

Circular	PS 18-009
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Related	PS07-016

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 - Site Compatibility Certificates

This circular provides advice about the use of site compatibility certificates under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* for community members, developers and local councils on the SCC application, assessment and subsequent development application processes.

Introduction

This circular relates to site compatibility certificates (SCCs) issued under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (the Seniors SEPP).

The circular also outlines new rules for SCCs introduced by an amendment to the SEPP which commences on 1 October 2018.

NSW's Ageing Population

There were over 2 million people aged 55 and older in NSW in 2016. Over the next 10 years the number of over 55's is projected to increase by at least half a million people - to 2.6 million. By 2036, the number of over 55's is projected to increase by more than one million, to over 3.1 million¹. Providing suitable housing for seniors in NSW is therefore of particular importance now and into the future.

The role of the Seniors SEPP

The Seniors SEPP aims to facilitate development of housing for seniors and people with a disability in a way that balances the growing demand for suitable accommodation with the need to maintain the local character of neighbourhoods.

Site Compatibility Certificates

In September 2007, an amendment to the Seniors SEPP introduced SCCs. Planning Circular PS07-016 provided further information in relation to the SCC process, which this Planning Circular replaces.

SCCs ensure seniors development is broadly compatible with surrounding land uses, *before* a development application can proceed to the DA lodgement, assessment and determination stage.

Subject to certain criteria, a SCC allows a DA for seniors housing to be considered on land where it would otherwise be prohibited.

The issuing of a SCC *does not* mean the development has been approved and can be constructed – it is only the first step in the assessment process.

Applicable land

The Seniors SEPP permits seniors housing on certain categories of land subject to proponents first obtaining a SCC. A SCC is required where:

- land adjoins land zoned primarily for urban purposes (urban land);
- land is within a zone identified as "special uses" under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted);
- land is being used for the purposes of an existing registered club (excluding clubs on public open space, industrial or listed environmentally sensitive lands), provided the land is zoned primarily for urban purposes or adjoins land zoned primarily for urban purposes;
- the proposal is for a 'vertical village' under clause 45 of the SEPP.

Clause 4 of the SEPP includes additional limits to where the Seniors SEPP can apply. It is important that SCC applications clearly identify the subject land and the extent of the proposed seniors housing development on that land.

¹ Department of Planning and Environment (2016), *2016 New South Wales State and Local Government Area population and household projections*. Sydney, NSW.

Seniors SEPP Amendment 2018

To respond to community concerns about new seniors developments in urban fringe areas the Seniors SEPP Amendment 2018 has been made. The changes are described below.

1. Preventing incremental expansion of SCCs

SCCs are used to respond to demand for seniors housing. In some instances, this has led to requests to increase the site for which a SCC has been previously issued, by applying for a new SCC that includes additional land.

This has led to the incremental expansion of seniors housing onto land that does not independently adjoin urban land.

The amendment to the SEPP provides that a new SCC to extend a seniors development site cannot be issued if:

- the additional land will include any new or additional structures for use as accommodation; or
- the total number of dwellings on the additional land and previously certified land combined exceeds the maximum number of dwellings specified in the original SCC.

This does not apply to additional land that also adjoins land zoned primarily for urban purposes.

In addition to the above, the amendment also provides that:

- a SCC cannot be varied during its currency to include additional land.
- once land is developed for seniors housing it will not be regarded as 'urban land' without the land being rezoned.
- an application for a SCC must include information regarding existing or previous SCCs that apply or previously applied to the subject site.

2. Assessment of cumulative impact of SCCs

A number of submissions received during exhibition of the proposed amendment raised concerns about the need to consider the cumulative impact of multiple SCC applications.

In response, the Seniors SEPP has been amended to expand the criteria for assessing SCCs to include the consideration of cumulative impacts. The amendment provides that:

- Applicants must provide a cumulative impact study where the subject land (or any part of the land) is within one kilometre of two or more other SCC sites. The other SCCs could be either:
 - current (but no DA has been determined); or
 - the SCC application has been lodged and is under assessment.
- A planning panel may also request a cumulative impact study be prepared at any time if it considers that it is necessary for it to be provided to determine whether the land concerned is suitable for more intensive development.
- Once a DA is determined on a site with an approved SCC, that SCC site will not be counted for the purposes of requiring a cumulative impact study.
- The cumulative impact study must include an assessment of the impact of the proposed development on the capacity of existing or future services to meet demands arising from the proposed development. At a minimum this must include impacts on water, reticulated sewers and public transport as well as the capacity of existing or future road infrastructure to meet any anticipated increase in traffic.

3. Determining authority for Seniors SEPP SCCs

The amendment also makes the relevant Sydney district planning panel or regional planning panel (the planning panel) the determining authority for SCCs. Previously the Secretary of the Department of Planning and Environment (the Department) issued SCCs.

Savings and transitional provisions

The changes will apply to any SCC applications that were made after 10 November 2017 and not determined before 1 October 2018.

The relevant planning panel will determine any SCC applications made but not determined before 1 October 2018.

SCC application and assessment

SCC applications

SCC applications continue to be made to the Department of Planning and Environment. An application for a SCC may be made by the land owner or any other person, provided they have the land owner's permission.

Applicants are encouraged to meet with the relevant Regional team from the Department prior to preparing and submitting a SCC application. The Department can provide advice and information to assist in meeting the new SCC requirements.

Applicants are also encouraged to meet with the relevant local council prior to submitting a SCC application. This can improve planning outcomes, assessment processing times and helps ensure that relevant local issues are addressed.

SCC assessment and determination

When the Department receives a SCC application, it is referred to the relevant council for comment. The comments made by the council must be taken into consideration by the planning panel where they have been provided to the Department within 21 days from the date the application was lodged.

SCC applications are assessed under criteria set out in clause 25 (5) of the Seniors SEPP. The Department will prepare an assessment report and the matter will be referred to the relevant planning panel for determination.

Following the issuing of a SCC

A SCC is valid for 24 months. A valid SCC cannot be altered once it has been issued. The standard development application process then applies to the proposal. Development consent must be sought, through a development application lodged with the consent authority, which is usually the local council.

The development application must be consistent with or a lesser scale than the proposal which was submitted with the SCC application.

The consent authority undertakes its standard public notification process including public exhibition of the proposal. The consent authority can refuse or approve the proposal on its merits.

Information on SCC applications

The Department's website includes information on SCCs that have been determined since 2015. This will assist applicants in identifying how their subject site relates to other SCCs in relation to the new SCC requirements.

The progress and determination of current SCC applications can be monitored via the Department's SCCs Online website. The website can be accessed at scc.planningportal.nsw.gov.au.

Further information

A copy of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* and *State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment 2018* are available at www.legislation.nsw.gov.au

For more detailed information on the Seniors SEPP, go to www.planning.nsw.gov.au/Policy-and-Legislation/Housing/Housing-for-Seniors-and-PWD

For other information please contact the Department of Planning and Environment on 1300 305 695.

Other Department of Planning and Environment circulars are available at:

<http://www.planning.nsw.gov.au/Policy-and-Legislation/Planning-System-Circulars>

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Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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