

Land Use & Climate Change Advisory Committee

Background Information and Research for LUCC Potential Recommendation on Use of the State Environmental Policy Act (SEPA)

The Technical Support Team (Tech Team) is tasked with providing information and research to the Land Use and Climate Change Advisory Committee (LUCC). Based on the ideas moving forward as potential recommendations from the LUCC, the Tech Team has conducted research and provides this preliminary information to the LUCC. To the best of their abilities the Tech Team has researched to provide information in response to the SB 6580 legislation and the LUCC Work Plan.

The fundamental concept related to SEPA, land use and climate change is this: Encouraging local governments to utilize SEPA programmatically, at the comprehensive or area-wide planning level, can result in permitting efficiencies at the project level. These efficiencies can be an incentive for achieving compact development/redevelopment – which is fundamental to achieving land use patterns that address climate change concerns.

a. What, if any, actions have been taken by local governments to address climate change related to this particular idea?

Encouraging local governments to utilize SEPA programmatically, at the comprehensive plan or area wide-plan level, can provide permitting efficiencies for projects that directly contribute to more compact development and redevelopment. Directing development to compact development and redevelopment projects in urban growth areas can help curb increases of greenhouse gas emissions. It can contribute to a reduction in per capita vehicle miles traveled, help to reduce our state’s dependence on foreign oil, and help to conserve resource lands that sequester CO₂.

Jurisdictions can use SEPA to identify potential impacts and required mitigation measures early in the process, either at the comprehensive plan level or for a sub-area. Mitigation measures may then be adopted in development regulations and standard permit conditions. Developments proposed that are consistent with the earlier SEPA documents and are subject to the pre-determined mitigation measures, are eligible for streamlined SEPA review and permitting at the project level.

Four tools in the SEPA statute that can streamline project review by local governments:

- **Planned Actions (RCW 43.21C.031(2))** – GMA cities and counties may create “planned actions” that evaluate future projects at the planning stage with limited review at the project stage. The first step is preparation of an environmental impact statement (EIS) on a comprehensive plan, sub-area plan, or other specified planning document, that evaluates the likely environmental impacts of future project. Using the information in the EIS, the city/county adopts a planned action ordinance that identifies the types of projects that will be allowed in the specified area. When a project application is submitted that meets the planned action ordinance and the impacts have already been evaluated in the environmental impact statement (EIS) for the planned action, no additional SEPA threshold determination or SEPA appeal is required.

For examples, please see SPEA and the Promise of GMA. It is available (by clicking on the link to the PDF at the bottom of the page) on the CTED website at:

http://www.cted.wa.gov/portal/alias_CTED/lang_en/tabID_399/DesktopDefault.aspx

- **Minor new construction exemption levels (WAC 197-11-800(1)(c))** - The option to increase the exemption levels for minor new construction mention above up to the maximum specified in the SEPA Rules is another way that cities and counties can reduce the number of projects requiring SEPA review. A city/county must decide what exemption level is appropriate for their jurisdiction and it must be “supported by local conditions, including zoning or other land use plans or regulations.” Many local governments have raised the threshold for SEPA review associated with common developments above the statutory minimum. These flexible development triggers range from the number of lots in a short plat to the size of a parking lot.

Cities and counties may adopt categorical exemption levels for minor new construction between the minimum and maximum specified in the SEPA Rules. For example, for residential dwelling units the minimum threshold is 4 units and the maximum is 20 units.

- **Infill exemption thresholds (RCW 43.21C.229)** – GMA cities and counties are expressly authorized to create infill categorical exemptions. These are intended to encourage new residential or mixed use development in an urban growth area where the density and intensity goals of the comprehensive plan are not being met. To adopt infill exemptions, the city/county must have prepared an EIS on the city/county comprehensive plan, and the proposal must not exceed the density or intensity goals in the comprehensive plan.

The City of Burien has used this provisions in their downtown and serves as a good example.

- **Other laws and rules (RCW 43.21C.240)** – GMA cities and counties may determine that the “requirements for environmental analysis, protection, and mitigation measures” in development regulations, the comprehensive plan, or other laws and rules adequately analyze and mitigate the specific adverse environmental impacts of a proposal. If these cases, additional mitigation under SEPA is not required.

Example: The City of Bellingham issued a determination of nonsignificance (DNS) for a proposal for a large subdivision to divide 70 acres into 172 lots. The City determined an EIS was not needed because the impacts of the proposal had already been evaluated and mitigated through the development regulations, comprehensive plan or other laws/rules. The project was appealed and the City’s decision was upheld by the court. (*Moss v. Bellingham*, 109 Wash.App.6 (2001))

b. What, if any, computer modeling programs or other analytic and assessment tools are available to assist a local government in addressing this idea?

The Department of Ecology’s SEPA Handbook provides guidance including:

- Handbook Section 7.4 Planned Actions (Written in 1998)
- Handbook Section 2.3.3.4 Categorical Exemptions for Infill (Written in 2003)
- Handbook Section 7.3 GMA Project Review (Written in 1998)

c. What are the positive and negative impacts of a local government addressing this idea on:

- a. **Affordable housing:** Encouraging higher density, as supported by several SEPA tools, will tend toward provision of housing that is affordable. Compact development in urban centers is also economical in regard to location near public transit, and near employment and retail services. For example, under the infill exemption provisions in RCW 43.21C.229, the City of Seattle has adopted a categorically exempted level of 80 dwelling units in downtown zones within urban centers and station area overlay districts. Most proposed developments with 80 dwelling units or less will be exempt from SEPA review. However, there is no explicit focus on affordable housing for the SEPA streamlining tools.
- b. **Employment:** Employment-generating uses can be an element or a focus of SEPA streamlining tools. For example, the City of Vancouver adopted a planned action for the Ester Short Subarea Redevelopment plan to develop a 30 block area with 1,010 residential units and 539,220 square feet of commercial space. City of Kent adopted the Kent Station Planned Action to redevelop an area with a variety of uses, including office and other retail uses, restaurants, multi-family housing, and parks. In both cases, when a project application is received, the review will focus on whether the project is consistent with the planned action ordinance and whether all impacts have been evaluated in the EIS.
- c. **Transportation costs:** Compact urban development/redevelopment can reduce VMT by co-locating residential, commercial and other employment uses. It also makes transit options economically viable.
- d. **Economic development:** Mixed -use urban redevelopment projects can support economic development through creating retail and office space. However, the range of economic development that will be suitable to mixed-use areas may be limited, due to need for compatibility with adjacent and nearby residential uses.

d. Please provide a general assessment of state and local resources needed, financial and otherwise, needed to fully implement the idea.

A key challenge with area-wide SEPA tools such as Planned Action is the almost-universal approach to “development paying for development.” This is most often accomplished through requiring that individual development projects to pay their share of particular infrastructure needs (such as intersection improvements.) However, a fundamental prerequisite for Planned Action and other SEPA streamlining is *advanced planning*, ahead of individual development projects. Thus, the dominant mode of assessing impacts and mitigation at the time of specific development projects does not lend itself to area wide pre-planning mechanisms.

As part of an amendment to the GMA, the legislature created the Planning and Environmental Review Fund (PERF). The intent was to help fund efforts of jurisdictions to perform these integrated reviews under SEPA as part of the comprehensive planning process. PERF has not been funded in several years.

The LUCC may wish to consider a recommendation for PERF to be funded for the purposes outlined above, or for modifications to statute that would allow local governments to charge a proportionate share of pre-planning costs to developers at the time of project review.

The Department of Community, Trade and Economic Development has studied the results of planned actions of the kind envisioned by PERF. A typical PERF “Planned Action” could avoid \$700,000 in development costs by conducting up front environmental analysis instead of performing environmental analysis on a site specific, project by project basis. Every dollar invested in advanced environmental analysis avoids \$1.33 in project development costs. Environmental mitigation is still required, but the analysis is done more efficiently. In addition, the typical planned action provides stream-lined permitting: This ranges from five weeks for low risk projects to nine months or more for high-risk projects.

CTED could distribute grant funds according to the criteria established in RCW 36.70A.500. PERF funding supports Planned Actions, which substantially leverage private investment. A study of 15 planned actions. The study found that:

1. *Shorter time and lower expenses required for development permits are important factors in decisions to locate development.*
2. *Developers view Planned Actions positively when making risk assessment decisions about when and where to develop.*

The study concluded that “Over \$500 million in investment is directly tied to integrated SEPA/GMA actions, especially designated planned actions.” The study also found that planned actions “...influenced another 1.756 billion in investment...” *

When 15 planned actions (noted above) were initiated with approximately \$5.9 million in local & state agency funds for planned action process. The result was over \$500 million in investment. This demonstrates a ROI ratio of approximately 1:100 public to private investment dollars. *

**David Evans and Associates, Inc., August 2002*

No statute changes are required. The PERF program can be implemented under the Growth Management Act and related WAC as currently enacted. CTED estimates that 3 million dollars per biennium could fund approximately 15-20 projects.