

ATTACHMENT 1

Committee on Children and Young People - Public Inquiry

Department of Planning – Response to Further Questions:

In its 2006 Report, the Committee recommended that the adequacy of current building standards in relation to noise insulation be reviewed and the trend towards child-free housing developments be assessed. The Commission has recently advised the Committee that they had not been made aware of this trend, but would seek further advice from the Department of Planning on this issue. Are you aware of any child-free developments or development proposals in NSW? What is the Department's policy regarding such developments?

The only age-restricted housing form provided for in NSW planning legislation relates to housing for aged and disabled persons. *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* specifically provides for and encourages the supply and diversity of well designed residences for people who are ageing or disabled. This is in recognition of the fact that Australia has an ageing population and a community with disabilities, both of whom have specific physical needs. The SEPP does not exclude children from the developments and a resident could live in one of these developments with their children or grandchildren.

I am not aware of any child-free housing developments or development proposals in NSW. I am aware of some resorts and holiday accommodation which market themselves as adult only. However, even if these are assessed by the Department, this aspect of the proposal is governed by different laws (eg. strata laws), which is outside of the Department's jurisdiction.

This is an issue which is outside the scope of the planning legislative framework and is predominantly market-driven. A child-free housing development cannot be mandated through the *Environmental Planning and Assessment Act, 1979*.

In its 2006 Report, the Committee recommended that the Minister for Planning consider the desirability of amending the NSW planning legislation or instruments to incorporate child-friendly planning principles, where appropriate, in consultation with the NSW Commission for Children and Young People. Article 6 of CROC requires States Parties to ensure to the maximum extent possible the survival and development of the child. To what extent do you consider that the current planning legislation in NSW sufficiently supports the development of children and upholds their right to maximum development?

Planning legislation and instruments are designed to be robust and apply to the whole State and all sectors of the community.

The Department of Planning has committed to consulting with the Commission on how we can incorporate child-friendly planning principles into planning policy and processes.

The Minister for Planning will consider the previous recommendation and whether or not it is desirable to incorporate child-friendly planning principles into planning legislation or instruments.

Given the nature and application of existing planning legislation and instruments, it may be more appropriate for the Department of Planning to incorporate child-friendly planning principles into guidelines and other policy documents rather than by amending the Planning Act.

What has the Department of Planning done over the last six months regarding the issue of children falling from windows in high-rise buildings?

The Department of Planning sits on the Children's Hospital Westmead Working Party for the Prevention of Children Falling from Residential Buildings. This Working Party was established in late 2009 to specifically investigate the safety issue of children falling from windows. The Working Party was set up to provide a consultative forum to discuss, consider and determine possible solutions. The Department participated in its Symposium in late November 2009 which was held to explore with the wider community the range of solutions available for addressing the problem. The Working Party is currently producing an Outcomes Report to document the results of this process. The report is expected to be released later in the year.

The Department also sits on the Australian Building Codes Board (ABCB) which is responsible for producing the Building Code of Australia (BCA). The BCA is referenced under the Planning System to provide standards for the design and construction of new buildings and building works. The BCA is applied nationally by all state and territory governments. In NSW the BCA is applied to all new buildings and building work, but is generally not retrospective in its application under the Planning System.

The existing BCA Deemed-to-Satisfy (DTS) Provisions incorporate requirements for barriers to prevent accidental falling from building elements such as stairways, windows and balconies. These requirements also address the circumstance where it is possible for a person to fall through an openable window where the level above the surface beneath is more than 4m. Compliance with the BCA requirements relating to minimising the risk of falling through a window can be achieved by providing a barrier at the window that complies with the BCA, or otherwise restricting the opening capabilities of the window.

The ABCB is aware of this important issue and commissioned a study via Monash University into slips, trips and falls in buildings, which included consideration of the issue of children falling from buildings. The ABCB is progressing work on the recommendations contained in the Monash University report. Part of this work involves the consideration of proposed improvements to the design and construction of new buildings to reduce the risk of slips, trips and falls, including children falling from buildings.