

Flying Minute - Draft Position Statement: Residential Aged Care - Submission

By Ashley Robb, Project Officer, Planning and Improvement

That the submission to the *Draft Position Statement: Residential Aged Care* be endorsed.

RESOLUTION 188.FM/2020

CARRIED

Cr Ronnie Fleay declared an interest as a member of the WA Planning Commission and did not vote.

Executive Summary

- In October 2019 the Western Australian Planning Commission released the *Draft Position Statement: Residential Aged Care* for consultation.
- The purpose of the position statement is to remove planning process barriers and encourage the provision of an appropriate supply and diversity of residential aged care options.
- Submissions are due by 19 January 2020, which is prior to the next WALGA State Council meeting. Therefore, this submission is being processed through WALGA's interim submission process. The submission has been reviewed and supported by the People and Place Policy Team.

Attachment

Draft Position Statement: Residential Aged Care - Submission

Background

In October 2019 the Western Australian Planning Commission (WAPC) released the [*Draft Position Statement: Residential Aged Care*](#) for consultation.

The purpose of the position statement is to “remove planning process barriers and encourage the provision of an appropriate supply and diversity of residential aged care options” (p.1).

To achieve this purpose, the position statement outlines local planning strategy requirements, standard land use definitions and proposed permissibility for residential aged care development.

In an acknowledgement of the recent Council elections and public holidays falling within the consultation period, the WAPC extended the closing date for Council endorsed submissions to 28 February 2020, subject to draft submissions being submitted to the WAPC by 19 January 2020.

WALGA has prepared a draft submission and released this to members for comment in November. Limited input was received from members, possibly due to the timing of the consultation being close to the end of year and the concurrent release of other important planning related consultations by the State Government.

Comment

The purpose of the Draft Position Statement is generally supported with a number of recommendations made within the submission relating to:

- Application of the Position Statement
- Scope of the Position Statement
- Local Planning Strategy Requirements
- Local Planning Scheme Definitions and Permissibility
- Local Development Plans

In particular, the position statement has missed the opportunity to create a strong connection to structure planning requirements, the precinct planning policy, R Codes and Liveable Neighbourhoods.

Overall, the position statement provides Local Government with some additional information on planning for residential aged care facilities but would benefit from modifications which strengthen linkages and interactions with the existing planning framework.

The submission has been reviewed and supported by the People and Place Policy Team.

Flying Minute Outcomes

Total Invited to Survey: 24

Total Finished Survey: 17

Signature Page

First Name	Last Name	Completed Date
Phillip	Blight	14/01/2020 at 20:10
Jenna	Ledgerwood	14/01/2020 at 13:09
Paul	Kelly	14/01/2020 at 13:09
Malcolm	Cullen	Not Completed
Cheryl	Cowell	14/01/2020 at 13:09
Stephen	Strange	17/01/2020 at 12:51
Chris	Mitchell JP	17/01/2020 at 10:51
Les	Price	14/01/2020 at 13:09
Russ	Fishwick JP	Not Completed
Karen	Chappel	17/01/2020 at 9:10
Michelle	Rich	Not Completed
Julie	Brown	14/01/2020 at 13:10
Doug	Thompson	17/01/2020 at 9:51
Carol	Adams OAM	21/01/2020 at 10:19
Logan	Howlett JP	14/01/2020 at 13:10
Tony	Dean	17/01/2020 at 9:12
Nick	Sloan	Not Completed
Ken	Seymour	Not Completed
Peter	Long	Not Completed

Ronnie	Fleay	Not Completed
Catherine	Ehrhardt	Not Completed
Cate	McCullough	Not Completed
Mark	Irwin	14/01/2020 at 13:09
Peter	Foster JP	Not Completed
Ruth	Butterfield	17/01/2020 at 15:03

Cr Ronnie Fleay declared an interest and did not vote.

Comments

Ruth Butterfield on 17/01/2020 at 15:03

Firstly, in regard to WALGA's recommendation f) that structures associated with these facilities should require planning approval, the City went further and advised that Residential Aged Care Facility and Retirement Village should not be 'P' (Permitted) uses within the Residential zone, given the issues sometimes associated with Residential Aged Care, such as its large scale and potential impacts upon the provision of permeability and public open space within a residential area. The City believes it would be more appropriate to make these a discretionary use ('D'). In regard to WALGA's recommendation h) that Aged Care sites should be identified on structure plans, the City commented that the planning framework should identify suitable locations but not restrict the use of any site to solely being Aged Care.

Secretariat Comment

The submission has been lodged unchanged from the draft submission provided to State Council, for the following reasons:

- a) In regard to point (f), permissibility, the rationale provided for making the change is sound; however, the proposed change is perhaps unnecessary given that position statements are guiding documents, meaning that each Local Government is not bound by the document and will retain discretion over the permissibility of these land uses when making or amending their local planning schemes i.e. Local Governments are not required to amend their schemes in accordance with the proposed position statement.
- b) In regard to point (h), structure plans. Structure plans are "due regard" documents which would not restrict the use of any site indicated in a structure plan to residential aged care developments, if indicated in a structure plan as being intended for those purposes.

WALGA Submission Draft Position Statement: Residential Aged Care



INTRODUCTION

The Western Australian Local Government Association (the Association) is the united voice of Local Government in Western Australia. The Association is an independent, membership-based group representing and supporting the work and interests of 138 Local Governments in Western Australia.

The Association provides an essential voice for 1,222 Elected Members and approximately 15,000 Local Government employees as well as over two million constituents of Local Governments in Western Australia. The Association also provides professional advice and offers services that provide financial benefits to the Local Governments and the communities they serve.

COMMENTS

WALGA has reviewed the *Draft Position Statement: Residential Aged Care* (Department of Planning Lands and Heritage 2019) and generally supports the intention of the position statement to “remove planning process barriers and encourage the provision of an appropriate supply and diversity of residential aged care options” (p.1).

In light of its review, WALGA provides the following comments for consideration.

Application of the Position Statement

The current wording of the position statement creates uncertainty as to whether it is to be applied to both greenfield and infill areas. The policy approach will be significantly different between the two types of development patterns. To reinforce this uncertainty, the position statement is silent on the policy approaches to regulating such facilities within structure plans, nor is there any mention of the existing provisions within Liveable Neighbourhoods. It would be beneficial for the position statement to include information on the identification of sites for aged care facilities and retirement villages in structure plan or activity centre plans, and to include a reference to the current requirements contained in Liveable Neighbourhoods.

Recommendation

- a) The Position Statement to be amended to clarify whether the information is predominantly for greenfield sites, or also for infill sites, in order to provide additional guidance in the application of the position statement within the different urban forms.
- b) The Position Statement to be amended to include the identification of sites within the structure planning process, and include references to the existing provisions within Liveable Neighbourhoods.

Scope of the Position Statement

It seems clear from reading certain sections of the position statement that its scope is to cover both residential aged care facilities and retirement villages. However, the position statement's title “Residential aged care” together with some sections of the position statement, suggest that the scope of the statement only covers *aged care* facilities.

Section 2 clearly distinguishes residential aged care and retirement villages as separate land uses: “(t)he provision of personal and/or nursing care within residential aged care facilities is what distinguishes this type of land use from other types of accommodation for the aged, such as retirement villages where residents live independently...” Section 5.2 also makes a clear distinction between residential aged care facilities and retirement villages. Therefore it is unclear why *aged care* has been used in the title of the statement and in other sections of the statement to include retirement villages.

Recommendations

- c) The verb “care” is the main distinguishing factor between the two land uses. It should be removed from the title to avoid confusion. Change the title of the position statement to read “Residential accommodation for the aged” or similar.
- d) Review all occurrences in the position statement where aged care is used and ensure its use aligns with the distinction provided in Section 2, particularly Section 4: Policy objectives and Section 5.1: Strategic planning considerations.

Local Planning Strategy Requirements

Many Local Governments already include information relating to demographic trends and housing demands within their local planning strategies and housing strategies. However the extent to which a topic is covered within either document is largely dictated by the general level of development in an area and the observed demographic trends. Where an area has low levels of growth and/or has suitable aged care facilities for the projected demographic trends it would be onerous and unnecessary to address all six points provided in Section 5.1.

In Section 5.1, there is a requirement that all Local Planning Strategies should incorporate a dedicated section within the strategy that details:

- the identification of suitable sites based on appropriate locational criteria such as zoning, proximity and accessibility to services.

This doesn't align with the content of the Local Planning Manual which requires any mapping to focus on the general pattern of land use, rather than a specific zoning (Page 8), unless a site has already been earmarked specifically for retirement living, then the Strategy cannot include this level of detail.

Furthermore, the paragraph immediately preceding the sub-section on local planning policies makes the statement that, “local planning strategies and/or local housing strategies *must* translate into locations, sites and densities in local planning schemes...” (emphasis added). The use of the word “must” is generally avoided in policy formulation as the word carries significant meaning in the legislative context; that a policy (or in this case a position statement) is not able to carry if challenged. The decision on how the identified actions of a local planning strategy and/ or local housing strategy in a local planning scheme is a matter for the Local Government to determine and mandating such a requirement through a position statement is inappropriate.

Recommendations

- e) The commentary that the Local Planning Strategy should include identification of suitable sites, should not be included as it is too specific and not the function nor objective of the Local Planning Strategy.
- f) A note should be included in the statement that these requirements are subject to resource availability and demand for aged care facilities in each jurisdiction.
- g) Change “must” to “should”.

Local Planning Schemes – Definitions

The position statement proposes two new definitions as follows:

Residential aged care facility: a residential facility providing personal and/or nursing care primarily to aged or dependent persons which, as well as accommodation, includes appropriate staffing to meet the nursing and personal care needs of residents; meals and cleaning services; furnishings, furniture and equipment. This may consist of multiple components that include residential respite (short-term) care, aged or dependent persons' dwellings and a retirement village, but does not include a hospital, rehabilitation or psychiatric facility.

Retirement village: a development with self-contained, independent dwellings for aged or dependent persons together with communal amenities and land uses incidental and ancillary to the provision of such accommodation, but does not include a development which includes these features as a component of a residential aged care facility.

In a previous survey of 42 schemes, the most common use class definition was 'Nursing Home', which is fairly dated terminology. Proposing a standard definition of these types of aged housing is supported, as it supports hybrid services, including supported accommodation, the mix of residential care and retirement accommodation and also respite and transitional care. It is also pleasing to see that the definitions enable other ancillary services to be provided on the site, which could be accessible to the local community.

The definitions proposed within the Position Statement incorporates the current approach and direction that aged care facilities are undertaking, in encouraging 'ageing in place' through the co-location of residential aged care and retirement villages. And the definition includes other accommodation types such as supported accommodation, transitional care and respite care, as well as ancillary facilities which are available to both residents and the wider community.

The proposed definitions of *Residential aged care facility* and *Retirement village* are therefore supported. It would be appropriate to indicate when these new definitions will be incorporated into the Local Planning Scheme Regulations, to ensure that the terms are located in the most appropriate part of the Planning Framework.

Recommendation

- h) Clarity to be provided as to when the new definitions will be incorporated into the Model Provisions of the *Local Planning Scheme Regulations 2015*.

Local Planning Schemes - Permissibility

The structures associated with these land uses are likely to require development approval due to potential impacts on neighbouring properties related to servicing, waste, car parking and other considerations. Therefore, the recommendation to classify residential aged care facilities and retirement villages as permitted land uses in residential zones, within local planning scheme zoning tables, is not unreasonable but may create an expectation with proponents that development assessment is not required.

Recommendation

- i) Note in the position statement, for the benefit of proponents, that while the land use may be permitted in residential zones, development assessment is likely to be required to ensure the appropriateness of proposed structures.

Development Approvals – Local Development Plans

The last paragraph lists the range of design elements that should be considered when preparing local development plans. This may be an opportunity for the Department to reinforce that proponents of new development should consider the design elements outlined in draft State Planning Policy 7.2 Precinct Design or the design principles outlined in State Planning Policy 7.0 - Design of the Built Environment, by referring to these documents in this paragraph.

This section should also incorporate commentary on how the provisions and density coding within State Planning Policy 7.3 – Residential Design Codes (Volumes 1 and 2) are relevant to the establishment of Residential Aged Care sites.

Recommendation

- j) The inclusion in Section 5, Development Approvals should reinforce that proponents of new development need to consider the design elements outlined in State Planning Policy 7.2 - Precinct Design or the design principles outlined in State Planning Policy 7.0 - Design of the Built Environment.
- k) Clarity is required as to how the principles and policy provisions of State Planning Policy 7.3 – Residential Design Codes (Volumes 1 and 2) are relevant in the establishment of Residential Aged Care sites.