



Council of Social Service of New South Wales

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26 June 2007

Ms Faye Roberts
Department of Planning
GPO Box 39
SYDNEY NSW 2001
seppsl@planning.nsw.gov.au

Dear Ms Roberts

Re: State Environmental Planning Policy (Seniors Living) – Draft Amendment

As the peak body for the non-government community services sector in NSW, NCOSS welcomes this opportunity to comment on the provisions of the amended draft State Environmental Planning Policy (SEPP) that is proposed to replace the existing SEPP (Seniors Living) 2004. We note that it is proposed to call the revised SEPP the *State Environmental Planning Policy (Housing for Seniors or People with a Disability)*.

For ease of understanding the structure of our comments follows that of the Department's fact sheet summarizing the revised draft SEPP.

1. Background and planning context

NCOSS is disappointed that the material placed on exhibition by the Department largely consists of the text of the amended draft SEPP and the proposed Regulation, and contains little substantive information on the policy and planning challenges involved in housing for seniors and people with a disability in NSW.

It is worth recalling that the stated aims of the Seniors Living Policy are to encourage the provision of housing (including residential care) that will:

- Increase the supply and diversity of residences that meet the needs of seniors or people with a disability,
- Make efficient use of existing infrastructure and services, and
- Be of good design.

These aims are to be achieved by:

- Setting aside local planning controls that would prevent the development of housing for seniors and people with a disability that meets the development criteria and standards specified in the Policy,
- Setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and
- Ensuring applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.

NCOSS believes that the Department should report periodically on the impact of the SEPP and how these related to the stated aims of the policy. It is unacceptable that the community knows so little about the extent to which the supply and diversity of housing for seniors and people with a disability is improving, whether better use is being made of existing infrastructure and resources, or whether or not the quality of housing design for seniors and people with a disability is improving.

The Metropolitan Strategy and the 2006 Review

In *City of Cities: A Plan for Sydney's Future*, its Metropolitan Strategy announcement of December 2005, the State Government undertook to complete three tasks in relation to self care housing for seniors and people with a disability, namely to:

- Ensure Local Environmental Plans provide for appropriately located and an adequate amount of housing for seniors and people with a disability,
- Replace the Seniors Living SEPP in 2006 with a range of mechanisms within the planning system, and
- Investigate measures to ensure that housing developed for seniors and people with a disability remains available to these groups¹.

Subsequently a Working Party was formed to review the existing SEPP and to consider the policy directions outlined in the Metropolitan Strategy. We understand that membership of the Working Party consisted of representatives of the Department of Planning, the Premiers Department, the Cabinet Office, Landcom, the Department of Housing, the Department of Health, the Department of Ageing Disability and Home Care, the Commonwealth Department of Health and Ageing, and the Local Government and Shires Association.

There was no representative of the non-government sector on the Working Party and its findings have never been released. The only feedback we have received to date was at the confidential stakeholder briefing in January 2007, which largely consisted of the Department indicating what its recommendations to the Government would be.

Links with the Planning Reform Agenda

In September 2004 the Government outlined its Planning Reform Agenda following a review that concluded that the NSW planning system was bogged down in complicated and overlapping requirements and processes and that it was often difficult to find out what development controls apply to a particular piece of land. A key thrust of the Agenda is to significantly reduce the number of plans that are in force. The Government has said that it expects the number of SEPPs to be reduced from around 59 to less than 25; the number of Regional Environmental Plans to be reduced from 44 to 'a handful'; and for there to be one comprehensive Local Environmental Plan (LEP) in each local government area².

This Agenda, along with the relevant action item in the Metropolitan Strategy, has obvious implications for the future of the Seniors Living SEPP. In this regard we note that Minister Sartor has indicated that "once gazetted, the [revised] SEPP will remain in place until

¹ See action item C2.2 (self care housing for seniors and people with a disability) *City of Cities*, Department of Planning, December 2005, pp.141-142.

² *Improving the NSW planning system*, DIPNR, September 2004, p. 3.

individual councils incorporate seniors living provisions into their comprehensive Local Environmental Plans over the next four years”³.

NCOSS urges the Department to keep non-government stakeholders informed of the processes involved in the Planning Reform Agenda, particularly in respect of the move to put in place a single comprehensive LEP in each local government area.

The need for more adaptable and accessible housing

NCOSS is disappointed that the Review of the existing SEPP did not result in further initiatives to expand the provision of adaptable and accessible housing in NSW. As the Department’s fact sheet notes, the State’s population continues to age and the number of people with a disability continues to increase as a proportion of the population. This has obvious implications for the sort of housing stock that we need.

In our view far too little progress has been made towards adopting planning controls that foster the wider provision of adaptable and accessible housing. A recent survey conducted by Shelter NSW found that just 49 of the 152 councils surveyed included any requirements for accessible or adaptable housing in either a Local Environmental Plan (LEP) or Development Control Plan (DCP)⁴. Those councils that did so were predominantly in the metropolitan area. The study also found considerable variation in the requirements adopted by the councils concerned, although the clearest trend was to require a minimum proportion of adaptable housing in new multi-unit developments, such as residential flats.

While NCOSS is appreciative of the efforts of those councils who have adopted some form of controls, we believe it is high time that a more concerted and consistent approach was taken to this whole issue so that we can truly generate a more diverse and appropriate housing stock. The first step in this direction must be the introduction of a mandatory requirement for all new multi-unit residential developments to include a proportion of adaptable housing, as advocated by us prior to the last State election⁵.

2. *Lifting of the moratorium subject to a Site Compatibility Test*

On 16 December 2005 an amendment to the current SEPP was gazetted prohibiting the development of self-care housing on land adjoining land which is zoned primarily for urban uses. This action was taken to prevent further development applications in inappropriate locations in rural areas, pending the completion of the review of the SEPP. When announcing the moratorium Minister Sartor said that he was concerned “that there may have been a

³ ‘Amendments to Seniors Living Planning Policy’, media release by the Minister for Planning, 23 May 2007.

⁴ Chris Elenor: *Provisions for adaptable housing by local government in New South Wales*, Shelter NSW, October 2006, available online at www.sheltersnsw.org.au

⁵ See *A Fairer NSW: bold solutions and real results*, NCOSS October 2007 p. 12, available online at www.ncoss.org.au

flurry of ill-conceived and speculative proposals for major complexes around rural townships”⁶

Under the provisions of the draft revised SEPP the moratorium is to be lifted “to ensure that adequate land is available for this important social infrastructure” but new proposals would be required to obtain a Site Compatibility Certificate from the Department of Planning before a development application can be lodged with a local council⁷.

NCOSS opposes this course of action and believes that the present ban on developing self-care housing on land adjoining land which is zoned primarily for urban uses should continue. We note that proposals for seniors housing in fringe areas inherently involve the expansion of current urban boundaries, which is something that the Government is generally trying to discourage⁸.

Notwithstanding the provisions of the Site Compatibility Test, and the new requirements referred to in (3) below, lifting the moratorium essentially invites developers who purchase land outside current urban zonings to pressure the Government to grant them ‘spot rezonings’ so that they can develop housing on such land. This is contrary to good principles of land use planning.

NCOSS believes that urban boundaries should only be extended as a part of a comprehensive review of land use controls in a particular local government area and only if it is established that there is in fact insufficient land available in the existing urban zone.

It is also proposed that development applications within the urban zone should be subject to the Site Compatibility Test (SCT). The difficulty that we see with this is that the draft amendment empowers officials of the Department of Planning, rather than the local Council or an independent assessment panel, to assess compliance with the requirements of the SCT. It does not appear necessary for Department of Planning staff to physically examine the site or to give detailed reasons for their judgement. This being the case the introduction of the SCT would appear to short circuit the detailed planning assessment that should be conducted by the local Council.

NCOSS believes that the better alternative would be for the SCT to be conducted by the local Council.

3. New requirements for development on rural land

The draft revised SEPP requires that proposals for development on rural lands must, in addition to meeting the requirements of the Site Compatibility Test, must demonstrate that they will contribute to satisfying bona fide demand for housing for seniors or people with a disability. NCOSS does not consider that this overcomes the problems outlined above in supported housing projects on land that is not zoned for this purpose.

⁶ ‘Moratorium on self-care rural retirement villages’, media release by the Minister of Planning, 16 December 2005.

⁷ Taken from the Department’s fact sheet ‘State Environmental Planning Policy (Seniors Living) – Draft Amendment’, p.1.

⁸ See, for example, ‘Coastal strategy supports jobs, housing & environment’, media release by the Minister for Planning, 17 January 2007. In that release Minister Sartor stressed that the final Far North Coast Regional Strategy would guard against inappropriate development along this sensitive coastal strip, would lock in important green breaks between towns and villages to limit sprawl, and would protect environmental and agricultural lands.

4. A more comprehensive assessment of bushfire risk

The revised draft SEPP amends the current bushfire risk assessment process in line with the revised 'Planning for Bushfire Protection' guidelines produced by the Rural Fire Services Review Panel, while excluding further land in the Ku-ring-gai local government area from further development due to the serious bushfire evacuation risk that exists in that area. The revised guidelines take into account facts such as the surrounding topography, access routes and evacuation procedures. In principle NCOSS does not oppose these changes.

5. Sites of State heritage significance

The revised draft SEPP allows housing for seniors or people with a disability to be allowed on sites of State heritage significance subject to approval from the NSW Heritage Council. In principle NCOSS does not oppose this change but urges that all such proposals should be subject to close consideration to ensure that they materially contribute to conserving the heritage significance of the sites or buildings concerned.

6. Registered club sites

The revised draft SEPP allows housing for seniors or people with a disability to be developed on registered club sites, subject to the requirements of the proposed Site Compatibility Test and provided the site is not zoned public open space. The only argument put forward in support of this proposed change is that clubs are usually located in populated areas, well-placed to provide the services necessary to seniors and people with a disability⁹. The Minister has subsequently claimed that 'a large part' of the change is about utilizing redundant club sites¹⁰ but nothing in the text of the revised draft SEPP requires the site to be redundant.

NCOSS strongly opposes this change. The SEPP is designed to assist in meeting the diverse housing needs of seniors and people with a disability, not to contribute to the economic viability of registered clubs. In terms of good planning principles such housing should be located on land that is zoned for residential, rather than commercial or entertainment, purposes. Where there are redundant club sites, then their suitability for residential use should be assessed by the local Council concerned as part of their long term land use planning functions.

We are also concerned that allowing housing for seniors and people with a disability on registered club sites potentially places residents in the position of being a captive market for the gambling facilities operated by the club concerned.

7. Local council exemptions

Currently seven councils have partial or complete exemptions from the provisions of the existing SEPP on the basis that they do not have the capacity to absorb additional housing for

⁹ As stated in the Department's fact sheet 'State Environmental Planning Policy (Seniors Living) – Draft Amendment', p.2.

¹⁰ See 'Pokie palaces move into aged care', *Sydney Morning Herald* 12 June 2007.

seniors or people with a disability. Under the provisions of the revised draft SEPP these exemptions would automatically lapse within 12 months.

NCOSS considers that any council, including the seven with the existing exemptions, should be entitled to submit a fresh application for a full or partial exemption from the provisions of the revised SEPP where they can demonstrate that adequate housing (of varying types and costs) for seniors and people with a disability is already provided in their area.

8. Other matters

Support services

NCOSS often receives reports from local service providers throughout NSW that development applications for residential aged care facilities (nursing homes and hostels), retirement complexes and designated housing under the existing SEPP are approved without adequate consideration of the accompanying increased demand for local health and community care services. This problem has been evident for many years.

In our original submission on the Review¹¹, NCOSS strongly recommended that the SEPP require development applications to include plans for access to, or the provision of, support services including home nursing, transport, meals, domestic assistance and personal care.

Even with support services provided on-site, the experience of local service providers is that some self-care residents still request support from local community care providers (e.g. meals, transport, domestic assistance) because their individual needs are not addressed. Community Care and other providers are required to levy fees at full cost recovery (rather than heavily subsidised rates or no fees) to self-care residents whose contracts have built-in support services. This can be prohibitively expensive for people on low fixed incomes, who are already paying for unused supports.

The current SEPP sets out definitions of housing types which includes requirements for the services (if any) that should accompany each housing type. The current definitions cover 'residential care facilities', 'hostels', 'self-contained dwellings', 'in-fill self-care housing' and 'serviced self-care housing'. For each of these categories the definitions can either require or prohibit the provision of specified facilities, services, or onsite staffing. NCOSS notes that there are often severe workforce shortages for health and community care personnel in many areas in which new seniors housing developments are occurring. This means that if the residents of new developments are provided with guaranteed support on-site, this will often be at the expense of existing seniors and people with disability in the local community.

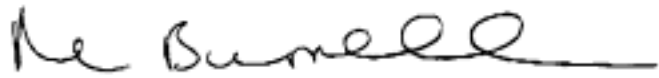
While strengthening the relevant requirements of the SEPP are important, NCOSS believes that the current failure to properly align population growth with recurrent funding for support services will only be addressed if the Government establishes a direct linkage between population growth targets for regions and local government areas and the State budget process for human services funding and service delivery programs.

Contact for further information

¹¹ See *Submission to the Review of the State Environmental Planning Policy (Seniors Living) 2004*, NCOSS and Shelter NSW, May 2006, p. 12-14, available online at www.ncoss.org.au

If you require any further information on the contents of this submission please do not hesitate to contact Warren Gardiner, Senior Policy Officer, on 9211 2599 ext 112 or email warren@ncoss.org.au

Yours faithfully

A handwritten signature in black ink, appearing to read "Michelle Burrell", followed by a vertical red line.

Michelle Burrell
Acting Director