



PLANNING SYSTEM

State environmental planning policies

Circular	PS 07-016
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Related	Replaces PS 05-014

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

This circular is to advise councils of the main planning implications of State Environmental Planning Policy (Seniors Living) 2004 (Amendment No. 2). The name of the Principal Policy is now SEPP (Housing for Seniors or People with a Disability) 2004.

Introduction

Amendments to State Environmental Planning Policy (Seniors Living) 2004 (the SEPP/Policy) have now been gazetted following the public exhibition of proposed changes during May and June 2007 and the consideration of public submissions. The changes to the SEPP encourage the creation of housing that is appropriate to the aging of the population. The amendments come into effect two weeks after publication in the Gazette.

Providing for the ageing of the population

The population of New South Wales is ageing. There is significant growth in the numbers of people aged 55 years and over and this trend will continue. By 2016, 25% of the population of Sydney, and about 31% of people in the rest of NSW, will be aged 55 and over. By 2028 about one third of the State's population (2.6 million) will be aged 55 and over—there will then be 1 million more seniors than in 2006.

For 25 years the State Policy, in different forms, has encouraged and facilitated the provision of housing designed for seniors or people with a disability and it will continue to do so.

'Seniors housing' is a shorthand term encompassing both housing for seniors and housing for people with a disability. Residential accommodation permitted under the Policy consists of:

- residential care facilities
- hostels
- a group of self-contained dwellings (in-fill self-care housing and serviced self-care housing)
- a combination of these.

Site compatibility certificate

A major change to the Policy is the introduction of the requirement for a site compatibility certificate to accompany development applications. This is to ensure new seniors housing development occurs in appropriate places and is compatible with the local environment.

Before issuing a certificate, the Director-General will carry out a site compatibility assessment and must be satisfied that the proposed development is suitable for more intensive development and that the proposed seniors housing development is compatible with the surrounding environment having regard to criteria set out in the Policy.

The Director General will consult with councils when determining whether to issue a certificate.

Unless a current site compatibility certificate has been issued by the Director-General and accompanies a development application, a consent authority cannot grant consent for development on land adjoining land zoned primarily for urban purposes, land zoned special uses, land that is used for an existing registered club or where there are to be buildings for vertical villages involving floor space bonuses.

Councils will be required to consider the compatibility test criteria for proposals in other locations when assessing development applications.

The process for application for a site compatibility certificate is set out in the Policy. The Director-General must determine an application within 35 days of an application being lodged, if it is reasonably practicable to do so, and may refuse to issue a certificate. A certificate will remain current for 24 months after it is issued.

A consent authority may approve a development application for a proposal which is smaller (but not larger) in scale than the kind of development in respect of which a site compatibility certificate was issued. A consent authority may also refuse to grant consent based on its own assessment of the compatibility of the proposed development with the surrounding environment.

Information on how to apply for a site compatibility certificate is at the end of this circular and a flow chart and pro forma are attached.

Serviced self-care housing on land adjoining urban land

Amendment No. 2 to the Policy lifts the 'moratorium' on development of serviced self-care housing on land adjoining land zoned primarily for urban purposes. While this development will be permitted, applicants must demonstrate that the proposed housing will be provided either:

- for people with a disability, or
- in combination with a residential care facility, or
- as a retirement village under the *Retirement Villages Act 1999*.

The amendment also reintroduces requirements for the provision of services to serviced self-care housing, including transport services.

The previous 70 unit minimum development size has not been reinstated.

Changes to where the SEPP applies

In addition to giving the Policy a new name, State Environmental Planning Policy (Housing for Seniors or people with a Disability) 2004, Amendment No. 2 makes the following changes to the Policy as to how and where the Policy applies.

- Serviced self-care housing will be permitted on land adjoining land zoned primarily for urban purposes, subject to council being satisfied housing will be provided for people with a disability, or in combination with a residential care facility, or a retirement village.
- Seniors housing may be permissible on the site of an existing registered club if the site is zoned primarily for urban purposes or adjoins land zoned primarily for urban purposes,

subject to council being satisfied of certain criteria.

- Seniors housing development will now be clearly subject to the criteria and assessment requirements of the Planning for Bushfire Protection guidelines and section 100B of the *Rural Fires Act 1997*.
- The Policy will also now apply to land to which a listing on the State Heritage Register applies and to land to which an interim heritage order applies.

FSR bonus for proposals providing on-site support services and 10% of dwellings as 'affordable places'

The floor space ratio (FSR) bonus provision has been changed to apply to land where residential flat buildings are permitted. The provision also applies if the FSR is expressed in a development control plan. An additional bonus has been included by allowing FSR for the on-site support services to be excluded from the FSR calculations, with a limit of 50% of the gross floor area.

Applications under this provision require a site compatibility certificate from the Director-General.

Section 88E instruments and notation on section 149 planning certificates

Amendment no. 2 requires the consent authority to be satisfied, before granting consent to a development application, that a restriction as to user, under section 88E of the *Conveyancing Act 1919*, will be in place limiting the use of seniors housing to the kinds of people referred to in the Policy.

As part of the package of changes to the Policy, an amendment to the Environmental Planning and Assessment Regulation 2000 has been made. The Regulation now requires planning certificates issued under section 149 of the *Environmental Planning and Assessment Act 1979* to include conditions of consent restricting occupation of seniors housing to seniors or people who have a disability. This applies in the case of development applications granted consent on or after commencement of the amending Policy.

The purpose of these measures is to make it clear to potential owners that occupants of the approved development are restricted to seniors or people who have a disability, people who live in the same household as seniors or people who have a disability, and staff employed to assist in the administration of and provision of services to housing provided under the development consent.

Other changes to the Policy

Other changes to the Policy include:

- changes to various definitions, including seniors and people with a disability
- replacing the definitions of local government and community housing providers with a definition of social housing provider
- identification of zones which are not to be treated as primarily for urban purposes, and of land that adjoins land zoned primarily for urban purposes
- clarification that the SEPP may apply to land identified in State Environmental Planning Policy No. 71—Coastal Protection or to land on which an existing registered club is located which is zoned as private open space or open space on which dwellings or dwelling-houses are permitted (i.e. such land is not excluded from the application of the SEPP under Schedule 1)
- amendment of the accessibility and useability standards to remove duplication and consolidate the standards with clearer references to the relevant Australian Standards

Council exemptions

The existing partial exemptions from the Policy will lapse on 31 December 2008 (this applies to Ashfield, Blue Mountains, Hurstville, Kogarah, Strathfield, Sutherland and North Sydney).

All councils will have the opportunity to demonstrate how they will provide for housing seniors and people with a disability in preparing their new principal LEPs, and to justify future exemption from the SEPP.

Applications for a site compatibility certificate

A pro forma for an application for a site compatibility certificate is attached to this circular.

The application form includes a checklist to establish whether the proposed development is permitted under the SEPP and whether a site compatibility certificate is needed. The form also explains the required level of information to describe the proposal, its context and strategic justification.

Applications will need to provide sufficient information to establish whether the site is suitable for more intensive development, and whether the proposed seniors housing development is compatible with the surrounding environment.

Applications must be lodged with the Director-General, by courier or mail:

Ground floor, 23–33 Bridge Street, Sydney, or
GPO Box 39 Sydney NSW 2001.

Further information

A link to the SEPP can be found on the Department of Planning's website at:
<http://www.planning.nsw.gov.au/settingthedirection/housing.asp>

If you have further enquiries, please phone the Planning Information Centre 02 9228 6333 or email information@planning.nsw.gov.au

Note: This and other Department of Planning circulars are published on the web at www.planning.nsw.gov.au/planningsystem/practicenotes

Authorised by:

Sam Haddad
Director-General

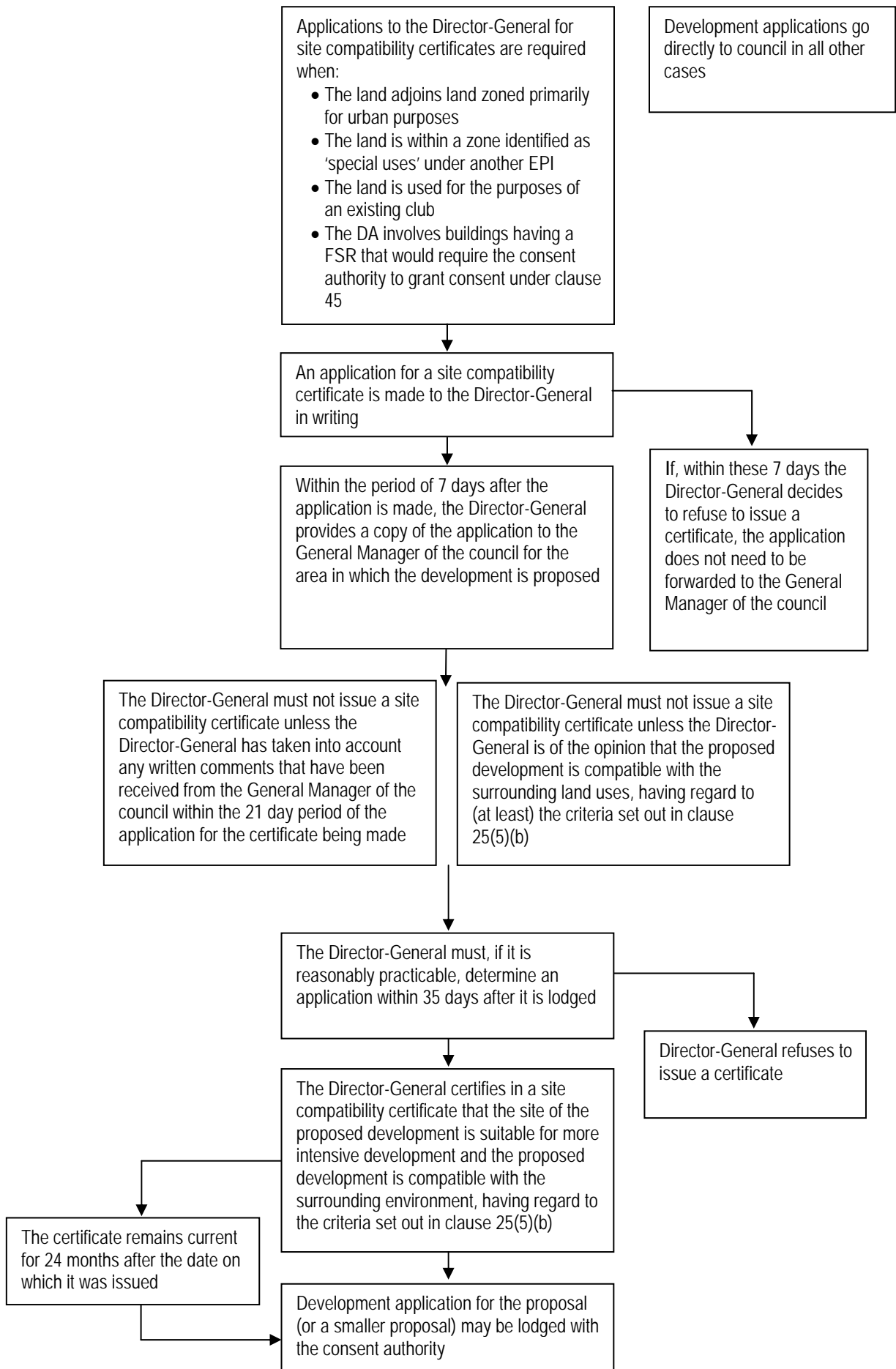
Important note

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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Attachment. Applications for a site compatibility certificate





DIRECTOR-GENERAL'S
SITE COMPATIBILITY CERTIFICATE
APPLICATION

Date received: ___/___/___

Site compatibility application no. _____

LODGEMENT

Instructions to users

This application form is to be completed if you wish to apply to the Director-General of the Department of Planning for a site compatibility certificate. A site compatibility certificate is required under section 50(2) of the Environmental Planning and Assessment Regulation 2000 to accompany development applications for certain proposed developments under the SEPP (Housing for Seniors or People with a Disability) 2004 (the SEPP). The types of development applications to which the Regulation applies are listed in clause 24 of the SEPP.

Before lodging this application, it is recommended that you first consult with the Department of Planning (the Department) concerning your project, including whether a proportion of the fee is required on application.

To ensure that your application is accepted as being duly made, you must:

- complete **all** parts of this form and
- submit **all** relevant information required by this form.

The Department will request further information if your application is inadequate.

All applications **must be lodged** with the Director-General, by courier or mail.

NSW Department of Planning
Head Office
Ground floor, 23–33 Bridge Street
Sydney NSW 2000
GPO Box 39 Sydney NSW 2001
t: 02 9228 6111 f: 02 9228 6555

1. APPLICANT DETAILS

Company/organisation/agency

Mr Ms Mrs Dr Other

First name

Family name

Street address

Unit/street no.

Street name

Suburb or town

State

Postcode

Postal address
(or mark 'as above')

PO Box or Bag

Suburb or town

State

Postcode

Daytime telephone

Fax

Email

Mobile

2. PROPOSAL DETAILS

NAME OF PROPOSAL

Identify the land you propose to develop and for which you seek the Director-General's site compatibility certificate.

STREET ADDRESS

Unit/street no.

Street or property name

Suburb, town or locality

Postcode

Local government area

NAME OF PROPERTY

REAL PROPERTY DESCRIPTION

and/or map and detailed description of land attached.

The real property description is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Lands.

Please ensure that you place a slash (/) to distinguish between the lot, section, DP and strata numbers.

If the proposal applies to more than one piece of land, please use a comma to distinguish between each real property description.

DESCRIPTION OF PROJECT (as it is to appear on the Director-General's certificate)

3. PROPOSAL CONSISTENCY WITH THE SEPP

1. THE PROPOSAL IS FOR:

- Land zoned primarily for urban purposes

Yes No

or

- Land adjoining land zoned primarily for urban purposes

Yes No

Attach copy of zoning extract or other evidence of zoning.

- Are dwelling houses, hospitals, residential flat buildings, or special uses permitted?

Yes No

Attach copy of development control table.

and

- Is the land being used for the purposes of an existing registered club?

Yes No

or

- Is the land excluded from the SEPP under:

- clause 4(6) land to which this policy doesn't apply (identify under which subsection of clause 4(6) the land is excluded)
- clause 4(9) (land in the Sutherland Shire)
- Schedule 2 (councils partially exempted from the SEPP).

Yes No Clause4(6) ()

Yes No

Yes No

2. TYPE OF SENIORS HOUSING

Does the proposed development include one or more of the following and how many beds or dwellings are proposed:

- a residential care facility Yes No
- a hostel Yes No
- infill self-care housing (urban only and not dual occupancy) Yes No
- serviced self-care housing Yes No
- or a combination of these Yes No

No of beds/dwellings

Please indicate numbers in the appropriate space below.

Beds

Dwellings

Dwellings

Dwellings

Beds

Dwellings

3. A SITE COMPATIBILITY CERTIFICATE IS REQUIRED BECAUSE (CLAUSE 24):

- the land adjoins land zoned primarily for urban purposes Yes No
- the land is within a zone that is identified as 'special uses' (other than land on which hospitals are permitted) Yes No
- the land is used for the purposes of an existing registered club Yes No
- the proposed development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45. Yes No

4. PROPOSAL INFORMATION

Applicants should provide documentation to describe the proposal, its context and strategic justification.

1. CONTEXT

The context for development can be presented through photos, maps at an appropriate scale and written evidence.

- Location, zoning of the site and representation of surrounding uses.
- Description of surrounding environment:
 - built form
 - natural environment (including known significant environmental values and resources or hazards).
- Access to services and facilities and access (clause 26):
 - accessibility and interrelationships with the surrounding area—transport infrastructure and services, accessible pedestrian routes
 - location and description of available shops, banks and other retail and commercial services, community services and recreational facilities, medical facilities.
- Open space and special use provisions (if relevant).

2. PROPOSAL

The proposal can be presented through photos, maps.

- Description of the proposal including the type(s) of seniors housing proposed including numbers of beds/units, community facilities and any ancillary development
- Site description—natural elements of the site (including known hazards and constraints)
- Building envelope—footprint and height relative to adjoining development/uses and indicative layout of proposed uses in relation to adjoining development/uses.

3. STRATEGIC JUSTIFICATION

Brief description of the proposed development—10 pages limit.

- Consistency with regional and local strategies.
- Public interest reasons for applying for seniors housing in this locality.
- Adequacy of services and infrastructure to meet demand.

5. STATEMENT ON THE PROPOSAL SEPP SITE COMPATIBILITY CRITERIA

Applicants should provide a statement demonstrating whether the site is suitable for more intensive development and is development for the purposes of seniors housing of the kind proposed in the application compatible with the surrounding environment, having regard to (at least) the following criteria:

Criteria 1. The natural environment (including known significant environmental values, resources, or hazards), and the existing uses and approved uses of land in the vicinity of the proposed development.

Criteria 2. The impact that the proposed development is likely to have on the uses that are likely to be the future uses of the land.

Criteria 3. The services and infrastructure that are or will be available to meet the demands arising from the development (particularly, retail, community, medical, and transport services having regard to the location and access requirements set out in clause 26 of the SEPP) and any proposed financial arrangements for infrastructure provision

7. APPLICATION CHECKLIST

Please check that you have provided all the information required for your application.

I have completed all sections of the *Director-General's Site Compatibility Certificate Application* Yes/No

Supporting information attached (please check box as relevant):

- Detailed description of land
- Copy of zoning extract or other evidence
- Copy of development control table
- Proposal information—context, proposal and/or strategic justification
- Additional information for statements against site compatibility criteria (optional)

I have addressed at least all the following SEPP site compatibility criteria in section 5 of the form:

- Criteria 1. Existing environment and approved uses Yes/No
- Criteria 2. Impact on future uses Yes/No
- Criteria 3. Availability of services and infrastructure Yes/No
- Criteria 4. Impact on open space and special uses provision Yes/No
- Criteria 5. Impact of the bulk and scale of the proposal Yes/No

8. APPLICATION FEE

You are required to pay a fee for the assessment of an application for the Director General's certificate for site compatibility. This fee is based on the estimated number of beds of the SEPP Seniors Housing Facility. The Department may require that you pay a proportion of the total fee with this application. You should consult with the Department before lodging this application to determine the proportion to be paid. The maximum fee payable is \$5,000.

Number of beds or dwellings

Estimated project cost

9. APPLICANT'S AUTHORISATION SEPP SENIORS HOUSING

By signing below, I/we hereby:

- apply, subject to satisfying clause 25 of the SEPP Seniors (Housing for Seniors or Persons with a Disability) 2004 for the Director-General's site compatibility application pursuant to clause 50(2) of the Environmental Planning and Assessment Regulation 2000
- provide a description of the proposed seniors housing development and address all matters required by the Director-General pursuant to clause 25 of the SEPP (Housing for Seniors or Persons with a Disability) 2004
- declare that all information contained within this application is accurate at the time of signing.

Signature(s)

In what capacity are you signing if you are not the owner of the land

Name(s)

Date

10. OWNER'S CONSENT

As the owner(s) of the land for which the proposed seniors housing development is located and in signing below, I/we hereby agree to the lodgement of an application for a Director-General's site compatibility certificate.

Signature

Signature

Name

Name

Date