

We ask that Sydney Council and NSW State Government please do not reduce the value of our family home and destroy our hopes to build a modern 2 level family home, that would comply with NSW wide CDC rules. We exchanged contracts for [REDACTED]. We are shocked by this sudden proposal to pause CDC in Rosebery Estate because majority of homes rebuilt in the area have been under CDC and before buying we directly asked the Council in Oct-2020 about this issue, to be told that CDC is a legitimate path with no plans to change this. We ask that CDC be grandfathered to allow anyone who bought in Rosebery estate before any CDC pause begins to be able to build under CDC, as the DA is a severely restricted path that leads to lower home values. The alternative could cause severe financial stress and family stress for us, and for many others. We have outlined many further points below, but at the heart of the matter is the sudden proposal would unfairly reduce the value of our family home and many others' family homes, which is the largest asset for most Australians.

Thank you

[REDACTED]

Key issues

Many old rules need to be changed or replaced – for example, women could not vote before 1902 in Australia. The covenant was put in place 100 years ago when there much fewer construction rules in NSW, and sought to provide a minimum quality of building, e.g. were not welcome. NSW CDC and BASIX rules in particular should supersede this. The Covenant prevents use of modern, environmentally friendly building materials – such as Hebel, which the Australian government is promoting – see <https://www.yourhome.gov.au/materials/autoclaved-aerated-concrete>.

NSW Government should co-ordinate with Sydney Council and all the other councils to fix this issue. Sydney Council has not been enforcing the covenant for many years – consistent with many other councils around NSW not enforcing similar covenants in their area. We ask the NSW Government to give families certainty around their family homes and remove outdated rules with broad based legislation that clear makes covenants ineffective.

NSW Government & Sydney Council did not provide sufficient warnings – we don't think that coming out in early December 2020 with a proposal to ban / pause CDC for 2 years and give no grandfathering protection or even provide timelines on this could begin is acceptable. This concerns the family home – a multi year or even multi generation purchase. Changing or rebuilding the home is a huge undertaking that takes a long time and a lot of resources. To change rules so suddenly this is not acceptable, and will lead to financial stress for us and many others.

Sydney Council did not notify of its intentions even when directly asked in October 2020 – We had a call with the planning advice team at City Of Sydney at 11am on 30 October 2020, before buying a house that sits in the Rosebery Estate. At that call the Council planning team said NSW CDC rules apply to the Rosebery Estate and 2 storey dwelling is possible. We asked directly if the Council was happy with this, ie with NSW CDC overriding the Rosebery covenant as we have lived around Green Square for many years and observed the Council objecting to NSW state proposals on many occasions. The Council representative responded by explaining the dual approval paths of CDC and DA, but did not alert us about the proposed action Sydney Council was about to take to stop CDCs.

Sydney Council has been aware of this potential issue for 13 years / since 2008 – the proposal states that *“In May 2008, the City of Sydney Council resolved that the Rosebery Estate are was not suitable for a heritage conservation area listing based on the findings of a heritage study prepared by Council. The report found that Rosebery was too highly modified to constitute a conservation area”*. This means Sydney Council has had almost 13 years to resolve CDCs if they actually thought it was an issue. Each CDC passes through the Council and the government, so they

would have been well aware of this for many years. The fact is that Sydney Council has done nothing for these 13 years, which implies they do not think building under CDC building in Rosebery Estate is a concern.

Majority of new private residential builds have been State CDC, not Council DA – 17 new residential dwellings have been built or proposed to be built under CDC vs 4 under DA in the Rosebery Estate area, according to information provided by Sydney Council. This means CDC is actually being applied consistently – and CDC is the preferred option for vast majority of residents. What's more, each CDC passes through the Council and the government, so they would have been well aware of this for many years. Why should we and other property owners seeking to rebuild have to suffer when this issue was well known?

There is no evidence of broad community support with just 60 of 1600 residents opposing CDC in a biased survey – Despite an active letter from Sydney Council in mid 2020 seeking support to stop CDC, which biases the outcomes by compelling one way of action and thinking, only 60 of 1600 residents gave their support to this petition. This is less than 4% and this is likely to be almost of the residents that oppose CDC as that is the view the Council letter was compelling. The other 96% did not feel strongly enough to support opposing CDC in Rosebery. So why is Sydney Council / NSW Government allowing a vocal minority to dictate to the silent majority, the other 96% of residents, how to live on their land and in their houses? This is not fair and impacting their livelihoods.

This will impact the value of our family homes – it is clear that all else being equal, having tighter restrictions on how to use the land will reduce the value of a home. We, and many others, have effectively paid for a home on land with fewer restrictions, and through no fault of our own are being told this land may be devalued by tighter rules. We do not think it is reasonable that Sydney Council / NSW Government changes these rules so rapidly and without grandfathering.

Yet Sydney Council / NSW Government is welcoming multi-storey apartments developments – and their monetary contributions and the rapid increase in population density. This is despite Green Square train station and the existing bus services starting to overflow. The Sydney Council / NSW Government are not being consistent by giving harsh treatment to regular home owners, who are not even seeking to increase population density or strain on local infrastructure.

Not consistent with the commercial development in the area – Commercial development has taken place all around and inside the Rosebery Estate area. It is not consistent for Sydney Council / NSW Government to insist private family homes in Rosebery Estate are one storey restricted homes, while all round large multi-storey residential and commercial development is taking place.

DA is not an alternative to CDC – The 2 year pause is not justified because the DA rules in Rosebery Estate are significantly tighter than CDC because the upper floor setback is 14m for DA, it becomes a one and a half level build, not 2 level build. What's more, DA requires unusually large and not symmetrical side setbacks as well, whilst also discouraging modern house features such as garages.

2 year pause does not provide certainty and is not a reasonable time frame – the year 2 pause is a very long time to resolve an issue that has been known for many years. It may prevent us, and many others, from building or extending modern family homes and during the 2 years financial circumstances change and kids grow up, while witnessing added frustration in their families.

Sydney Council is promoting modern amenities over heritage looks in Rosebery Estate – e.g. bicycle lanes in Dunning Ave that have large yellow lane dividers and red flag poles to separate bikes and cars – but are out of character with the look of the area. Sydney Council has demonstrated through its actions that modern needs and environment friendly options are priority.

