being exhaustive:

- Sears 1 The development does not comply with the legislation, LEP, DCP or relevant guidelines.
- Sears 2 The document provided by the community housing provider is indicative only and does not indicate the agreement to the responsibility required.
- Sears 3 Engagement has not been undertaken in accordance with the guidelines for undertaking engagement and the lodged material does not identify how issues raised and feedback received has been considered in the design of the project.
- Sears 5 The design quality required by Better Placed and the guidelines referred to above is not achieved

- Sears 6 The proposed built form (layout, height, bulk, scale, separation, setbacks, interface and articulation) does not address and respond to the context, site characteristics, streetscape and existing and future character of the locality.
- Sears 7 The proposal understates impacts on the surrounding locality, including solar access, visual privacy, view loss and view sharing, as well as wind, lighting and reflectivity impacts. It fails to demonstrate a high level of environmental amenity for any surrounding residential or other sensitive land uses.
- Sears 8 Demonstrates unacceptable visual impact including to and from heritage items or fails to adequately analyse this.
- Sears 9 Does not or fails to adequately assess traffic impacts.
- Sears 10 Does not or fails to adequately assess noise and vibration effects.
- Sears 14 Fails to retain all significant trees, demonstrates unsatisfactory impact on trees and landscaping or fails to adequately analyse this.
- Sears 18 Fails to consider social impacts of degradation of cultural heritage which includes built heritage.
- Sears 11 and 19 Demonstrates unacceptable flood impacts or fails to properly analyse impacts.
- Sears 22 Demonstrates unsatisfactory impact on environmental heritage or fails to properly analyse impacts.
- Sears 23 includes no public space.

This matter ought to be reviewed by an independent planning panel and including public hearings.