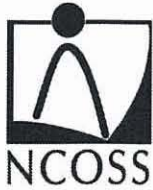


Submission
No 71

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

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25 February 2009

Ms Rachel Simpson
Director
Standing Committee on State Development
Legislative Council
Parliament House
Macquarie St
SYDNEY NSW 2000
state.development@parliament.nsw.gov.au

Dear Ms Simpson

Re: Inquiry into the NSW Planning Framework

As the peak body for the non-government community services sector in NSW, NCOSS welcomes this opportunity to contribute to the Committee's Inquiry into the NSW Planning Framework.

From the outset I would note that our interest in the planning system is restricted to a number of key policy questions that impact on disadvantaged communities and groups. These include the planning and provision of community facilities and services, the provision of affordable housing, the need to address the diverse housing needs of a range of population groups, and linking land use and infrastructure planning.

Our submission follows the structure of the Inquiry's terms of reference and of the Committee's Discussion Paper.

The need, if any, for the further development of the NSW planning legislation over the next 5 years and the principles that should guide such development (TOR a)

NCOSS notes that in recent years there have been many changes made to the framework for the NSW planning system. These changes include:

- the development of a standard template for Local Environmental Plans (LEPs) and the requirement for councils to produce new comprehensive LEPs;
- the introduction of new State Environmental Planning Policies (SEPPs) governing Major Projects, Infrastructure, and Exempt and Complying Development Codes, and
- other changes arising from the passage of the *Environment Planning and Assessment Amendment Act 2008*.

Many of these changes are far-reaching in nature and the implementation of them will take a considerable period of time to be completed. Given this NCOSS believes that the appropriate course would be for the Committee to recommend that the recent reforms are subject to a rigorous and comprehensive evaluation before further major changes are contemplated.

While this is occurring, there are two broad policy areas where the Department of Planning could provide greater guidance to councils and other consent authorities.

The first concerns the issue of affordable housing. In *City of Cities*, the updated Metropolitan Strategy released in December 2005, the Government undertook to develop an affordable housing strategy and specifically to provide guidance to councils on the use of planning mechanism to provide affordable housing. We make further comment on this aspect of the planning system in relation to the Inquiry's final terms of reference.

The second concerns the issue of accessible and adaptable housing. At present it is largely left to individual councils to decide whether they require a proportion of multi-unit housing projects to be adaptable to better meet the needs of older people and people with disability. A survey conducted by Shelter NSW in July 2006 found that 49 out of 152 councils made provision for adaptable or accessible housing in either a Local Environmental Plan (LEP) or Development Control Plan (DCP). Just 40 councils had provisions in a DCP in relation to adaptable housing.¹

NCOSS considers that there is a need for greater statewide consistency on the issue of adaptable or accessible housing. We **recommend** that a working party be established to report to the Minister for Planning on the desirability of introducing a State Environmental Planning Policy (SEPP) on this issue. This working party should include representatives of the non government sector and of organisations representing older people and people with a disability.

The implications of the Council of Australian Governments (COAG) reform agenda for planning in NSW (TOR b)

At this stage it is unclear to NCOSS what, if any, implications for planning in NSW arise from COAG's broader reform agenda. The NSW Government has, however, already gazetted changes to the planning arrangements for schools and social housing in response to the COAG economic stimulus package.²

Duplication of processes under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* and NSW planning, environmental and heritage legislation (TOR c)

Given the bilateral agreements that are in place between the Commonwealth and NSW governments, NCOSS is not aware of problems with duplication of processes between Commonwealth and NSW planning, environmental and heritage legislation.

Climate change and natural resource issues in planning and development controls (TOR d)

¹ See Chris Elenor: *Provisions for adaptable housing by local government in NSW*, Shelter NSW, October 2006 available online at <http://www.sheltersnsw.infoxchange.net.au/docs/rpt06adaptable-sb30.pdf>

² See 'Rees acts to deliver national building package', news release by the Premier Nathan Rees, 18 February 2009.

NCOSS believes that climate change issues should be considered in the development of planning policies and strategies. This should include consideration of the greenhouse impact of different urban settlement patterns, policies to prepare and adapt to rising sea levels³ and reviewing the adequacy of current BASIX requirements, particularly in relation to apartment buildings.

NCOSS has no direct involvement with the natural resource legislation mentioned in the Committee's Discussion Paper, such as the *Native Vegetation Act 2003*, the *Fisheries Management Act 1994* and the *Water Management Act 2000*. We are thus in no position to comment on suggestions of any overlap between these Acts and the provisions of the *Environmental Planning and Assessment Act 1979*.

Appropriateness of considering competition policy issues in land use planning and development approval processes in NSW (TOR e)

NCOSS makes no comment on this aspect of the Inquiry.

Regulation of land use on or adjacent to airports (TOR f)

NCOSS has no formal policy on this matter. It might be appropriate for the NSW Government to seek to negotiate a bilateral agreement with the Commonwealth on the consideration of relevant State and local planning issues by the relevant Commonwealth Minister when assessing master plans and major development plans under the *Airports Act 1996*.

Inter-relationship of planning and building controls (TOR g)

In its response to the November 2007 discussion paper *Improving the NSW planning system*, NCOSS was supportive of identifying minor or routine development applications that could be designated as either an 'exempt' or 'complying' development to produce a more timely and efficient system.

Subsequently the Minister for Planning adopted a new State Environmental Planning Policy (SEPP) providing for the implementation of exempt and complying development codes as from 27 February 2009. Under the SEPP the Government has to date implemented two codes. The first is the General Exempt Development Code, which designates minor works like awnings, aerials and pergolas as an exempt development. The second is the General Housing Code, which provides for single or two storey detached houses on a suitably zoned lot of at least 450 square metres to be dealt with as a complying development (provided the requirements of the code are met).

NCOSS **recommends** that the operation of the two initial codes be independently evaluated by no later than December 2011 and that there is adequate opportunity for expert stakeholder and community input before any further codes are introduced.

Implications of the planning system on housing affordability (TOR h)

As noted in the Committee's Discussion Paper, there are numerous factors which impact on housing affordability, many of which do not directly involve the planning and land use

³ See *Draft Sea Level Rise Policy Statement*, NSW Department of Environment and Climate Change, February 2009, currently on public exhibition.

system. These include the level of government funding for social housing, taxation arrangements, interest rates, rent assistance arrangements and migration policies.

NCOSS is concerned that much public commentary on the impact of the planning system on housing affordability is based on an incomplete consideration of the complex range of factors that influence housing markets, and is designed to progress the agenda of particular vested interests. This problem is exacerbated by the absence of adequate and up to date data from reputable sources. There are, for example, widely conflicting claims made about the number of vacant rental properties on the market at any point in time.

The first claim that has been repeatedly made is that the housing affordability crisis has been caused by restrictive planning policies that have reduced the supply of land for residential purposes, particularly in Sydney. NCOSS believes that the Metropolitan Strategy and Planning's Regional Strategies for coastal NSW make sufficient provision for the development of new housing. In parts of Sydney's urban fringe, there are in fact signs of a lack of market demand for zoned and serviced lots that are already available for residential development. As well there are a considerable number of urban renewal sites in established areas undergoing redevelopment, but additional sites will need to be identified in the medium to long term.

The second claim that is frequently made is that rising housing costs reflect local or state government infrastructure charges or developer levies. These charges reflect the true cost of developing new housing, and are necessary if residents of new communities are to have access to the range of community facilities and services that people living in more established areas take for granted. NCOSS has no desire to see anyone charged a greater levy than is necessary but believes that it is a false economy to reduce charges by delaying or eliminating the provision of necessary community facilities and infrastructure. (In this regard we note that local councils invariably have infrastructure backlogs⁴ and that the NSW Government has never been able to allocate sufficient resource to its Infrastructure Strategy to meet all identified priority capital works requirements). NCOSS notes, however, that it would be possible to reduce some developer charges were there to be much greater Commonwealth investment in needed infrastructure in the state's growth centres.

The third way in which the planning system impacts on housing affordability is that urban renewal activity tends to result in the displacement of low to moderate income households from areas undergoing redevelopment. NCOSS is disappointed that this factor is not mentioned in the Committee's Discussion Paper. Urban renewal is necessary if urban sprawl is to be contained, and better use is made of existing infrastructure, but too often urban renewal becomes a means to convert traditional low income suburbs into more attractive areas for higher income groups. This is not to argue against the concept of urban renewal, which is a necessary process, but to highlight the importance of including affordable housing measures in such strategies, to minimize the displacement of existing low to moderate income households to the outer suburbs. A good model of such mitigation measures is Ultimo Pyrmont where the Commonwealth and NSW Governments agreed under the Better Cities program to an affordable housing target of 7%, funded by capital funding from the Commonwealth, a portion of the proceeds of sales of state-owned sites and a modest developer levy.

⁴ According to the Local Government and Shires Association (LGSA) of NSW the estimated infrastructure renewal backlog facing NSW councils is currently \$7.8 billion, see *Local Government Weekly* 07/09 p. 20.

The Ultimo Pyrmont experience highlights a fourth way in which the planning system can impact on housing affordability, by directly contributing housing stock to be rented to low to moderate income households by registered non-profit community housing providers. The Metropolitan Strategy of 2005 included a commitment to use planning mechanisms to provide affordable housing in the following four ways:

- provide advice on the use of negotiated developer agreements,
- provide advice on the use of density bonus schemes,
- provide for inclusionary zoning which requires an affordable housing levy from development, and
- provide for affordable housing as part of the standard Local Environmental Plan (LEP).⁵

Follow up action on these commitments has been disappointingly slow. NCOSS **recommends** that action to implement them should be completed this year.

Conclusion

If the Committee requires any further clarification on the matters raised in 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



Alison Peters
Director

⁵ *City of Cities: a plan for Sydney's future*, Department of Planning, December 2005, action items C4.3.1 to C4.3.4 pp 148-9.