

25 January 2021

Our Ref: 2021/016177
File No: X030568

Meagan Kanaley
Director Codes
Department of Planning, Industry and Environment
Level 16, 4 Parramatta Square
12 Darcy Street Parramatta NSW 2124
By email: [REDACTED]

Dear Meagan,

Submission to Explanation of Intended Effect (EIE) relating to the Rosebery Estate

Thank you for the opportunity to comment on the proposed temporary exemption of Rosebery Estate from application of the Housing Code and the Low Rise Housing Diversity Code for a period of two years. The City has reviewed the EIE, and invited residents in Rosebery to do the same.

The City has been working with the Rosebery community for many years to protect the special character of Rosebery Estate. The City's planning controls allow an appropriate amount of flexibility for residents to adapt housing to meet their needs. This balance allows demolition and rebuilding significant renovation and the ability to build dual occupancies under planning controls specifically designed for the area, subject to a full assessment. This meets the objectives of the Eastern City District Plan to protect local character and increase housing supply through local infill development.

The Housing Code, and recently introduced Low Rise Housing Diversity Code, override our special character area planning controls in place for Rosebery Estate. The community has raised concerns with the City about inappropriate and out-of-character development in Rosebery Estate being delivered under these housing codes. They have also raised concerns that development under the codes is contrary to covenants that apply on land in the Rosebery Estate which has created significant uncertainty about how the code may be applied.

We are concerned that a two-year pause in the application of the Housing Code and Low Rise Housing Diversity Code to the Rosebery Estate area does not address the community's concerns about protecting the character of the area or preventing development that contravenes covenants dating back to the establishment of the Rosebery Estate. The EIE does not suggest a plausible path forward for resolving the issue of whether the covenants are enforceable against complying development certificates.

We note the Department is working on introducing a Local Character Clause, supported by a map overlay, in the Standard Instrument LEP, which will support local councils in identifying and protecting areas with special character. In its exhibited form however, this does not include the ability to exempt areas from the Housing Code based on protecting local character.

The long-term solution to ensure an appropriate level of flexibility and infill development, while also protecting the special character of Rosebery Estate, is to allow the local planning controls to be enforced and permanently remove application of the Housing Code and Low Rise Housing Diversity Code.

The City therefore recommends the proposal be amended to permanently include the area mapped as Rosebery Estate under 'Schedule 5 Land excluded from the Housing Code, Inland Code or Low-Rise Housing Diversity Code' in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

To speak with a council officer about this matter please contact Jarrod Booth, Planner on 9288 5963 or at jbooth@cityofsydney.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A-T', with a horizontal line extending from the top of the 'T'.

Andrew Thomas
Acting Director
City Planning | Development | Transport