

<b>Circular</b>	PS 09–029
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# Assessment of native vegetation under the Seniors Housing SEPP

The purpose of this circular is to advise councils and the public of an amendment to the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in relation to clearing of native vegetation under the *Native Vegetation Act 2003*.

## Introduction

On 4 December 2009, an amendment was made to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP) in conjunction with a change to the *Native Vegetation Act 2003* in respect to seniors housing.

This circular provides guidance on native vegetation assessment for seniors housing development proposals required as a result of these changes.

'Seniors housing' includes accommodation used permanently for seniors or people with a disability, and may consist of a residential care facility, hostel, group of self-contained dwellings or a combination of these (but does not include a hospital).

## Amendment to Native Vegetation Act

Schedule 1 of the *Native Vegetation Act 2003* was amended on 4 December 2009 to exclude the following land from the operation of that Act:

'...land on which development for the purposes of seniors housing, and no other development, is carried out under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and for which a site compatibility certificate has been issued under that Policy.'

The new exclusion applies to land where a site compatibility certificate has been issued for seniors housing and the consent authority has granted development consent to the seniors housing proposal. Seniors housing developments on this type of land will not require an approval under the *Native Vegetation Act 2003* to clear native vegetation or require the preparation of a property vegetation plan.

Instead, native vegetation issues for these developments will be initially considered at the site compatibility certificate stage under the Seniors Housing SEPP.

Development consent under the *Environmental Planning and Assessment Act 1979* will also continue to be required before any clearing of native vegetation is permitted.

## Amendment to Seniors Housing SEPP

Under clause 25(5) of the Seniors Housing SEPP, before issuing a site compatibility certificate the Director-General of the Department of Planning must form an opinion that the proposed development is compatible with the surrounding land uses having regard to five nominated criteria, including:

- (i) 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'.

Clause 25(5) of the Senior Housing SEPP has been amended to now include the following additional criterion for consideration of native vegetation:

- (vi) If the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the *Native Vegetation Act 2003*— the impact that the proposed development is likely to have on the conservation and management of native vegetation.

This additional criterion must be considered by the Director-General before issuing a site compatibility certificate for relevant seniors housing development proposals.

## Development applications for seniors housing

A site compatibility certificate must be issued prior to a development application being lodged for seniors housing development (which includes housing for people with a disability) if it is on land immediately adjoining urban zones, where the proposed land use is not otherwise permitted.

Development applications for seniors housing will be assessed under the *Environmental Planning and Assessment Act 1979* taking into consideration the provisions of section 79C of that Act and will also be subject to the provisions of the *Threatened Species Conservation Act 1995*. Development consent will be required before any clearing of native vegetation is permitted.

## Native vegetation guidelines

To assist the Department of Planning in considering native vegetation issues associated with development proposals for seniors housing, assessment guidelines have been prepared (see attached).

These guidelines also provide advice to applicants on the type of native vegetation information that needs to be included with a site compatibility certificate application where the proposal involves the clearing of native vegetation.

## Further information

A copy of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (as amended) is available on the NSW legislation website at <http://www.legislation.nsw.gov.au>.

Further information on housing for seniors and people with a disability, including application forms and guidelines for a site compatibility certificate, is available from the Department's website at: <http://www.planning.nsw.gov.au/PlansforAction/Housingforseniorsandpeoplewithdisabilities/tabid/314/Default.aspx>.

Note: This and other Department of Planning circulars are published on the web at <http://www.planning.nsw.gov.au/PlanningSystem/Circularsandguidelines/PlanningSystemCirculars/tabid/81/Default.aspx>.

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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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