



PLANNING SYSTEM

Development control

Circular	PS 05-002
Issued	27 May 05
Related	

State significant development

The purpose of this circular is to notify councils, state government authorities, industry and community interests of the gazettal of the State environmental planning policy for State significant development on 25 May 2005. The policy clarifies what development the Minister for Infrastructure and Planning will determine in the State's interest.

Overview

In September 2004, the NSW Government announced a major overhaul of the NSW planning system to make it simpler, more efficient and more effective.

The reforms aim to facilitate delivery of the Government's infrastructure program and encourage economic development while strengthening environmental safeguards and community participation.

The Minister for Infrastructure and Planning has a key role in approving projects of state or regional importance. Over the past 25 years more than 85 different planning instruments and declarations have been made for this purpose.

As part of the reforms, the Minister's consent role has been reviewed, and the criteria for State significant development consolidated into one instrument — the State Environmental Planning Policy for State Significant Development, which was gazetted on 25 May 2005.

Under the new SEPP, the criteria for State significant development are clarified, and certain new types of development are defined as State significant in line with policy priorities. Certain development that would previously have required Ministerial approval will return to local government for approval.

Why are State significant development reforms needed?

The myriad of planning instruments has increasingly caused confusion and uncertainty. Up to now there have been 16 State environmental planning policies, eight regional environmental plans, one local environment plan and more than 60 ministerial declarations that include criteria for identifying State Significant Development. These needed to be reviewed and updated.

In addition, the Minister has increasingly become involved in matters of local significance. This has particularly occurred under a number of place-based planning instruments and under SEPP 71 — Coastal Protection.

In 2003/04 the Minister determined some 320 development applications. The review has identified that some 60% of these were of local significance where it would have been more appropriate for the council to be the consent authority.

What does the new SEPP do?

The new policy:

- consolidates into one instrument the development proposals that will be determined by the Minister
- specifies clear criteria (expressed in terms of capital investment value, employment creation or environmental significance) for what development proposals are State significant
- raises the benchmark for some projects to be declared State significant
- introduces a limited number of new classes of State significant development to reflect changes in the government's strategic policy direction
- requires the exhibition of all State significant development and consultation with local councils
- identifies and facilitates the orderly development, redevelopment or protection of important sites for the benefit of the State
- updates or repeals provisions in a number of planning instruments, particularly regional environmental plans.

Importantly, it will allow the State to refocus on major developments important to the State's economy, environment or employment.

The SEPP includes provisions that require it to be reviewed after 12 months and thereafter every 5 years at a minimum. This will ensure the provisions are kept up-to-date and that development is devolved to councils as soon as the State's planning objectives have been achieved.

What are State significant developments?

The policy identifies State significant developments, removing confusion over who is the consent authority on major projects.

Schedule 1 of the SEPP lists the following nine classes of development covering various industry and infrastructure sectors:

- agriculture, timber, food and related industries
- mining, petroleum production, quarries and associated processing industries
- chemical, manufacturing and related industries
- general manufacturing, distribution and storage facilities
- tourism and recreational facilities
- health and public service facilities
- transport, energy and water infrastructure
- resource and waste related industries
- major construction projects.

For each class of development, the policy specifies criteria and thresholds at which a project becomes State significant.

A number of new classes in Schedule 1 include categories of development that were not State significant development previously — in particular construction projects and infrastructure projects.

Construction projects (residential, retail or commercial) with a capital investment value of \$50 million or more will be State significant if the Minister determines they are important in achieving State or regional planning objectives. An example might be a residential project that would aid the Metropolitan Strategy by housing people close to transport hubs. Note this construction project provision does not apply to projects under the City of Sydney Act.

Infrastructure projects such as major hospitals, schools, TAFEs, university and research facilities, prisons, desalination plants and electricity power stations are also listed as being as State significant development because of their importance to delivering the Government's infrastructure programs.

Schedule 2 of the SEPP lists certain places of importance to the State's environment and/or economy, including Kosciusko ski resorts, Penrith Lakes, Kurnell Peninsula and the coastal zone.

The Minister's involvement in many of these sites has been withdrawn, as the State's planning objectives have now been achieved in these areas. The criteria have been modified so that the Minister is no longer involved in matters which are essentially of local significance.

The consent authority role on sites such as Woolloomooloo, Pyrmont Point, Jackson Landing, most of Walsh Bay, parts of Honeysuckle have been returned to the relevant councils. With most of the other sites, the transitioning of the role back to councils has been commenced.

What are State significant sites?

The Minister can list in Schedule 3 of the policy, State significant sites to help deliver State planning or infrastructure outcomes, for example implementation of the Metropolitan Strategy or other regional strategies.

The policy allows for the Minister to establish a planning regime for each site. The Minister may appoint a panel to assist in developing these provisions.

The planning regime may nominate the zoning, performance criteria and who will be the consent authority for subsequent development on the site. The Minister may devolve the consent authority role back to councils for subsequent development when the State's strategic planning objectives have been achieved or can be delivered at the local level.

Environmental considerations will not be compromised. Provisions are also made for community consultation.

Sydney Opera House is listed as the first State significant site.

Working with the community

The policy maintains existing public consultation and rights, and includes provisions for increased public consultation during the development application process. All developments must be exhibited for a minimum of 30 days.

It also makes provision for the Minister to consult with local government and to take their views into account in making the relevant decisions.

The assessment regime is strengthened through the Independent Hearing and Assessment Panels, consisting of one or more experts to provide independent technical assessment evaluation to the Minister prior to the decision.

Public hearings may be held so the community views can be considered in the assessment process.

Working with councils

The NSW Government is committed to working with local government to make the State planning system as effective and efficient as it can be.

A Memorandum of Understanding is being developed with input from councils to facilitate good working partnerships between councils and the NSW Government in implementing this policy.

The Memorandum of Understanding aims to give councils the opportunity to participate in the assessment process on a fee-for-service basis. It will ensure through consultation that local issues are fully taken into account during the assessment and decision-making processes.

What are the benefits?

The creation of this new policy means that all stakeholders will easily be able to determine up-front, and with certainty, who is the consent authority for a particular development. They will be able to consult one up-to-date instrument, rather than the myriad of rules and provisions that have cluttered the process until now.

In addition:

- the policy will end the proliferation of site-specific plans and policies. Where additional development or sites need to be made State significant, they will be added to the SEPP
- the policy returns to councils developments which are essentially of local significance to be determined by the relevant council
- approval times should be improved with the State focused on significant developments, and local matters returned to relevant councils
- by clarifying consent roles and simplifying the approval process, the policy will facilitate major development that supports economy and employment for rural and regional communities. It will also ensure that these communities are considered in decision-making, and that councils participate in the process.

What are the next steps?

The new policy applies to all applications lodged after 25 May 2005. Transition provisions ensure that development applications already lodged with a consent authority will continue to be processed by that consent authority.

As part of the planning reform process, the remnant components of planning instruments amended by the SEPP will be reviewed and, if still relevant, will be incorporated in the local environmental plan or other updated planning instrument, as relevant.

Further information

A copy of the State Environmental Planning Policy (State Significant Development) 2005 is available on the NSW Government legislation website at: www.legislation.nsw.gov.au, or via the DIPNR website at: www.dipnr.nsw.gov.au.

To find out more about the NSW Planning Reforms, see the DIPNR website at: www.dipnr.nsw.gov.au/planningreform.html.

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Important note

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