



The Submission Review Committee
Submissions on Rosebery Estate – proposed amendment
to exempt and complying development
NSW Department of Planning, Industry and Environment

29 January 2021

Dear Sir/Madam,

Re: Rosebery Estate 2 year temporary exclusion from the Housing Code and the Low Rise Housing Diversity Code

As a long-time Rosebery resident, I respectfully submit that the City of Sydney Council's ('Council') request to exclude Rosebery Estate from the current State Environmental Planning Policy Exempt and Complying Development Codes 2008 (SEPP) is not supported by the majority of residents and unfairly restricts home owners in Rosebery from the freedom to develop their properties in line with those freedoms under the SEPP afforded to all other home owners in the State of New South Wales (NSW) where the SEPP applies.

Specifically, Rosebery home owners should not be prevented for at least a further two-year period from taking advantage of the freedoms, afforded to other residents in NSW under the SEPP, to develop:

- i. two-storey housing to accommodate growing families as well as accommodating elderly parents, adult children wishing to remain at home etc.
- ii. duplex's and dual occupancy residences

via council (DA) or private certification approval (CDC) under the Low-Rise Diversity Housing Code.

Council argues that the basis for requesting a 2-year and possibly permanent exclusion from the SEPP is based on the clauses within the 1914 Rosebery Covenant ('the Covenant'), which prohibits the development of multi-storey and dual occupancy dwellings within Rosebery.

What Council has failed to identify or acknowledge in making this request to State Planning, is that Council has only consulted with a small group of residents who support Rosebery Estate's exclusion from the SEPP. Indeed, I respectfully submit that the majority of home/property owners from Rosebery Estate are supportive of Rosebery's inclusion within the SEPP, such that they may enjoy the freedoms under the SEPP afforded to their counterparts across the State where the SEPP applies.

Further, I submit that by Council's own findings from its 2007 Council commissioned formal Heritage Review, that less than 50% of buildings in the Rosebery Estate were compliant with the Covenant for various reasons. On that basis, in 2012, The Lord Mayor, Clover Moore, herself approved the removal of the Rosebery Covenant. Further, I respectfully submit that were the same Heritage Review to be conducted today, that the number of buildings which remain compliant would now be less than 40%, possibly even as low as 30%. Indeed, I encourage State Planning to conduct such a review.

Walking down any street in Rosebery, (and I strongly encourage NSW State Government representatives to visit the Rosebery Estate to conduct their own survey) one will find that there are numerous dwellings:

- which are rendered, thus breaking the Covenant which requires façade material to be either brick or stone
- where the roof material is corrugated iron rather than slate or tile, thus breaking the Covenant
- with carports or other structures in front of the dwelling, thus breaking the specified setback requirement of the Covenant
- with more than one dwelling per lot. Again, this breaks the Covenant and I note that this would have been DA approved, hence sanctioned by Council.

I would go so far as to suggest that Council is taking the side of a vocal minority, whilst having been complicit in the past, and currently, in having allowed or not regulated the development in Rosebery Estate. Development that has been explicitly or implicitly approved by Council and which has occurred over many years, and certainly since 2007. This development, either sanctioned or not prevented/regulated by Council has resulted in range of development which are not in keeping with the Covenant. Again, it is noted that this applies to at least 50% possibly even 60-70% of dwellings on Rosebery Estate.

Specifically, Council has and continues to permit a second level, if set back 14 meters from the front boundary and within 7m of the pitch of the roof. Consequently, numerous dwelling in Rosebery have Council approved second levels, which by their design (enforced by Council to purportedly comply with the Covenant) are not energy efficient and as habitable as could be achieved by second-storey development under the SEPP. That is, were these second storeys designed with both environmental and practical requirements in mind, in compliance with codes permitted by the SEPP, then they would be far more practical and habitable spaces for the growing demands for space by the residents of Rosebery Estate. Further, this would be consistent with what is permitted in the neighbouring suburbs of Mascot and Kensington, where it is noted that land sizes are smaller but where permitted building density is higher.

Further, there is an argument that permitting the SEPP to apply to Rosebery will contribute to the loss of the heritage value of this former Garden Suburb. Again, I strongly encourage State government representatives to visit and see for themselves just how few Federation and Californian Bungalows in their original form, remain. They have been modified some, beyond recognition, or demolished and replaced by houses reflecting architectural styles from the 1960s onwards. Federation and Bungalow buttresses and supports have been removed and replaced by columns of Greek or Italian style, facades rendered, and additions made.

In the appendix to this submission, I attach some examples of single-storey houses from Rosebery estate that do not comply with the Covenant, and which have been permitted by Council over a period of many years. Council has neither regulated nor enforced compliance, and that time has well passed. Hence, I respectfully submit that a 2-year delay in including Rosebery Estate from the SEPP or possible exclusion indefinitely, in light of the Covenant, has no basis. As, for the majority of dwellings in Rosebery, the Covenant has already been extinguished.

I would be happy to meet with State government representatives, along with other owners supportive of Rosebery Estate's continued inclusion under the SEPP. Indeed, many dwellings have already been constructed under this code and others have plans to follow suit. In light of the long-extinguished Covenant as it applies to more than half of the current dwellings in Rosebery Estate (as

acknowledged by Council following its own 2007 report and 2012 approval by the Lord Mayor), it would be unfair and inconsistent to now move to exclude Rosebery Estate from the SEPP.

Hence, I respectfully request, as a matter of equity, and in the interest of contributing towards sustainable suburbs, that the same NSW planning laws that apply to surrounding suburbs and other areas of the State of NSW, continue to apply to Rosebery Estate under the SEPP.

I thank you for your time in considering this submission and would be pleased for the opportunity to discuss with you further.

Sincerely,



See also Appendix

Appendix

Example properties not consistent with the heritage character of Rosebery Estate and/or the City of Sydney Development Codes







Many more can be found at the following via site visits or by accessing Google Street view of Rosebery. Please take the opportunity to visit and see for yourself.