



New South Wales

State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment 2018

under the

Environmental Planning and Assessment Act 1979

His Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ANTHONY ROBERTS, MP
Minister for Planning

* The State Environmental Planning Policy appointed 1 October 2018 as the date of its commencement. Pursuant to section 3.24 (5B) of the *Environmental Planning and Assessment Act 1979*, the SEPP does not fail merely because it was not published on the NSW legislation website until after the day appointed in the SEPP, but section 3.24 (5B) provides, in that event, for the SEPP to commence on the day on which the SEPP was published on the NSW legislation website.

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1 Name of Policy

This Policy is *State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment 2018*.

2 Commencement

This Policy commences on 1 October 2018 * and is required to be published on the NSW legislation website.

3 Repeal of Policy

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

Schedule 1 Amendment of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

[1] Clause 3 Interpretation

Insert in alphabetical order in clause 3 (1):

relevant panel, in relation to a site compatibility certificate (or an application for a certificate), means the Sydney district or regional planning panel constituted for the part of the State in which the land concerned is located.

[2] Clause 3 (1), definition of “site compatibility certificate”

Omit “by the Director-General”.

[3] Clauses 24 (2), 25 (5), (6) and (9) and 46 (2)

Omit “Director-General” and “Director-General’s” wherever occurring.

Insert instead “relevant panel” and “relevant panel’s”, respectively.

[4] Clause 25 Application for site compatibility certificate

Omit “made to the Director-General” from clause 25 (1).

Insert instead “lodged with the Department”.

[5] Clause 25 (2)–(2D)

Omit clause 25 (2). Insert instead:

- (2) An application:
 - (a) must be:
 - (i) in writing, and
 - (ii) in the form (if any) approved by the Planning Secretary from time to time, and
 - (iii) accompanied by such documents and information as the Planning Secretary may require, and
 - (b) specify, in the manner required by the Planning Secretary, whether any site compatibility certificates have previously been issued in respect of the land (or any part of the land) to which the application relates, and
 - (c) for land that is next to proximate site land—must be accompanied by a cumulative impact study that has been prepared in accordance with any guidelines issued by the Planning Secretary from time to time.

Note. Clause 262A of the *Environmental Planning and Assessment Regulation 2000* provides for the maximum fee for an application for a site compatibility certificate.

- (2A) Land is *next to proximate site land* for the purposes of this clause if the land (or any part of the land) is located within a one kilometre radius of 2 or more other parcels of land (the *proximate site land*) in respect of each of which either:
 - (a) there is a current site compatibility certificate, or
 - (b) an application for a site compatibility certificate has been made but not yet determined.
- (2B) However, any other parcel of land for which development consent for the purposes of seniors housing has been granted is to be disregarded when

determining whether land is next to proximate site land even if a site compatibility certificate has been granted in respect of that parcel.

- (2C) A ***cumulative impact study*** for the purposes of this clause is a study that considers whether the impacts associated with the proposed development on the land to which an application relates (when considered together with the impacts of proposed developments on the proximate site land concerned):
- (a) take into account the capacity of existing or future services and infrastructure (including water, reticulated sewers and public transport) to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision, and
 - (b) take into account the capacity of existing or future road infrastructure to meet any increase in traffic as a result of proposed development.
- (2D) Without limiting subclause (2), the relevant panel may require an applicant to provide a cumulative impact study even if it has not been provided with the application if the relevant panel considers that it is necessary for it to be provided to determine whether the land concerned is suitable for more intensive development.

[6] Clause 25 (3) and (4)

Omit the subclauses. Insert instead:

- (3) The Planning Secretary must:
 - (a) forward the application to the relevant panel within 35 days after it is lodged if it is reasonably practicable to do so, and
 - (b) provide a copy of the application to the General Manager of the council for the area in which the development concerned is proposed to be carried out (the ***relevant General Manager***) within the period of 7 days after the application is lodged.
- (4) Subject to subclause (5), the relevant panel may determine the application by issuing a certificate or refusing to do so.

[7] Clause 25 (5) (b) (vii) and (c) and (5A)

Insert after clause 25 (5) (b) (vi):

- (vii) the impacts identified in any cumulative impact study provided in connection with the application for the certificate, and
- (c) if a site compatibility certificate has previously been issued in respect of any part of the land to which the application relates—is of the opinion that:
 - (i) the basis for issuing the previous site capability certificate was that the land to which the certificate related (the ***previously certified land***) adjoined land zoned primarily for urban purposes, and
 - (ii) the previously certified land continues to adjoin land zoned primarily for urban purposes, and
 - (iii) the land to which the application relates includes additional land to the previously certified land, and
 - (iv) the additional land is (independently of the previously certified land) also land that adjoins land zoned primarily for urban purposes or subclause (5A) applies.

- (5A) This subclause applies for the purposes of subclause (5) (c) (iv) if:
- (a) the proposed development on the additional land does not include any new or additional structures for use as accommodation, and
 - (b) where the previous site compatibility certificate specified a maximum number of dwellings for the previously certified land—the total number of dwellings on the additional land and previously certified land combined will not exceed that maximum number.

[8] Clause 25 (8)

Omit the subclause.

[9] Clause 25 (10)

Omit the subclause. Insert instead:

- (10) To avoid doubt, a site compatibility certificate:
- (a) cannot be varied during its currency to cover additional land, and
 - (b) does not affect the zoning of the land to which it relates under another environmental planning instrument.

[10] Clause 51 Amendments to the bush fire evacuation risk map

Omit “Director-General” wherever occurring in clause 51 (1) and (2).

Insert instead “Planning Secretary”.

[11] Clause 54A

Insert after clause 54:

54A Savings and transitional provisions—State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment 2018

- (1) Subject to subclause (2), clause 25, as amended by the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment 2018*, extends to an application for a site compatibility certificate made, but not determined, before 1 October 2018 if the application was made on or after 10 November 2017.
- (2) The relevant panel, and not the Planning Secretary, is to determine applications for site compatibility certificates made, but not determined, before 1 October 2018.

Schedule 2 Amendment of State Environmental Planning Policy (Coastal Management) 2018

Clause 20 Flexible zone provisions

Insert at the end of the clause:

- (2) To avoid doubt, subclause (1) does not apply to a provision of another State Environment Planning Policy that allows development within a zone to be consented to as if it were in a neighbouring zone or a similar provision.