



Site compatibility certificates: an additional planning safeguard

Introduction

Site compatibility certificates (SCCs) have been introduced as a new safeguard in two State environmental planning policies. SCCs ensure some development proposals are broadly compatible with surrounding land uses, *before* they proceed to the lodgement, assessment and determination stage. The Department of Planning oversees the issuing of SCCs.

It should be noted that the issuing of a SCC *does not* mean that the development has been approved by the Department and can now be constructed – it is only the first step in the assessment process. A consent authority, usually a local council, will have to approve the development before it can proceed. This gives councils the opportunity to undertake full community consultation on these proposals.

This fact sheet is designed to be a guide for community members and local councillors about the reasons and processes for SCCs. More detailed process information is available for applicants and consent authorities on the website addresses listed below.

SCCs under *State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP)*

The SCC mechanism under the Infrastructure SEPP facilitates additional uses, co-location and redevelopment of State land and certain other land, if the proposed development is compatible with surrounding land uses. Under the SEPP, a development may only proceed to the stage of lodgement of a development application if the Director General has issued an SCC for the site once he or she is of the opinion that the development concerned is broadly compatible with the surrounding land uses, having regard to the following matters:

- The existing uses and approved uses of land in the vicinity of the development;
- The impact that the development (including its bulk and scale) is likely to have on existing, approved and future uses of the land; and
- The services and infrastructure that are or will be available to meet the demands arising from the development.

Before he or she issues an SCC, the Director General must also:

- take into account any comments received from the local council within 14 days from when the application for the certificate was made; and
- be of the opinion that the development concerned is not likely to have an adverse effect on the environment and does not cause any unacceptable risks to the land.

For surplus State lands

A mechanism existed in the NSW planning system for many years (under what was known as SEPP 8), under which new residential or commercial developments, or land-uses permissible on adjoining land, could be assessed by the Minister on surplus public land. These developments could be assessed even though they were prohibited on the site under the local environmental plan. However, in late 2007, the NSW Government gazetted the Infrastructure SEPP which creates an *additional planning safeguard* for the consideration of uses on surplus State land, which did not exist in SEPP 8. The Infrastructure SEPP repealed SEPP 8.

Now under the Infrastructure SEPP, lodgement of a development application for uses not currently permitted on State lands (excluding conservation lands) can only proceed if a site compatibility certificate has first been issued by the Director General in line with the criteria listed above.

In regard to the development of surplus public lands, the SCC process has some of the following advantages:

- It helps avoid land-use conflict;
- It ensures that wider strategic planning issues are considered for surplus sites, such as regional strategies; and
- It typically allows the local council, not the Minister, to consider applications for land on surplus sites.

Furthermore, the relevant government agency is responsible for actual decision to dispose of the land, not the Department's assessments staff.

For public and social housing

Under the Infrastructure SEPP, the SCC mechanism is also in place to allow the development of residential flat buildings or multi-dwelling housing by or on behalf of a public authority or social housing provider in certain areas in proximity to public transport, where they would be otherwise prohibited under the local council plan. If the Department considers the proposal is compatible with surrounding land-uses, an SCC may be issued and the proposal can proceed to lodgement – usually with a local council. In response to the Federal Government's 2009 Nation Building and Jobs Plan, these areas have now been expanded to provide more opportunity to develop public and social housing in accessible locations. These areas include:

- within 800 metres of all railway stations in the Sydney Region; or
- within 400 metres of land in Zone B3 Commercial Core or Zone B4 Mixed Use, or an equivalent zone, in 32 nominated major NSW regional cities and towns. These towns are listed below:

Albury	Maitland
Ballina	Morisset
Batemans Bay	Newcastle
Bathurst	Nowra
Bega	Orange
Bowral	Port Macquarie
Cessnock	Queanbeyan
Charlestown	Raymond Terrace
Coffs Harbour	Shellharbour
Dapto	Tamworth
Dubbo	Taree
Glendale–Cardiff	Tuggerah–Wyong
Gosford	Tweed Heads
Goulburn	Wagga Wagga
Grafton	Warrawong
Lismore	Wollongong

For development associated with hospitals

The Infrastructure SEPP also uses the SCC process to allow greater opportunity for services to be located with other related premises. Subject to the issue of an SCC, the SEPP permits the development of biotechnology research facilities or business premises and multi-dwelling housing by or on behalf of a public authority on hospital grounds. This mechanism is in place to assist in the provision of professional offices and accommodation catering for staffs, visitors and patients in proximity to hospitals.

For more information on the Infrastructure SEPP, go to www.planning.nsw.gov.au/planningsystem/infrastructuresepp.asp

SCCs under *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (the Seniors Housing SEPP)*

SCCs are used as part of the Seniors Housing SEPP. The history and reasons for their introduction in regard to seniors housing is worth noting. The NSW Government has for many years had a Statewide policy providing a broad planning framework for the provision of seniors housing, and for people with a disability. Provision of housing for seniors will be of particular importance into the future, with an additional one million seniors than in 2006 forecast to live in NSW by 2028.

During 2005, there were rising concerns about developers seeking to place overly large and inappropriate seniors living developments on rural land adjoining urban areas or rural villages. The developers were using a provision in the SEPP allowing such developments to be proposed on land adjoining urban land. In December 2005, the Minister announced a moratorium on this form of development.

In September 2007, the Seniors Housing SEPP was gazetted and introduced the use of SCCs to allow the moratorium to be lifted. Under the SEPP, unless the land use of seniors housing is already permitted on the land, the following forms of development cannot be proposed in the following locations unless a SCC has been issued by the Department:

- Land adjoining any area already zoned primarily for urban uses;
- Land that is within a zone that is identified as "special uses" under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted);

- Land that is used for the purposes of an existing registered club (excluding clubs on public open space, industrial or listed environmentally sensitive lands) if the site is zoned primarily for urban purposes or adjoins land zoned primarily for urban purposes;
- A proposal for a 'vertical village' under clause 45 of the SEPP.

A SCC for a new seniors housing development recognises that it is broadly compatible with the surrounding environment and locality – and can now proceed to the lodgement of a development proposal, usually with the local council. The Department must consider a series of criteria covering environmental, resources, servicing and infrastructure and local impacts before making a decision.

For more information on the Seniors Housing SEPP, go to www.planning.nsw.gov.au/settingthedirection/housing.asp

Steps and transparency in the SCC system

A SCC is an additional safeguard that improves the efficiency of the planning process by filtering out inappropriate potential developments before a development application is even lodged with council.

The Director-General's issuing of an SCC is only the first step in the process and includes consultation with the relevant council.

During assessment of site compatibility, the Director-General is required to provide a copy of the application to the council concerned. For projects under the Infrastructure SEPP, the Director-General must then take into account all comments received from the council in the two weeks following the application's lodgement date before issuing an SCC. For proposals under the Seniors Housing SEPP, the time period for the Director-General to consider comments is three weeks from the lodgement date.

The Director General also considers any relevant local, regional or State strategic planning documents. If an SCC is issued, the normal development application process applies and development approval must typically be sought from the local council. The council may undertake its normal community consultation process including public exhibition of the proposal before it makes its decision. The council has the power to refuse or accept the proposal on its merits.

Steps in process

