

File No: 11/03277

Report to the Director General on an application for a Site Compatibility Certificate - State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

SITE: Land at 2075 – 2113 The Northern Road and 1 – 29 Bradley Street, Glenmore Park (Lot 500 DP1133119, Lot 1 DP551558, Lot 103 DP1050042, Lot 101 DP597243, Lot 3 DP1067073, and Lots 3, 4, 5 and 6 DP26658). Refer to Appendix 1 and 2 for Site Location and Existing Lot Layout.

APPLICANT: NERGL Developments Pty Ltd

PROPOSAL: A Site Compatibility Certificate is sought to support a development application to construct a total of 167 units and the following table provides a breakdown of building types:

Type	Senior SEPP Housing Type	Dimension	Quantity
Farmlets	Self contained dwelling	Min. 1,000sqm	24
Residential – Large Lot	Self contained dwelling/infill self care housing/ serviced self care housing	Min. 750sqm	8
Residential – Small Lot	Self contained dwelling/infill self care housing/ serviced self care housing	Min. 450sqm	10
Villa – 3 bedroom	Self contained dwelling/infill self care housing/ serviced self care housing	Min.276 sqm	31
Villa – 2 bedroom	Self contained dwelling/infill self care housing/ serviced self care housing	Min. 207sqm	64
Townhouses	Self contained dwelling/infill self care housing/ serviced self care housing	100 sqm	30
Residential Care Facility	<i>As required by Clause 17 of the SEPP</i>	TBC	TBC
Community Facilities		1,200sqm	
Total			167

The Council will have to have regard to Clause 17 of the SEPP when determining any development application i.e. the Council will need to be satisfied that the units will be provided:

- for people with a disability; or
- in combination with a residential care facility; or
- as a retirement village (within the meaning of the *Retirement Villages Act 1999*).

Please refer to Appendix 3 for a proposed site layout; Appendix 4 for SEPP (Housing for Seniors or People with a Disability) 2004; and Appendix 5 for the relevant clauses of the Retirement Villages Act.

A Site Compatibility Certificate for the construction of 167 senior housing was issued by the Department of Planning on 3 April 2009. The SCC is due to expire on 3 April 2011 (Appendix 6).

In order for a development application to be determined in accordance with the Senior SEPP and Environmental Planning & Assessment Act 1979 that the Certificate must be current at the time of determination. As of 18 February 2011, no development application has been submitted to Penrith City Council for the subject site.

The Proponent is requesting the Department to issue a new certificate for the development of 167 senior housing. The proposal is consistent with the previous Site Compatibility Certificate approval.

In accordance with Clause 5(a) of the SEPP, Penrith City Council was notified on 23 December 2011.

Additional information, such as the proposed type of housing mix and the location of residential care facility, was submitted to the Department on 17 January 2011 and forwarded to Penrith City Council for comment on 18 January 2011 (Appendix 7).

LGA: Penrith City Council

PERMISSIBILITY STATEMENT

The site is predominantly zoned *2(r) Rural Residential* under *Penrith Local Environmental Plan 1998 (Urban Land)* and part *Rural (a1)* and *2 (Urban)* under *Interim Development Order 1993* and Penrith City Council's *Local Environmental Plan No. 188* respectively. A copy of the zoning map is attached (Appendix 9).

The *2(r) Rural Residential* and *Rural (a1)* zones allow for the development of dwelling houses, but do not list housing for seniors or people with a disability as permissible development. The *2 (Urban)* zone allows for the development of both dwelling houses and Housing for Seniors or People with a Disability.

As identified in the Penrith LEP 188 (Appendix 8), the area to the north-west is zoned as *2 (Urban)* zone. Similarly, land to the west (i.e. Glenmore Park Stage 2 LEP) is zoned as General Residential (R1) (Appendix 9). Hence, the SEPP applies to this proposal as it is on land that adjoins land zoned primarily for urban purposes.

On 22 September 2010, the Minister gazetted the Penrith Local Environmental Plan 2010 (PLEP) prepared pursuant to the Standard Instrument (Local Environmental Plan) Order 2006. The subject site was marked as "Deferred Matter" (Appendix 10). Clause 1.3 of the PLEP 2010 states that "the Plan does not apply to the land identified on the Land Application Map as Deferred matter". Hence, the PLEP 2010 is not applicable to the sites.

The aim of the SEPP (*Clause 2: Aims of Policy*) (Appendix 4) is to encourage the provision of housing (including residential care facilities) that will increase the supply and diversity of residences that meet the needs of seniors or people with a disability. The SEPP proposes to achieve this aim by setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards it specifies.

The application for a Site Compatibility Certificate, in accordance with *Clause 24; Site Compatibility Certificates Required for Certain Development Applications*, of the SEPP, should therefore be considered.

CLAUSES 24(2) AND 25(5)

The Director General must not issue a certificate unless the Director General:

- (a) *has taken into account any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the General Manager of the council within 21 days after the application for the certificate was made;*
- (b) *is of the opinion that:*
 - (i) *the site of the proposed development is suitable for more intensive development; and*
 - (ii) *the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the criteria specified in clause 25(5)(b).*

COMMENTS FROM COUNCIL

The Director General must not issue a certificate unless he/she has taken into account any written comments concerning the consistency of the proposed development with the criteria specified in clause 25(5)(b) received from the General Manager of the council within 21 days after the application for the certificate was made (clause 25(5)(a)).

Council's comment was submitted to the Department on 13 January and 9 February 2011 and the issues raised are as follows:

Residential Care Facilities – *"The number of beds in the proposed residential care facility"*

Comment: The number of beds in the proposed residential care facility does not form part of the considerations under Clause 25 of the SEPP.

Strategic Planning Documents – *"A number of strategic planning documents have been published since the original application was made; these include The Metropolitan Plan for Sydney 2036, Penrith Urban Study and draft Urban Strategy and Penrith Local Environmental Plan 2010. No assessment of the application against these documents has been undertaken by the applicant"*.

Comment: The application did not address *The Metropolitan Plan for Sydney 2036*. However, the aims and objectives of the document are generally consistent with *City of Cities: Sydney Metropolitan Strategy*. As outlined in Action H1.4, one in eight persons in Sydney are aged 65 or older, a ratio expected to reach one in six by 2036. Hence, there will be greater demand for accommodation for senior living and the application will assist in meeting the increasing these demands.

The *Penrith Urban Study* states that Glenmore Park is expected to have “notable growth in the age group 45+ by 2021. This is likely to result in the need for infrastructure, services and housing to meet the need of older age groups”. Similarly, as outlined in the draft Penrith Urban Strategy states, one of the key actions for Glenmore Park area (i.e. outside catchment) is to provide “greater range of housing types to meet future needs, particularly for older persons”. For these reasons, it is considered the proposed application is consistent with the Penrith strategy planning document.

The subject sites are zoned as “Deferred Matter”. Clause 1.3 of the PLEP 2010 states that “the Plan does not apply to the land identified on the Land Application Map as Deferred matter”. Hence, the PLEP 2010 is not applicable to the sites.

Presence of Vegetation – “Although the application material states that the Site is generally cleared of vegetation, it does recognise that there are pockets of existing trees and vegetation. However, no assessment of the significance of this vegetation has been undertaken”.

Comment: The proposal will retain the existing significant vegetation, integrating it into individual lots and the public domain. This will be reinforced with vegetation buffers, tree planting and landscaping. The application does not involve in the removal or clearing of significant or native vegetation on the subject site. Any future clearing and removal of vegetation will require consent from Penrith City Council. In addition, the application is consistent with previous approval.

Topography – “The application material states that the site has varying gradients ranging from steeper than 1 in 10 to 1 in 20. These gradients are roughly presented within the Urban Design Principles and Design Guidelines prepared by GMU Design and Architecture. However, there is no detailed survey information to demonstrate the location and extent of such gradients. The topography of the Site is a key issue because of the need to comply with the criteria set out in clause 26 of the SEPP”.

Comment: Clause 26(1) of the SEPP states:

“A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to ...”

The criteria set out in Clause 26 are to be considered during the development application stage. Hence, detailed survey information is not required for the Site Compatibility Certificate application.

Noise – *“The application does not contain an assessment of the noise generated by the Northern Road, either in its existing condition or after the delivery of Glenmore Park Stage 2”.*

Comment: Noise does not form part of the considerations under Clause 25 of the SEPP. The proposed uses are compatible with the adjoining uses and noise generated by the proposed senior living is considered minimal.

As indicated on the concept plan contained in the MacroPlan submission, the senior living house will be located a minimum 100m from The Northern Road and any noise impacts will be mitigated by this distance.

Infrastructure (Water and Sewer) – *“The application material advises that discussions are underway with Sydney Water. The application does not contain any information to suggest that these discussions have progressed in the two years that have passed since the original site compatibility certificate was issued”.*

Infrastructure (Electricity) – *“The application material provides a very quick summary of Integral Energy’s advice on electricity supply (i.e. upgrading of current supply and network is required), but does not provide any information on the scale, cost or feasibility of the required upgrade. The application does not contain any information to suggest that these discussions have progressed in the two years that have passed since the original site compatibility certificate was issued”.*

Comment: The Site Compatibility Application is consistent with the previous approval issued on 3 April 2009. The number of dwellings will remain unchanged. Hence, it is unlikely that the application will have additional impacts on water and electricity infrastructure on the subject site. A S73A certificate will be required for the development during development application stage.

Traffic – *“The proposed development does not form part of either the existing Glenmore Park Estate or the proposed second stage of the same Estate and may have an impact on local traffic. The application does not provide any assessment of the impact of the proposed development on local traffic”.*

Comment: The Site Compatibility Application is consistent with the previous approval issued on 3 April 2009. The number of dwellings will remain unchanged. Hence, it is unlikely that the application will have additional impacts on local traffic.

In addition, the subject site is located in close proximity to 789 and 799 bus route which provide connection to the Penrith Rail Station. In addition, it is anticipated additional bus service will be provided for the Glenmore Park Stage 2 Development.

Retirement Market Assessment: *“The application material makes reference to the results of a retirement market assessment, but does not provide a copy of that assessment. Its availability would provide some confidence in the stated need for the proposed development”.*

Comment: No Retirement Market Assessment Report was submitted as part of the Site Compatibility Certificate application. However, the result of the Retirement Market

Assessment is discussed in Section 5.5 of the MacroPlan Report and the findings are as follows:

“There is a significant demand for retirement product in Glenmore Park area, as well as a shortage of incoming retirement supply in the region. “

In addition, Retirement Market Assessment does not form part of the consideration under Clause 25 of the SEPP.

Services – *“The application makes no assessment, nor does it provide any indication, of the type and scale of services that are required for and could be delivered by the proposed development”.*

Comment: The Site Compatibility Application is consistent with the previous approval issued on 3 April 2009. The number of dwellings will remain unchanged and no additional services are required.

Access to Services – *“The application relies on existing and proposed bus services to provide access to services. However, the existing bus services changed in October 2009 and one of the indicated bus routes no longer exists”.*

“In addition, the application provides no information on the access route to the bus stops. The application should address the existing gradients, the scope and scale of any required work to make the routes compliant with the criteria in the SEPP and any financial arrangements required to secure such work”.

“Lastly, the application material included a proposal to meet with the Department of Transport to discuss the amendment of a bus route to assist in servicing the Site. The application does not contain any information to suggest that these discussions have progressed in the two years that have passed since the original site compatibility certificate was issued”.

Comment: It is noted that 798 bus route no longer exists. However, 789 and 799 bus route still service the Glenmore Park area. It is anticipated additional bus service will be provided for the Glenmore Park Stage 2 Development.

As discussed previously, the criteria set out (i.e. gradient and distance from facilities) in Clause 26 are to be considered during the development application stage.

Please refer to Appendix 11 for a copy of the previous comments submitted by Penrith City Council.

The application has satisfied the level of information required in Clause 26 (i.e. Location and access to facilities) of the SEPP.

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The Director General must not issue a certificate unless he/she is of the opinion that the site of the proposed development is suitable for more intensive development (clause 24(2)(a)):

- 1. The site of the proposed development is suitable for more intensive development (clause 24(2)(a))**

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND SURROUNDING LAND USES

The Director General must not issue a certificate unless he/she is of the opinion that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the following criteria (clause 25(5)(b)) and clause 24(2)(b)):

- 1. The natural environment (including known significant environmental values, resources or hazards) and the existing and approved uses of land in the vicinity of the proposed development (clause 25(5)(b)(i))**

Ecological: Although the site is generally cleared of vegetation, there are pockets where existing trees and vegetation remain, particularly on the site boundaries. The site also has a landscaped mound which provides a barrier to the adjacent residential development.

The proposal will retain the existing significant vegetation, integrating it into individual lots and the public domain. This will be reinforced with vegetation buffers, tree planting and landscaping.

Flood Risk: As part of a previous submission to the Department of Planning, Macropian Australia undertook a waterway/flooding assessment. There is a tributary running along the eastern boundary of the site and through lands to the north of the site.

The waterway that crosses the site is a Category 2 Waterway in some locations and a Category 3 in others. These categories, as outlined in *Guidelines for Controlled Activities Riparian Corridors (DECW)*, require 20 metre and 10 metre setbacks respectively. The proposed layout provides a 20 metre setback along the entire length of the creek. Whilst the creek is a source of flooding, the area of land at risk is limited to areas within the required twenty metre buffer zone. It is likely that any development application in close proximity to the waterway (i.e. 40m) will be integrated development and require referral to Department of Environment, Climate Change and Water.

Bushfire: A bushfire report was submitted with a previous application on the subject site. The report was referred to the Rural Fire Service. The service did not raise an objection against the granting of consent.

Heritage: A review of the relevant LEP and the State Heritage Register has revealed that no heritage items exist on the subject site.

Geotechnical and Land Contamination: There are no known contamination issues resulting from past land uses on the site.

Views: There are views in and out of the site, towards Penrith and the surrounding area. The proposal addresses a significant view line towards the Blue Mountains identified by Penrith City Council and also focuses on maintaining the landscape, vegetation and ridgelines of the site.

Existing Uses: The site is surrounded by urban development and the size of the site (12.35 hectares) inhibits economically viable and productive agricultural activities on the land.

Land in the Vicinity: There is an approved development application (02/1186) on the land adjacent to the (east of the) site for an 11 lot rural-residential subdivision which was approved by the Land and Environment Court on the 10th October 2006. This approval addressed the view corridor identified by Penrith City Council.

The existing Glenmore Park Stage 1 is located to the west of the site. The proposed Glenmore Park Stage 2 (approximately 1600 dwellings) is located to the south of Stage

2. The impact that the proposed development is likely to have on the uses that, in the opinion of the Director General, are likely to be the future uses of that land (clause 25(5)(b)(ii))

The draft North West Subregional Strategy identifies the site as within the Urban Area. The development of this site will help achieve *Action C1.3: Plan for Increased Housing Capacity Targets in Existing Areas*.

As discussed previously, the *Penrith Urban Study* states that Glenmore Park is expected to have “notable growth in the age group 45+ by 2021. This is likely to result in the need for infrastructure, services and housing to meet the need of older age groups”. Similarly, as outlined in the draft Penrith Urban Strategy states, one of the key action for Glenmore Park area (i.e. outside catchment) is to provide “greater range of housing types to meet future needs, particularly for older persons”. For these reasons, it is considered the proposed application is consistent with the Penrith strategy planning document.

Land uses in the locality are predominantly residential. It is likely that future development pressures in the area would result in the continuation of standard residential subdivision patterns. The proposal should not constrain this possible use as it will be providing a built form appropriate to the residential context.

3. The services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision (clause 25(5)(b)(iii))

Location and Access to Facilities: *Clause 26: Location and Access to Facilities*, of the SEPP requires that residents of a proposed development have access to:

- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require;
- (b) community services and recreation facilities; and
- (c) the practice of a general medical practitioner.

The clause notes that access is complied with if the facilities and services are located no more than four-hundred metres away; or if they are, that there is a public transport service available that will take them to within four-hundred metres of the required facilities.

The proposed development of the subject site contains three access points:

- i) access off of Bradley Street;
- ii) access off of the Glenmore Parkway; and
- iii) access into Glenmore Park via Saddlers Way and Warrawong Street

Penrith City Council indicated that 798 bus route no longer exist and they also advise that the gradients of the pedestrian route from the site to the bus stops are not compliant with the requirements of the SEPP.

It is noted that the criteria set out in Clause 26 are to be considered during the development application stage. Hence, gradient of the pedestrian route does form part of the consideration for the Site Compatibility Certificate application.

The proponents state that a new high frequency bus service is planned to service the Glenmore Park Stage 2 development. There is the potential for the new service to run past the site along The Northern Road, before turning into Bradley Street. This service would provide an additional service to the site, with the opportunity to provide a bus stop within the site.

The Department of Planning is aware of this proposal for Glenmore Park Stage 2 and notes that arrangements are in place for the Ministry of Transport and local Council to implement the bus service in some form. However, routes, stops and frequency can not be determined at this stage.

In addition, the proposal will:

- provide for on-site community facilities focused within a Community Hub. The proposed north-south road layout follows the site's natural topography assisting in the provision of pedestrian access to the facilities. The pedestrian walkways leading to the community hub have gradients that conform to the maximum average of 1:14 required by the SEPP; and
- be serviced by a community bus providing door-to-door pick up services, linking the subject site with Glenmore Park Village Neighbourhood Centre and Penrith. The Community Bus will provide the required public transport service to facilities and services.

These proposed solutions will provide access to the required facilities and support services on-site and at nearby centres, including:

- Penrith – A Regional City¹, approximately 7.5km from the site;
- South Penrith – A Village², approximately 5 km from the site; and
- Glenmore Park Neighbourhood Centre, approximately 3km from the site.

Although Council has raised concerns regarding compliance with standards for access to facilities, the concept provided is regarded as “compatible” with these standards. Refinement of the proposal can be undertaken as part of the DA process.

¹ Providing a full range of business, government, retail, cultural, entertainment and recreational activities. They are a focal point where large, growing regions can access good jobs, shopping, health, education, recreation and other services and not have to travel more than one hour per day.

² A strip of shops and surrounding residential area within a 5 to 10 minute walk. Contains a small supermarket, hairdresser, take-away food shops.

Please refer to Appendix 12 for a map of the local road network and existing and proposed bus routes/stops.

Water Supply and Sewerage Infrastructure: The proponent claims to have held a number of meetings with Sydney Water regarding the servicing of the site with potable water and sewerage. The proponent claims that a residential water allowance has been attributed to the land and that up to 260 lots can be catered for by the existing sewer infrastructure.

Electricity: Integral Energy has advised that electricity augmentation will enable the site to be serviced with electricity.

4. In the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development (clause 25(5)(b)(iv))

This provision is not relevant.

5. Without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development (clause 25(5)(b)(v))

The site is adjacent to the eastern edge of the Glenmore Park Estate (planned in the mid 1980s). Prior to the release of Glenmore Park, considerable discussion took place between the Council and the NSW State Government. One of the key issues discussed was the eastern extent of Glenmore Park and the Council argued that the areas adjacent to The Northern Road (i.e. the subject site) should be excluded from the release area because it would help to promote and preserve the attractive rural approach as an important entry into Penrith.

Subsequent planning documents produced by the Council have focused on a clear identification of the need to conserve the site with an open, semi-rural character, a low density settlement pattern and as a major gateway into the urban areas of Penrith.

The applicants have created a Vision and a set of Design Principles (Appendix 13) for the development of the site. The majority of the proposed dwellings will be single storey, ensuring that building heights will be compatible with nearby residential development. Only single storey dwellings will be located in the high visual impact (sensitive) areas with generous separation between dwellings. The proposed dwellings will also be aligned with the site contours, ensuring that the built form responds to the natural topography of the site.

Locations that are particularly visible from The Northern Road will be free of development, such as the mound and ridgeline, ensuring that the development will provide for a transition in height and form with surrounding development. The proposed dwellings will also contain design facade treatments, natural building materials and external finishes, and appropriate paint colours which will blend in with the semi-rural landscape.

The proposed development is therefore compatible with the adjacent existing residential development to the west (Glenmore Park), and forms a logical extension of the area, maintaining the existing character of the locality. In addition, the proposed heights and building footprints of dwellings are in keeping with the form and scale of the approved residential development to the east and importantly with the Council's vision and aims for the future development of the site. How the applicants 'Vision' and 'Design Principles' are reflected on the ground can be determined as part of the DA process.