

28 May 2025

By email: jasmine.tranquille@dpie.nsw.gov.au

Ms Jasmine Tranquille
Contact Planner
Department of Planning, Housing & Infrastructure
4 Parramatta Square
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PARRAMATTA NSW 2124

Dear Jasmine

**Notice of Exhibition – Residential development with in-fill affordable housing at 16- 24 Lord Street and 21 - 27 Roseville Avenue (SSD-78996460) (Application)
Development application submitted by HPG General Pty Ltd (Hyecorp/Applicant)
Response to EIS on Exhibition (EIS)**

I refer to your letter dated 29 April 2025 received on 1 May 2025.

We live in Roseville Avenue within the current TOD zone directly across from the proposed development site. DPHI's letter identifies us as a "*neighbouring landowner/occupier*" to the proposed development and therefore we have been formally notified that the Application has been put on public exhibition.

Based on the EIS materials I understand that we are 1 of only **30 neighbouring landowners** who received this formal notice.

1 Background

- 1.1 I specialise in real estate and infrastructure law. I act for private institutions, developers and government entities so I am certainly not anti-development – far from it. I am well aware of the challenges the industry is facing in site selection, development risk (such as planning uncertainty), construction risks (excavation, time delays, financing) and take-out risks (such as pre-sales commitments).
- 1.2 This project, which has sought to use the relatively new in-fill affordable housing consent pathway, has its fair share of development risks and they will all need to align if Hyecorp are to deliver 48 "**affordable**" apartments under the NSW Housing Accord by 2029, less than 4 years away. The application is at exhibition stage.
- 1.3 Given I have adult children seeking to enter into the apartment market, I am also very much aware that we have a housing shortage for apartments which they on their *moderate* incomes could afford to rent or purchase and what they should not access which is "**affordable**" housing.
- 1.4 Despite the rhetoric and social media commentary "affordable" housing must be used to primarily assist those essential workers which support the local community, being those "*low to moderate-income earners*" such as teachers, nurses, police officers, childcare workers and cleaners. This means making available apartments quickly near where they work at a subsidised rental to market. I support this outcome who wouldn't.

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- 1.5 Consistent with that our large family of 6 (all still living at home) supported Council's Preferred Scenario and the housing numbers it will provide and we know and understand this will lead to higher densities in Roseville near us on Hill Street and the Pacific Highway. That was always a possibility when we bought here 20 years ago.
- 1.6 We do not however endorse or support inappropriate development when that development seeks to circumvent or as DPHI has used the word "undermine" an alternative planning scheme which has been telegraphed to the community at least since May last year. That includes not complying with the legal requirements for adequate community consultation.
- 2 **The TOD v Preferred Scenario**
- 2.1 Unlike the Applicant's approach to consultation which was inadequate, the Preferred Scenario went through a lengthy consultation process and recently went on public exhibition. It is expected to be lodged by Council with DPHI imminently perhaps in the next 7 -10 days.
- 2.2 As recently as 15 April, prior to the lodgement of the EIS, DPHI acknowledged in an email to Council that:
- "Once council submits an alternative scheme to the Department, Government will look to prevent the lodgement of further development applications until such time as an alternative scheme is finalised".*
- The rationale of this was that *"This is to reduce the risk of proposed development undermining the alternative scheme"*.
- 2.3 In this uncertain planning environment, if any developer seeks to lodge such an application for development, residents (and that could be anywhere in Sydney not just the North Shore) can and should expect that such applications must be carefully considered and prepared and, in my view, strictly comply with the assessment requirements (in this case the SEARs requirements issued to the Applicant). No short cuts can be taken.
- 2.4 Despite the risk of a change in planning laws, Hyecorp and its consultants proceeded with its application in late December 2024 on the basis that Scenario 2(b) would be the outcome. Given the uncertainty this was most likely a development risk they took however when the Preferred Scenario was released it was not a favourable outcome for their proposal. Despite that, they chose to lodge their application with no adequate consultation and now a whole community is in a mess.
- 2.5 Ultimately if it does proceed (and it is unclear to me how that can occur with 2 planning schemes in play), this Application must be determined on the merits, not on the basis of rhetoric or commentary in the media.
- 2.6 It matters not where an application for development is lodged be that Kur-ring-gai, Inner West Council, Blacktown or Parramatta (where I once lived) – the assessment laws apply equally. Interestingly of the current 32 current SSDs on exhibition 13 relate to in-fill affordable housing and 8 are in Kur-ring-gai, a further 3 in Kur-ring-gai having already proceeded to response to submissions stage. I feel for the personnel at DPHI considering these applications in this uncertain environment.
- 2.7 Based on my submissions below, I would submit that the Application must be rejected by the DPHI or alternatively withdrawn by the Applicant and relodged when the mediation process has been completed. There are practical and public interest reasons for that to occur and which I comment on below.

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- 3 **The Preferred Scenario and the planning uncertainty our community has been subject to – public interest considerations**
- 3.1 Through the process of purchasing and renovating our home we became aware of various benefits and constraints regarding our neighbourhood including it being in a Heritage Conservation Area, tree preservation requirements, the tunnel under east Roseville and a drainage easement that runs through our property. As an adjoining neighbour many of these development constraints are referred to in the EIS in great detail (including of relevance page 97 for us).
- 3.2 From the time the TOD was announced in January 2024, we like many in the TOD area were called, texted, door knocked and written to by numerous, developers, agents and intermediaries telling us to “*band together and sell*”. We were told to “*act quickly*” as the area would soon become *saturated* with apartment product and we would “*miss out*” on achieving the best price. It was all about taking the “opportunity” and making money **quickly**.
- 3.3 These activities resulted in stress, frustration, fear anger and of course greed. Many of our neighbours either willingly or reluctantly because of personal circumstances (eg. desire to double their money, fear of missing out or being overshadowed etc) signed up with agents or possibly developers. We resisted based on our personal circumstances and also our knowledge of the development constraints that applied in our neighbourhood principally the destruction of its heritage character. In April 2024 when it seemed the TOD legislation would be passed, we feared the worst.
- 3.4 In early May 2024, we became aware Councils’ legal proceedings and thankfully the communications from agents and developers abated. We were informed that the “*anticipated stampede*” of applications did not eventuate owing to the factors, we were aware of including, unsurprisingly, Council’s litigation, developer concerns regarding heritage and what would be the likely content of any alternative plans Council may submit. It is now clear that the “collective sales” surrounding the site did not eventuate.
- 3.5 In mid-November 2024, we like many neighbours were **relieved** when Council’s alternative scenario consultation was announced. Despite being in a TOD area but conscious of the development constraints and our personal circumstances we discussed it as a family and voted for Scenario 3(b).
- 3.6 On 25 March 2025 we became aware that Council’s alternative preferred scenario would be released and when it was publicly exhibited, despite not being perfect or possibly fair for all impacted residents, we voted in favour of it. It seemed a fair outcome and balanced the requirement to meet the housing numbers required of the Government (including affordable apartments) with higher density in areas more accessible and with more services.
- 3.7 It is now apparent to me from the EIS materials that, despite that uncertainty and the constraints, between July and September 2024, 9 neighbours signed call option agreements with Hyecorp. These grant Hyecorp the option to purchase their properties at a future time at very high prices – we do not know exactly but have heard possibly **double their pre-TOD worth**. It is unclear when they will expire.
- 3.8 Despite all of this uncertainty, the EIS materials clearly show that, as at the date of the Application, the only SSD application east of Roseville Station that has been lodged is Hyecorp, a first and possibly only mover in east Roseville if its application progresses.
- 4 **The 22 May “backflip” and Current Status of the Preferred Scenario**

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- 4.1 We are now at the end of a lengthy process that commenced in November 2024 and the community expected to be resolved on 22 May with Council's alternative planning scheme lodged with the DPHI as required by the Mediation Agreement.
- 4.2 It appears that by the barest of margins of a vote 5 – 4 on that date that that meeting has been adjourned to 5 June 2025 to permit the Preferred Scenario to be "*fine-tuned*".
- 4.3 There also appears to have been a number of recent policy changes (back-flips) from the DPHI relating to the "*saving of applications*" which are of concern and are impacting residents and communities who, whatever your political alignment, are the residents of NSW. Their concerns must be acknowledged in the public interest.
- 4.4 It has been over 12 months since the commencement of the TOD and the LEC proceedings. The uncertainty needs to end and quickly and I urge Council to submit the Preferred Scenario (subject to any minor tweaking) following its meeting on 5 June 2025 and DPHI accept that position as they appear to have stated.
- 4.5 The speedy resolution of this will bring certainty to both residents and developers and not waste the limited resources of Council and DPHI in having to consider applications that may be "compliant" under TOD but "non-compliant" under the Preferred Scenario.
- 4.6 Given the enormous amount of angst and frustration that has been put on those affected, it is in the public interest to do so.

5 Balancing of the Public Interest considerations - Hycorp's in-fill affordable housing Application

- 5.1 Hycorp presumably on advice from its consultants, has elected for this proposal to proceed via the consent pathway of the in-fill affordable housing mechanism. That mechanism gives them significant "fast track" benefits including a determination by Minister Scully rather than the Independent Planning Commission or a local planning panel.
- 5.2 Given it is a relatively new mechanism, there is not a lot of material about this mechanism but I see that the DPHI's website contains a practice note issued in December 2023 when the consent pathway was announced (**DPHI Practice Note**). It appears to be a guidance note for consent authorities (ie the Minister) and applicants to unlock additional affordable housing supply over the medium term.

Relevantly on page 13 under the heading "*Flexible application of in-fill affordable housing provisions*" it states as follows (highlighting added):

Responding to local standards

The full extent of the in-fill affordable housing bonuses may not be achieved on all sites, due to site constraints and local impacts. The in-fill affordable housing bonuses should not be treated as an entitlement. DAs that propose in-fill affordable housing will be subject to merit assessment by the consent authority. The application of the bonuses does not affect a consent authority's responsibility to consider the requirements of relevant EPIs, a development's likely impacts or the suitability of the site for the development. In applying the in-fill affordable housing bonuses, applicants and consent authorities should be flexible in the design response of the development having regard to:

- the Government's policy intent to deliver more affordable housing through the in-fill affordable housing provisions of the Housing SEPP, and

- the impact of the development on the amenity of the site and adjoining land, taking into account the building's height, scale and bulk.

The in-fill affordable housing bonuses do not override any provision in any LEP or other EPI. However, local development standards should be applied flexibly and need to be balanced against the need to realise more affordable housing.

In the case of solar access controls in a LEP for preserving solar access to dwellings and / or open space:

- The objective of preserving solar access is to be considered whilst balancing the need for affordable housing.
- The height and FSR bonus may not be achieved in full where the development would cause unreasonable overshadowing or would result in substantial reduction the mid-winter solar access available to existing dwellings.
- For example, an LEP contains a sun access control which specifies that development consent must not be granted to development that would cause unreasonable overshadowing to a public open space between set hours at mid-winter. Sites in the vicinity of the public open space may not be able to accommodate the full height bonus whilst complying with the local overshadowing controls. A portion of the height bonus may be able to be accommodated, up until the point where unreasonable overshadowing would occur.

5.3 I am not a planning expert but this appears to be the balance we are now facing in our area with the additional complexity of the “planning uncertainty” between TOD v Preferred Scenario, effectively 2 separate “planning schemes”.

5.4 Unfortunately, the Applicant, despite the DPHI Practice Note suggesting “flexibility”, is seeking the maximum FSR and height however disregarded:

“the impact of the development on the amenity of the site and adjoining land, taking into account the building's height, scale and bulk”.

Unlike other SSDA applications, it does not appear flexibility has been considered.

5.5 Further I am told, the Applicant is offering up the minimum affordable apartments required under the Housing SEPP. The EIS shows this results in the ultimate delivery of **40** affordable apartments for **15 years** and **8 affordable apartments** in perpetuity. I note those **8 affordable** apartments are identified in the Affordable Housing Strategy prepared by Hycorp dated 3 April 2025 and appears to be situated on **Level 1 of Building D** of the proposed development.

5.6 The public interest is not served at all by the inflexible nature of the Application in using the mechanism which has exacerbated by completely inadequate community consultation. No doubt if the Applicant modifies the Application by amending the DA in all likelihood there will be a reduction in the number of affordable apartments and further delays, resulting in feasibility concerns for this project.

5.7 If the Applicant's feasibility is impacted and the project delayed then the likely reasons will be a combination of a number of factors:

- (1) *planning uncertainty* given the Preferred Scenario which will delay the development process;

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- (2) *heritage concerns*, noting that the 9 properties will need to be destroyed and this is a significant hurdle to overcome;
- (3) the high *underlying prices* paid to each of the lots owners who agreed to option their properties – I wonder whether the 9 lots owners who are prepared to see their beautiful homes destroyed will reduce their contract prices or refund their option fees to support the reduced affordable housing outcomes ;
- (4) other construction constraints, some of which I comment on below.
- 5.8 In the circumstances, I object to the Application and the opportunistic nature of it in this uncertain environment and would prefer the Application be rejected or withdrawn. That may not occur and it will need to be determined on the “merits”.
- 5.9 On that basis I reluctantly set out below some comments on those merit matters if the Application proceeds to response to submissions stage.
- 6 **Inadequate Community Consultation – not in compliance with the Guidelines required by the SEARs and against the public interest**
- 6.1 I expect there will be numerous submissions on this point. Given we are significantly impacted by the proposal being 9 stories across from our home, I called the DPHI contact planner with my specific concerns and was advised as follows:
- “As your submission was not made via the NSW Planning Portal it will be considered feedback. If you would like your submission to be considered I would encourage you to make an online submission via the portal.”*
- 6.2 As I have been encouraged to do so here are my comments and submissions below:
- (1) **Late on 10 March 2025**, I first became aware of the Hycorp application when a neighbour alerted me to it by email. I went onto the planning portal and considered the application briefly. I recall making a comment to that neighbour to the effect that *“They will need to spend some real money on the EIS but may defer that expenditure until after Council provides their feedback on the options”*.
- (2) **On 14 March 2025**, our residence received a 1st flyer. I was surprised and annoyed to see that the opportunity to attend a *“community drop in”* session had already occurred on 12 March 2025.
- (3) **On 18 March 2025**, we received the 2nd flyer and once again I went on to the “project website”. It contained no relevant information so I also considered the Community Engagement Guidelines on the DPHI website. I waited for more information realising that what had occurred to date was not consistent with the Guidelines.
- (4) **On 25 March 2025**, apparently the day after the “survey” closed, Council released its alternative preferred scenario.
- 6.3 I have since ascertained that of our immediate neighbours in Roseville Avenue directly impacted by the proposed development all have said they received 1st flyer or a subsequent 2nd flyer either **after** or shortly **after** the Drop-in Session had commenced with the exception of 2. It could have been easily missed given it was a coloured flyer that looked like advertising and was not a **formal letter** addressed to the owner as other applicants have done for other SSDs in the Kur-ring-gai district.

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- 6.4 I did not complete the “survey” as it was clear to me that the questions were generalised *sentiment* questions only and could be misused by the Applicant given Council’s scenario consultation process was continuing. I was and still am concerned with the way the flyer and website presented the proposal which had little or no detail.
- 6.5 From recent and direct communication with neighbours behind me on a ridge line in Oliver Road who will be significantly impacted, I have been informed by them that none of them received any flyers or letters or any communication regarding a 9-storey development and that would significantly impact them.
- 6.6 Given only **5** local residents attended the only Community Drop-in Session on 12 March 2025 from a distribution of apparently **over 1300** flyers surrounding the site, it is unclear whether those 5 persons were also given the opportunity to consider the north-east elevation plans in the drawings in the EIS materials which significantly impact our family and those neighbours.
- 6.7 Further of the **5 persons** who appear to have attended the Community Drop-in Session it would appear that 1 attendee is one of the owners who has optioned his property to the Applicant and 2 are a couple who are local residents known to that owner. It is unclear how they received prior notice of the Community Drop-in Session when the other neighbours I have spoken to did not. That still is a matter of concern to me.
- 6.8 None of the neighbours I have spoken to were called, door knocked or received personal letters from the Applicant or its consultants giving them an opportunity to be heard about the project. Procedural fairness has not been applied.
- 6.9 Given the limited adjoining neighbour Notices of Exhibition, I also have some concerns regarding the contents of the flyer regarding what is described as “*opportunities for feedback during the exhibition process*”. If those Notices were only sent formally by DPHI to 30 adjoining neighbours then the balance of the community identified in the social locality diagram in the EIS materials would have been unaware of the proposed application unless “*word of mouth*” or “*door knocking*” by concerned residents occurred.
- 6.10 It should not be incumbent on a resident community to undertake a consultation obligation of an Applicant under an assessment requirement within a 28- day period.
- 6.11 In the context of the exhibition of the Preferred Scenario, I also have some concerns with the contents of Engagement Outcomes Report (**EOR**) and Social Impact Assessment Report (**SIA**) prepared by Gyde Consulting and dated 16 April 2025 in particular:
- (1) these documents were prepared 12 days after the SSDA was lodged for an adequacy review with DPHI and 2 weeks prior to lodgement of the Application, when they could have been deferred until the outcomes of the public exhibition were known;
 - (2) Neither the SIA or the EOR adequately address to whom the further 200 flyers were sent to – in any event what is proposed in those flyers is inadequate for a project of this nature.
- 6.12 Given the requirements for community consultation which is an obligation on the Applicant this lack of meaningful consultation is not acceptable nor in the public interest for any resident in NSW, including members of Parliament on **both sides** of the house.
- 6.13 Others will no doubt comment on their personal experiences but in my view it would be contrary to the public interest (for any community in this State but particularly where there is an uncertain planning environment) to permit the Application to progress until compliance with the Guidelines is undertaken and, given the DPHI Practice Note, that

consultation must be undertaken with regard to the Preferred Scenario, an outcome that would make this 9 story development wholly impermissible.

- 6.14 Given this lack of consultation, I respectfully request that the DPHI bring my concerns to the attention of the Department's officer who is assessing the community engagement materials in the EIS for consideration and let me know the outcome.

7 Tunnel Impacts – Future character and construction constraint

- 7.1 As the time we acquired our property in 2005, we were aware of the Epping to Chatswood Metro tunnel as part of our purchaser due diligence. We still hold plans and records from that including a Post Construction Property Condition Survey prepared by Thiess Hochtief dated 24 July 2006. Those above the tunnel reserves are well aware of the tunnel either when it was constructed or when they purchased their properties. Some of the owners from that time may even have been compensated when the substratum was compulsorily acquired.
- 7.2 It is clear from discussions I have had with a number of neighbours, that while aware of the tunnel some of them did not understand that this land beneath their properties is actually owned by Sydney Metro.
- 7.3 I am not an expert but it is clear from the Sydney Metro Tunnel Study prepared by PSM (**Sydney Metro Tunnel Study**), who I understand are experienced in these matters, that there are significant construction constraints in excavating below 2 metres into the 2nd reserve (i.e. more than a pool) and no excavation is permitted at all within the 1st reserve.
- 7.4 In order to undertake any such excavation a lengthy and costly process needs to be undertaken as detailed in the Sydney Metro Underground Corridor Protection Technical Guidelines. The DPHI would be aware of these requirements on other projects they assess.
- 7.5 I have been told by numerous residents surrounding the site in Lord Street, Roseville Avenue and Oliver Road that this is one of the reasons that the “collective sales” in Roseville Avenue and Oliver Road did not proceed. It is an interesting question as to whether those owners should now be compensated for the loss of potential development rights given the restrictions Hyecorp's expert has identified and if the Preferred Scenario is not adopted. They will be in the same position as list Heritage property owners.
- 7.6 Given the planning portal clearly details the route of the metro tunnel as it passes through east Roseville as has been identified on page 15 of the EIS, this is an important consideration relating to future development potential over much of east Roseville which simply must be critically assessment. Clearly the TOD “*circle around Roseville Station*” did not consider this but relies on developers to do so.
- 7.7 The Applicant knew about this aspect but disregarded it and has obtained the Sydney Metro Tunnel Study that is preliminary only and determines their project is “feasible”.
- 7.8 I request DPHI to consider this aspect and also reach out to Sydney Metro for their views given the history of the acquisition of these Metro stratoms and the current and future planning for the Sydney Metro.

8 Tree Canopy – Environmental considerations and construction constraints

- 8.1 Pages 91 to 96 of the EIS deal with Trees and Landscaping.

8.2 Given Council's and the community's concerns regarding tree canopy in our Council area, I assume that DPHI and Council's officers will critically assess this aspect of the report and its analysis however it should be noted that:

- (1) 89 or 91 out of 116 trees are to be removed;
- (2) It appears that there are 3 large gum trees referred to in the Appendix Z – Arboricultural Impact Assessment dated 3 April 2025. The gum trees appear to be on the site and 14 Lord Street being tree numbers 93, 115 and 116 trees each over 20 metres in height. I understand that tree number 93 is the one identified below however this could be confirmed by Council.



- (3) Page 23 of the EIS states:
“The site is not mapped as having biodiversity values in the KLEP 2015. However, a small portion of the site is mapped on the Biodiversity Values Map and Threshold Tool Map as containing biodiversity values. This pertains to an existing large tree located centrally within the site. This tree is proposed to be retained by the proposed development. A BDAR Waiver has been granted for the proposal, refer Appendix CC”
- (4) If this is the large Gum tree referred to in the plans as being a centrepiece in the BDAR Waiver report attachments, the words “**proposed**” concern me particularly as it is acknowledged that the site has “biodiversity values”.
- (5) I am not an arborist but I do think this aspect needs to be considered further particularly by Council who have experience in these matters and the fact there is proposed excavation for 3 levels for car parking which will impact root structure.
- (6) In relation to the gum trees this is of significant concern to me as I have observed over many years birds, presumably migratory, in these trees. I hear them and the 9 lot owners would also be aware of them, as at certain times of the year they make a lot of noise at sunrise.
- (7) Council should also consider the report referred to in the BDAR waiver that does not appear in the EIS materials being the one prepared by “**East Coast Ecology Pty Limited dated 12 March 2025**” and that should be made public for Council’s consideration.

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- (8) A further item of concern is on page 92 which states:

“Tree 88 is to be transplanted into a more suitable position within the subject site in accordance with the AIA. This relocation is a result of the major incursion into its TPZ as a result of the proposed pave surfaces. It has been confirmed in the AIA this tree can be relocated given its positive contribution within the landscape and its species is considered a suitable candidate for transplanting. Mitigation measures have been recommended to ensure the survival of this tree during and post-transplant.

- (9) From what I can ascertain Tree 88 is a Chinese Elm which is fairly rare and has been there for at least in the 20 years we have been in Roseville.

- 8.3 I request these biodiversity and tree matters be put to the attention of Council. I would also request Council to make enquiries regarding the contents of the East Coast Ecology report that supported the BDAR so it may be further considered.

9 Environmental Heritage Concerns – Existing and future character

- 9.1 We and our neighbours bought into the area fully aware that it was a Heritage Conservation Area. Like many others when we renovated 12 years ago, we were required to provide a Heritage Impact Statement and this was not only about the renovations but also the impact on the Roseville Avenue streetscape.

- 9.2 The Applicant, its consultants (and the owners who have optioned their properties), would have been aware of Clanville HCA when planning certificates were obtained prior to entering into the options with the lot owners.

- 9.3 A simple DA search would have also revealed that Heritage Impacts Statements for the individual homes to be destroyed under the Application as detailed in the Architectural Plans Annexure D (not “replaced” as the Flyer states). Our HIS is still on the website from our renovations 12 years ago.

- 9.4 I am not a heritage expert, but I make the following comments regarding the EIS:

- (1) As is noted in the EIS materials the site is surrounded by listed heritage properties particularly to the east of the site being the Scout Hall, our neighbours at 22 and 31 Roseville Avenue, the Church at 28 Lord Street and 29 Lord Street.
- (2) The photo montages on pages 103 appear to show alterations at the rear of the properties to be destroyed or compressed views of the front of the properties which are not indicative of the streetscape and where they are situated along Lord Street or Roseville Avenue;
- (3) All of the 9 lots the subject of the site (including the “split titles” which were subdivided for the tunnel stratum owned by Sydney Metro beneath them) appear unchanged from the original deposited plan 3277 that was registered in **May 1896**, the same deposited plan that remains for the remaining lots and most of Roseville Avenue.
- (4) As owners who have renovated know, even if a home or its setting is not listed then it could still be regarded as “**contributory**” to a conservation area accepting that is a matter for experts.

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- 9.5 In that context some of the comments made on pages 104 and 105 of the EIS should be critically reviewed by the assessing officer at DPHI particularly as they assume the Preferred Scenario **will not proceed**.
- 9.6 Even if for some reason the TOD would remain (and that is not likely given the stage of where the process is up to based on Council's website) then the likelihood of other owners in heritage listed properties or in *contributory* properties around the site such as 7, 9 and 11 Roseville Avenue would be able to develop 6 storey apartments is highly unlikely particularly given their proximity to the tunnel reserves and basement parking requirements referred to in the EIS materials. This is one of the reasons the collective sales that Colliers and Savills procured in the middle of last year that never proceeded.
- 9.7 I am pleased that the EIS discloses that feedback from DPHI at the scoping meeting on 18 December 2024 was that the Applicant was required to prepare a:

"comprehensive Heritage Impact Statement".
- 9.8 I am hopeful therefore that each of the DPHI and Council thoroughly review that HIS being Appendix GG Heritage Impact Statement prepared by Urbis (ie. the Urbis in-house Heritage Consultant).

10 **Visual Impacts Concerns - Merit**

- 10.1 Having considered the plans within the EIS, particularly the north-east elevation diagrams referred to on page 23 of Appendix D we are concerned that the height, mass and bulk of the proposed development will significantly impact our home from a visual impact basis.
- 10.2 The Visual Impact Assessment (VIA) prepared by Urbaine being Appendix P is also unsatisfactory in a number of respects. Specifically for us Viewpoint 5 taken from the street at 30 Roseville Avenue as a public view being regarded as *moderate – severe*.
- 10.3 This photo is the public view however we and our neighbours can provide access to Council and DPHI to take pictures from our homes which will demonstrate the true and permanent significant visual impacts from our living areas for consideration and assessment.



- 10.4 I also note this picture is obscured by trees and does not appear to have scaled the true height of the heritage listed scout hall against a 9-story building.
- 10.5 I request that the DPHI require the VIA to address this deficiency as well as any other discrepancies that are clear from other photos taken from the "public roads" which are do not appear to be a true representation of the visual impacts including from further up Trafalgar Avenue.

11 **Stormwater Volume, Drainage and Road Infrastructure – Merit and Potential construction constraints**

- 11.1 Within our neighbourhood it is well know that the roads and infrastructure are failing.
- 11.2 As is detailed on pages 97 - 102 of the EIS the site being at the bottom of 2 hills in Roseville Avenue receives a substantial amount of stormwater when it rains heavily. The road outside our home at the bottom of the hill is constantly being repaired and given subsurface issues is often depressed and breaks up.
- 11.3 The properties adjoining Martin Lane are actually part of the Moores Creek catchment area and the EIS notes that "*Martin Lane is the natural overland flow path towards Moore Creek*". This is another construction constraint.

Local residents would be aware of this heavy rain the most recent of which was in early March 2022 when the entire area below our front yard became flooded – it is unclear what occurred downstream but this natural flow would have then gone downstream to Martin Lane and to Middle Harbour. Below is a picture in question taken on 8 March 2022.



- 11.4 I am not a flood expert but I feel Council should comment on this part of the EIS based on its knowledge of it and the impact of the road surface which depresses after heavy rain and subsequently is patched up. I note that Council will need to be convinced of this aspect if they are going to release the covenants and restrictions referred to on page 18 of the EIS.
- 11.5 I request DPHI to contact Council to comment on this position particularly in the context of the broader services infrastructure which is aged in our area such as roads, drainage, power (where we get outages) and water pressure being able to withstand a 250 apartment block at the bottom of a hill.

12 **Built Form and Urban Design Concerns**

- 12.1 I will leave it to planning experts from the DPHI and Council however as a neighbouring landowner it is clear that, even if the Preferred Scenario is not applied, the proposed development will be on the edge of the TOD and its built form, bulk and height will oppressively overshadow our property and indeed adjoining properties in the immediate area.
- 12.2 That area is identified on page 9 of the SIA being the "social locality". In the circumstances it is curious why no-one in that area knew about what was about to be exhibited other than the "coloured flyer" and "spread the word".



12.3 I invite the DPHI assessing officer to undertake a site visit to the area and surrounds but clearly:

- (1) The height of the development (up to 9-storeys and more than any other development in the surrounding area) will overshadow the surrounding area immediately to the north, east and west where the tunnel reserves are situated including impacting privacy and solar access and ruining the streetscape and character of the area;
- (2) 4 buildings up to 9-storey each will significantly impact the existing built form in the neighbourhood (1-2 storey houses) and the future built form in the neighbourhood (remaining 1-2 storey houses under Council's Preferred Scenario);
- (3) those areas where significant development constraints adjoining it to the north and south due to the Metro tunnel reserves.

12.4 Pages 23, 24, 31, 32 provide context on what is being proposed and the VIA should be critically assessed. The Applicant has made not attempt to be flexible in its application having regard to the DPHI Practice Note.

12.5 With respect to these built form and scale merit factors I would submit that the Application is entirely devoid of merit.

13 **Traffic Impacts – Potential construction constraints**

13.1 Council's report should provide comment on the Traffic Impact Study however from my observations the document contains some glaring inconsistencies and is just not factual.

13.2 It expresses the view that the proposed development is expected to result in a net increase of between 32 and 43 vehicle trips. This appears optimistic given 344 car spaces and assumes school drop offs to local schools as well as the figure of 56% of residents *driving to work*. Based on 344 car spaces this equates to 192 peak hour trips not 32 to 43 as stated.

13.3 The SIA refers to approximately 700 + residents so it would be assumed to at least double that based on numbers.

13.4 The expected approach and departure routes do not include the Trafalgar Avenue, Martin Lane, Lord Street and Glencroft Rd "rat run" as cars head south to Boundary Road or north from Boundary Road or Bancroft. This is a common means of avoiding the congestion on Hill Street.

13.5 There is also no "*cycling infrastructure*" but signs (including one outside our home) indicating possible routes which include the "*rat run*" – I have rarely seen cyclists along this route as it is dangerous with hidden corners and the narrow roads, particularly Martin Lane which resembles a single lane mid-week as commuters park on both sides.

14 **Noise and Vibration**

- 14.1 After the Tunnel was built we were provided with a dilapidation report – that tunnel is 4 houses away on the corner of Trafalgar and Roseville Avenue.
- 14.2 If the development proceeds, given it is proposed that there be 3 levels of basement excavation and a 2 year build we would expect similar dilapidation reports to be prepared.

15 **Construction Timeline and Housing Accord Objectives**

- 15.1 In addition to merit arguments, some of the comments referred to above relate to development and construction constraints which no doubt the Applicant would need to address over the development timeline if the application proceeds. I expect given the complexity of them, this may result in cost and delay and ultimately feasibility issues.
- 15.2 The Applicant notes that the estimated construction timeline alone is 24 months and the Applicant's consultants are at the close of exhibition stage still awaiting a response from Sydney Metro and other outstanding matters.
- 15.3 In addition to the planning uncertainty the constraints I have referred to will very much impact whether this project would be achievable over the short to medium term to deliver the 48 "affordable" apartments by 2029 consistent with the National Housing Accord.
- 15.4 This is an entirely relevant consideration given the circumstances of the Application and the inflexible nature of it under the DPHI Practice Note.

16 **Conclusion**

- 16.1 Based on the above matters, I respectfully request the DPHI to consider the above submissions and record my strong objection to the Application.

Your sincerely

Nick Afaras