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Rosebery Estate Consultation  
Department of Planning, Industry & Environment  
Locked Bag 5022  
PARRAMATTA, NSW 2124

Dear DPIE

### **Proposed Statutory Amendments - Rosebery Estate Explanation of Intended Effect**

Thank you for the opportunity to comment on the Rosebery Estate Explanation of Intended Effect (Rosebery EIE) that is currently on public exhibition.

Whilst the Housing Industry Association (HIA) has no comments to make on the specific matter of the Rosebery Estate covenant and complying development, we are very interested to note that the Department has undertaken to carry out research on covenants and how they interact with environmental planning instruments (EPIs). The Department outlines the following in Clause 1.2 of the Rosebery EIE:

*Covenants can affect the planning system, but sit outside of the planning system, and can involve complex legal property law issues.*

Additionally, the Department makes a commitment in Clause 2.1 to:

*...review how covenants interact with environmental planning instruments, and develop education material for certifiers, landowners and the community.*

HIA is often asked its members about the status of covenants on land titles and whether they take precedent over an EPI. Sometimes the questions are about historic titles and covenants, but can also be about councils placing covenants on new land to restrict the type and form of development that can be built on that land. This can include for example adding a restriction on the building footprint or building envelope.

HIA would be very interested to learn more about the nature of the research work to be undertaken by the Department on covenants and EPIs, as we may be able to assist with information. We would also be pleased to participate in any industry stakeholder forums held on this matter.

Please contact Cathy Towers, Assistant Director Planning, on email: [c.towers@hia.com.au](mailto:c.towers@hia.com.au) or telephone 9978 3333, should you require any further information.

Yours sincerely  
HOUSING INDUSTRY ASSOCIATION LIMITED

David Bare  
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