

26 June 2007

NSW Department of Planning  
Att: Ms Faye Roberts  
GPO Box 39  
SYDNEY 2001



Dear Madam

**RE: Draft amendment to the Seniors Living SEPP**

UDIA NSW commends the NSW Department of Planning for its review of the Seniors Living SEPP and appreciates the opportunity to comment on the proposed amendments.

UDIA NSW has reviewed the exhibition material with the assistance of our Seniors Living Committee and believes it can offer practical and insightful observations and solutions to assist the NSW Department of Planning in realising an appropriate policy framework for the delivery of housing for seniors or people with a disability.

UDIA NSW is encouraged by many of the proposed amendments and offers particular support for the following changes:

- The reintroduction of access to land that is not zoned primarily for urban uses and adjoining urban zoned land, for the provision of seniors living housing. It is noted that self care accommodation in these areas will need to be accommodated with the on-site availability of services, commensurate with s5 *Retirement Villages Act 1999*. UDIA NSW notes the need for such proposals to obtain a Site Compatibility Certificate from the Director General before a development application can be lodged.
- The floor space bonus provisions to encourage the development of vertical villages through the introduction of a 0.5:1 bonus FSR allowance and the exclusion of floor space used to provide on-site services from the overall FSR calculation. UDIA NSW notes that the bonus provision applies only if at least 10% of the dwellings will be provided as 'affordable places'.
- The provision to delete the 'Bush Fire Prone Land – Vegetation Category 1' prohibition on development if the consent authority is satisfied that the proposed development conforms to the specifications and requirements of *Planning for Bushfire Protection*, or adequate measures have been take to satisfy the NSW Rural Fire Service.
- The lapse of exemptions for the seven local council areas which currently have exemptions from the SEPP's provisions, within twelve months.

UDIA NSW takes this opportunity to make a number of recommendations it believes will build on the positive changes proposed by the Department in this amendment.

### **Site Compatibility**

UDIA NSW is concerned that development proponents seeking to provide seniors housing on land that is not zoned primarily for urban purposes must undergo an unnecessary assessment duplication to demonstrate the compatibility of a proposed development with the surrounding area. UDIA NSW contends that the Compatibility Criteria provided in the draft Amendment is sufficiently exhaustive to ensure the intent and purpose of the Compatibility Test, and indeed, the most significant Amendment to the SEPP, will be achieved.

If a developer is able to obtain a Site Compatibility Certificate from the Director General and thereby meeting the prescribed Criteria, there is nothing preventing the consent authority from refusing the application on its own assessment of the compatibility of the development with the surrounding environment. In this regard the Site Compatibility Test fails to provide the desired degree of certainty for development proponents, and serves only as a duplication of the development assessment process.

UDIA NSW proposes that once a Site Compatibility Certificate has been received from the Director General, a consent authority be prohibited from refusing a development application on the basis of the provisions already addressed in the Compatibility Criteria. This would remove the unnecessary duplication proposed in the draft Amendment and greater assist in achieving the intent and purpose of the Compatibility Test.

### **RECOMMENDATION**

*UDIA NSW recommends that the Site Compatibility Certificate be a mechanism that provides sufficient assessment of proposed development's compatibility with the surrounding environment and would 'switch off' the ability of a Council to refuse an application on the basis of compatibility.*

### **Native Vegetation Act 2003**

The application of the *Native Vegetation Act 2003* (NV Act) has potential implications for the development of seniors housing on rural zoned land. The assessment mechanism provided under the NV Act is unsuitable for dealing with the complexities of urban development and unnecessarily precludes the consideration of sustainable development opportunities.

The re-introduction of access to rural lands for the provision of housing for seniors can potentially be stymied by the imprudent application of the NV Act, an occurrence not uncommon to other forms of urban development on the rural/urban zoned land interface. While it is acknowledged that the review of the *Native Vegetation Act 2003* is beyond the scope of the Seniors Living amendments, UDIA NSW contends that the implications for the legislation have the potential to negate the positive gains made in this review by the Department.

In the absence of a more balanced approach to native vegetation conservation and the provision of new communities on the urban fringe, UDIA NSW contends that an

exemption of Seniors Living development from the provisions of the NV Act is a justified and necessary step. The NV Act was introduced with the goal of ending broad scale land clearing by primary producers, it is not suitable for dealing with the complexities of urban development.

## **RECOMMENDATION**

*UDIA NSW recommends that the provision of Seniors Housing on rural land be exempt from the provisions of the Native Vegetation Act 2003.*

## **Vertical Villages**

UDIA NSW contends that the incentive provisions to stimulate the development of vertical villages require some clarification. To avoid erroneous interpretation of Cl 77(4) of the draft Amendment, UDIA suggests that greater clarification be given as to what floor area is to be excluded from the formula used to determine gross floor area.

One interpretation of this clause could lead to exclusions from floor space calculations items 'used to deliver on-site support services' such as kitchens, nurses' rooms, cleaner's closets, staff rooms etc. This interpretation however, would include in floor space calculations items such as dining rooms, resident car parking, corridors, pools, gymnasiums etc. A narrow definition of the areas to be excluded from the floor space calculation will severely constrain the quantum of incentive the SEPP purports to offer.

## **RECOMMENDATION**

*UDIA NSW recommends that clarification be given to the determination of gross floor area to allow for the incentive provisions for Vertical Villages to be applied as intended.*

## **Conclusion**

UDIA NSW commends the Department of Planning on its review of the Seniors Living SEPP and welcomes a revised approach to the provision of housing for seniors and people with a disability. UDIA NSW believes it will improve the ability of the SEPP to deliver more consistent outcomes within the assessment framework, providing greater certainty for the development industry. The comments provided should be interpreted as contributing to a robust debate in the interests of achieving these outcomes in the context of a balanced realisation of environmental, social and economic framework.

Yours sincerely



Scott N Woodcock  
**Executive Director**