



SEPP (Infrastructure) 2007

DIRECTOR-GENERAL'S SITE COMPATIBILITY CERTIFICATE GUIDELINE FOR APPLICATIONS

August 2009

BACKGROUND

State Environmental Planning Policy (Infrastructure) 2007 (the SEPP) was gazetted on 21 December 2007 and commenced on 1 January 2008. A general planning circular (PS 08–001) and update planning circulars (PS 09–007, PS 09–009 and PS 09–018) are available on the Department's website, which outline the provisions of the SEPP.

As part of the Infrastructure SEPP, there is now a requirement that a site compatibility certificate be issued by the Director-General for certain development by or on behalf of a public authority, social housing provider, or other proponent in certain locations. These requirements apply to:

- additional uses of certain State land
- co-location of compatible development at health services facilities.

A site compatibility certificate is required under clause 50(2A) of the Environmental Planning and Assessment Regulation 2000 to accompany development applications for certain classes of development identified in the Infrastructure SEPP. In particular, consent for development under clauses 18 and 57(2) of the SEPP may be granted only if the development is the subject of a certificate from the Director-General certifying that the development is compatible with surrounding land uses.

TYPES OF SITE COMPATIBILITY CERTIFICATES

The purpose of introducing site compatibility certification under the Infrastructure SEPP is to facilitate additional uses, co-location and redevelopment of State land without the need for a rezoning, if the proposed development is compatible with surrounding land uses.

The site compatibility certificate process is a mechanism to ensure that any additional uses or redevelopment of these sites is in keeping with (vis. compatible with) the surrounding land use.

There are two scenarios under the Infrastructure SEPP where a site compatibility certificate might be required. They are outlined below.

1. Additional uses of State land

The Infrastructure SEPP allows for certain State land to adopt **additional uses** that are permitted on the land adjacent to the State land (clause 18 of the SEPP). '**State land**' refers to Crown land under the *Crown Lands Act 1989*, other land of the Crown or land vested in a Minister on behalf of the Crown, and land owned by a public authority other than a council.

The policy carries over some of the provisions of State Environmental Planning Policy No. 8—Surplus Public Land (SEPP 8) (which has now been repealed) but also introduces a new requirement. Unlike SEPP 8, under the Infrastructure SEPP residential, commercial and industrial uses of State land are not automatically permitted on surplus State land. These land uses are only permitted if they are also permitted on adjacent land.

If development consent is required for a particular land use (e.g. residential development), then a site compatibility certificate must be issued before a development application for the additional land use can be lodged with the consent authority. Development that is **permissible without consent** on land adjacent to State land is automatically permissible on State land without the need for the Director-General to issue a site compatibility certificate.

The clause 18 provisions for State land are an interim measure that will only apply until new principal local environmental plans (i.e. standard LEPs) are in place, which apply to the site.

The SEPP also excludes 'additional uses' of State land (clause 18) in the following areas:

- land zoned for conservation purposes under an environmental planning instrument
- land that is a State forest, flora reserve or timber reserve under the *Forestry Act 1916*
- land reserved under the *National Parks and Wildlife Act 1974*
- land reserved under the *Crown Lands Act 1989* for an environmental protection or nature conservation purpose.

Note: 'Land zoned for conservation purposes' means land in any of the following zones or in a land use zone that is equivalent to any of those zones: RE1 Public Recreation, E1 National Parks and Nature Reserves, E2 Environmental Conservation, and W1 Natural Waterways.

2. Co-location of compatible development at health services facilities

Under clause 57(2) of the SEPP additional uses are permitted on land zoned 'special use' for a health services facility by or on behalf of a public authority.

The additional uses that are permitted include:

- biotechnology research or development industries
- business premises or retail facilities to cater for patients, staff or visitors
- multi-dwelling housing.

As with clause 18 development, consent must not be granted for development under clause 57(2) unless the consent authority is satisfied that the Director-General has certified in a site compatibility certificate that the development is compatible with the surrounding land uses.

PROCESS FOR LODGING APPLICATIONS

An application form for a site compatibility certificate is to be completed by a public authority or other applicant (i.e. the land owner or other person with the land owner's consent) who wishes to apply to the Director-General of the Department of Planning for a site compatibility certificate under the Infrastructure SEPP.

The application form is available on the Department website. The flow chart attached outlines the process for assessing applications.

Applications for site compatibility certificates are to be lodged with the Department of Planning by mail or courier to the following address:

Director-General
NSW Department of Planning
Ground floor, 23–33 Bridge Street
Sydney NSW 2000
GPO Box 39 Sydney NSW 2001

APPLICATION FEE

Applicants are required to pay a fee for the assessment of an application for a Director General's site compatibility certificate. The prescribed fee under clause 262A of the Environmental Planning and Assessment Regulation 2000 is calculated at \$250 for lodgement, plus an additional \$250 for each hectare (or part of a hectare) of the area of the land in respect of which the certificate is to be issued. The maximum fee payable is \$5000. Please contact the Department of Planning prior to application lodgement to verify the amount payable.

INQUIRIES

Before lodging an application, it is recommended that you consult with the Department of Planning concerning your development proposal, including whether a site compatibility certificate is required, what application fee will apply, and what documentation is required.

Any inquiries in relation to the processing of site compatibility certificates should be directed to the Urban Assessments Branch of the Department in Sydney.

Phone 02 9228 6111, fax 02 9228 6555 or visit the Department of Planning **website www.planning.nsw.gov.au**.

ATTACHMENT. APPLICATIONS FOR A SITE COMPATIBILITY CERTIFICATE

Applications to the Director-General for site compatibility certificates (infrastructure) are required for development under the following clauses in SEPP (Infrastructure) 2007:

- **clause 18** - Additional Uses on State land
- **clause 57(2)** - Co-location at health services facilities by or on behalf of a public authority

The requirement to obtain a certificate in each case above will be dependent on:

- the proposed development requiring *consent*
- the current zoning of the site
- whether the proposed development is by or on behalf of a public authority.

Please read the relevant clauses in the SEPP to determine whether a site compatibility certificate is required in each case.

Note: Development applications go directly to the consent authority in all other cases.

