

**Submission to the NSW Government's
Issue paper**

“NSW Planning System Review”

February 2012

Introduction

Over the next two decades billions of dollars will be invested in new accommodation and support for older Australians in NSW. The aged care sector is undergoing major reform and has huge pressures for growth. Currently over 1 million older people use aged care services. By 2020 this figure will grow to over 1.4 million. By 2050, over 3.5 million older Australians will need to access aged care services each year.

Our submission will outline some of the opportunities that growth presents for NSW, as well as presenting examples of how the current planning system is blocking essential services for older Australians.

The sector is ready to undertake major capital investment, and will create jobs to provide the services. The aged care sector is the 9th largest employer in Australia and has a projected growth in new jobs of 25% over the next five years. In economic development terms alone, the sector needs to be considered as an important contributor. We have members ready to build who are unable to get through the council planning and development application process. This is delaying many multi-million dollar investments in jobs, services and community strength.

Aged & Community Services Association of NSW & ACT Inc (ACS)

ACS provides a comprehensive, one-stop shop for not-for-profit (NFP) member organisations and for those for-profit organisations that join our Industry Advice Scheme. We are the aged and community care professionals. No other industry association in NSW or the ACT covers the full spectrum of self-care, community care and residential care.

Our mission is to provide leadership to the aged and community care sector and to empower our members to provide quality aged care and community services to the clients. It does this by providing a range of services including training, industrial representation and other support services.

As at 30 June 2011 we have around 300 members who manage 1,940 services.

The aged care sector

To provide some context to our submission and our concerns we provide the following background information on the aged care sector.

The aged care sector is comprised of entities from the for-profit and NFP sectors. The sector is responsible for serving some of the most vulnerable members of our community: the frail, the elderly, the disabled and those suffering some form of dementia. The NFP aged care sector also caters for the financially disadvantaged, veterans and persons from specific ethnic or religious backgrounds.

Table 1 provides a summary of the industry by ownership status and organisational type for NSW and ACT. As you can see, 70% of the providers in NSW & ACT are not-for-profit. Many of those providers are attempting to expand their services to meet the growth in demand and the changing expectations of older Australians, no matter where they live or how complex their support needs.

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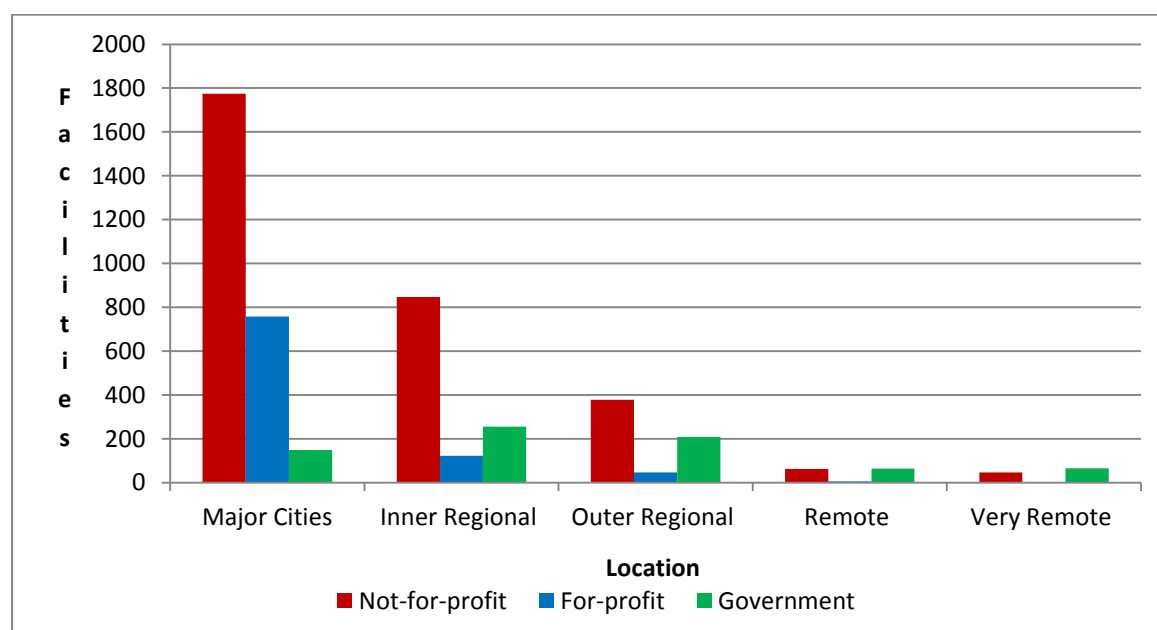
Table 1: Approved aged care providers by ownership status and organisation type, NSW & ACT, 30 June 2010.

Ownership status	Organisation Type	Total	Proportion of Category	Proportion of Total Providers
Not-for-Profit	Religious	423	41%	27%
	Charitable	396	38%	26%
	Community Based	267	26%	17%
	<i>Category Total</i>	<i>1,086</i>	<i>100%</i>	<i>70%</i>
For-Profit	Private Incorporated Body	275	94%	18%
	Private Non-Incorporated Entity	2	0.7%	0.1%
	Publicly Listed Company	17	6%	1%
	<i>Category Total</i>	<i>294</i>	<i>100%</i>	<i>19%</i>
Government	State Government	122	73%	8%
	Local Government	46	27%	3%
	<i>Category Total</i>	<i>168</i>	<i>100%</i>	<i>11%</i>
Grand Total		1,548	100%	100%

Source: Department of Health and Ageing 2010a

The geographic location of service providers is an important consideration for the planning system. (As per your section 1.2, p 18) The particular needs of regional, rural and remote organisations, and their difficulty in being financially viable, means that the NFP providers have to cross-subsidize their operations. There is only one for-profit facility in a very remote location, and none in remote areas. This is demonstrated in Figure 1, depicting the Australian distribution of aged care providers.

Figure 1: Location of facilities by ownership status, Australia, 30 June 2010



Source: Department of Health and Ageing 2010a

Demand and use of Statistics

NSW provides more than 40% of the aged care services available in Australia. This is an important fact, as the Department of Health and Ageing has determined that Australia needs an additional 82,000 aged care beds by 2020. This represents around 32,800 additional beds in NSW, in the next eight years (roughly 80 new beds a week). The average cost of the each bed is around \$220,000. These figures represent a major investment in infrastructure over the next 8-10 years, and the demand is spread across most local government areas.

It should also be noted that the majority of aged care provision is provided by the not-for-profit sector and government. As a sector we are dependent on community or tax payer funding, which has a significant impact on our ability to pay for capital works and developments. There is an expectation that every cent raised will be used on service provision, not to provide additional funding to government

Levies and Infrastructure Contributions

Members of ACS have become increasingly alarmed at reports of excessive levies that some NSW Councils are applying on new developments. The levies take the form of s94 contributions under the *Environmental Planning and Assessment Act 1979* and in some cases s64 levies for sewer and water augmentation. Not all councils are imposing these significant financial levies which are far in excess of what would be anticipated or budgeted for in planning a new facility.

ACS considers that applying s94 contributions to Not-For-Profit facilities built to accommodate the urgently needed support of older Australians is unreasonable and unacceptable. Section 94 contributions should reflect population increases, or increases in demand on council services. We are not increasing the population of the LGA or demands on council services.

Older Australians want to stay in their own communities, close to their current support systems, friends and families. This means that older Australians are not migrating into new areas, they want to stay put. In fact, if they move into accommodation with one of our members they will decrease their use of council services. Our members increasingly provide libraries, community centers, recreation and leisure, hairdressers, shops and day activities, as well as transport, as part of new developments. Thus we are reducing demand on council services.

It is also a reality that many of the residents accommodated in new or upgraded aged care developments due to their high or specific care needs are not able to use the local council services, so charging levies on the assumption that residents will use and impact their services, similar to new subdivisions with population growth etc is inaccurate. In fact, some councils have acknowledged this inequity and have provided funds to the aged care provider post development.

The NFP sector is also meeting a need for affordable accommodation for older Australians and generating local jobs, so we are addressing key social and community benefit objectives of councils. This should all be reflected in lower or exempt fees and charges imposed on us.

Older Australians have already paid their taxes and contributions to support local and regional infrastructure. At the time of their lives when they are experiencing the greatest

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pressure on their resources, with no ability to replenish their funds, they should not be asked to pay for additional local, regional or State infrastructure.

It is totally unacceptable to seek levies or fees from aged care service providers who are seeking to refurbish or replace existing stock. Aged care services have changed, with more people only entering the facilities at a later age when they need higher levels of support. Older stock, built to provide for people with low care needs, must be replaced. Higher building standards and regulations apply, which are expected and acceptable. There are no reasons for fees and levies to be imposed when a facility is replacing its current stock to meet the new standards and needs; and there are no new incoming funds to pay such fees.

The application of these levies and contribution charges make new developments unaffordable, and delay or destroy much needed changes to existing stock. These situations are exacerbated in rural and regional locations where the funding for aged care facilities is often provided through community donations and contributions, and their operations are subsidized by NFP providers with facilities in metropolitan areas.

Strategic Planning and Application times

Aged care providers who are meeting the needs of the wider community's oldest people, do not have the luxury of time to wait for new Local Environmental Plans or Re-zonings to be done. An LEP takes years from inception to implementation; spot re-zonings can take just as long; and master-planning a site can be expensive with no guarantee of adoption. We need a shorter process to meet the State-wide demand for aged care services. Aged care providers have lost years attempting to work within existing LEPs or being told that they need to wait for a new LEP. The community needs 80 new beds a week in NSW over the next 8 years, if we start now. That number is getting worse every week.

New aged care facilities and services are urgently needed. We ask that you seriously consider the time taken to deal with development applications pertaining to aged care services. Demand for the services is rapidly outstripping supply. It is becoming impossible to provide sufficient services or new beds in the sector when the application assessment takes so long in most councils. As proposed in your issues paper, changes are needed which may include: deemed consent; expanding the complying development lists; wider consideration of public benefit; simplified concurrences and other approvals needed in the assessment.

Attempting to undertake developments in which 2 levels of government are completing the assessment and allocation of levies adds an unacceptable burden of complexity, bureaucratic communication and competition for funding associated with the application. A Part 3a application, with State and Local government responsibilities, is not a solution. The assessment needs to be undertaken by a single level of government.

Hierarchy of Plans

Given the magnitude of the investment, the growing demand for services, the size of the potential workforce and the expectations of the community, the provision of aged care services and the broader issue of affordable housing is State significant development. Therefore, the planning for these forms of development should be State significant.

The current "Housing for seniors or people with a disability SEPP (Seniors Living) 2004" is inadequate and needs revision. It is of no relevance in strategic planning and appears to be used inconsistently across and within various councils during the assessment of the applications. Local planning provisions for seniors' living units, aged care facilities and

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affordable housing would be better replaced by a State-wide policy and direction, with flexibility to accommodate the special circumstances and differing development characteristics of rural and remote locations.

The policy should also seek to consider and further define the difference between genuine aged care and health care providers who develop, own and operate services, as opposed to developers seeking to benefit from increased floor space provisions under the guise of seniors living.

Planning for the provision of aged care facilities needs to have a State-wide priority; a streamlined set of controls; and an ability to have the development determined by an authority other than a local council. At a State level there should be greater use of experts in this form of development, rather than planners in individual councils struggling to deal with 1 or 2 in their career. If necessary, master-planning of a site and closer integration of the strategic planning and development assessment may need to be forged.

Recent examples

Two recent examples of unacceptable planning barriers to the provision of excellent aged care are available in the applications by Maroba in the Newcastle LGA and Warrigal Care in the Wollongong LGA. Both were providing exceptional and integrated opportunities for older people to 'age in place'. Both met all the SEPP (Seniors Living) 2004 objectives and conditions. Both had extreme levels of community support. Both had the money to start building, to a higher standard of sustainability than was required. Both have a waiting list of people wanting to use the new facilities, and staff ready to work in them. Both developments were unable to get support from council staff, as they required a greater level of discretion over the adopted controls than was possible. (The floor space ratios or intensity of development than were not possible with the current plans). In both, some staff admitted that under a rezoning or revised LEP the DAs being proposed would likely be a good use of the land.

Despite no objections from the public after several consultation periods over several years, the Warrigal Care planning proposal was recently referred by the councilors at Wollongong to the Department of Planning for another round of assessments. In parallel with this, their Development Application is being negotiated under the scrutiny of the NSW Land and Environment Court. During the time it has taken to respond fully to a significant number of development hurdles not directly related to aged care developments, the need for services in Wollongong has grown and the Commonwealth Department of Health and Ageing has repeatedly asked for reports on why the services provisionally allocated by them have not been established.

The Maroba development application is due to go to the JRPP in February 2012. It does not conform with the current controls, and is in an area the council thinks should be made into a health precinct in the future. At the time of the health precinct being established, this development would be expected to be approved, without modification. It is an efficient form of affordable housing that will decrease demand on Council to provide services such as libraries, community centers, day activities, recreation and leisure, local shops and services such as hairdressers and corner shops.

The site is an exceptional example of integration, being part of a complex with 24 hour medical and nursing staff support available, links to the existing hospitals, and proximity to public transport if the residents wish to go to the various venues available in Newcastle. (Although the facility will of course also operate its own transport if residents wish to use that.) The existing uses on the larger site, and part of the plans for this facility, have an exceptional record of environmentally sustainable development, built to a standard other

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providers envy. They build in features that make the facilities a pleasure for the residents to be in and a welcoming place for visitors. They provide for a normal social experience for people living, working or visiting the facility.

The independent living units proposed in the application are perfectly placed within the Maroba complex, provide wonderful utility for the residents, good parking and transport, have minimal visual impact given the topography of the site, and the development is strongly supported by the local community.

It has been stalled to allow desired strategic planning changes to catch up to community demand and need.

In conclusion, changes are needed to the planning system in NSW to resolve these examples and many others like them. When a provider has met the strict criteria to be awarded provisional bed licences by the Department of Health and Ageing, we believe efficiencies should be made to the process using deemed consents; expanding the complying development lists; wider consideration of public benefit; simplified concurrences and other approvals needed in the assessment. This will enable housing, accommodation and care to be established to meet the essential needs of older Australians and their service providers of choice.