

File No: 15/08651

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

SITE: Lot 110 DP1135581, Leonay Golf Club, Leonay

The subject land forms part of the existing Leonay Golf Club and its associated 18-hole Golf Course, which is located south west of the intersection of the M4 Motorway and Leonay Parade (Location Map at [Appendix 1](#)). The subject land is located near the corner of Leonay Parade and the Fairways Avenue, Leonay.

The site is flat and drains to Leonay Parade. The site is located above the 1% AEP flood level. The land to the west of the site is identified as having scenic values as part of Penrith Local Environmental Plan 2010.

Adjoining development is suburban type residential development across Leonay Parade and the golf course itself.

APPLICANT: Think Planners.

PROPOSAL: The applicant seeks a site compatibility certificate to permit eight self-contained senior housing dwellings in a non-urban zone. A site compatibility certificate was approved on 23 January 2013 for seven self-contained seniors housing dwellings on the site. Prior to the site compatibility certificate lapsing in January 2015, the land owner lodged a development application with Penrith Council for eight self-contained seniors housing dwellings on the site.

Under SEPP (Seniors Housing), an application with a current site compatibility certificate can be lodged with the same number of dwellings or less that was identified in the certificate. As the applicant has proposed a development with a larger number of dwellings (eight instead of seven), a new site compatibility certificate is required.

LGA: Penrith

PERMISSIBILITY STATEMENT

The subject land is currently zoned RE2 Private Recreation pursuant to Penrith Local Environmental Plan 2010 (An extract of the zoning map is at [Appendix 2](#)).

Penrith Local Environmental Plan 2010 (Amendment 4) was notified on 28 January 2014. The plan commenced operation on 25 February 2015.

This site compatibility certificate application was submitted to the Department on the 24 February 2014. As a result, the application addressed the land zoning under former Penrith Local Environmental Plan 2008 (Urban Land), as being:

- zoned as 6(c) private recreation; and
- the adjoining residential area as 2(b) low density residential.

As the provisions of Penrith Local Environmental Plan 2010 were about to apply to the site, the applicant was requested to submit further information regarding the permissibility of the proposal, to address the current zone, now in effect, being RE2 Private Recreation under Penrith Environmental Plan 2010.

The RE2 Private Recreation zone under Penrith Local Environmental Plan 2010 permits with development consent some intensive forms of urban developments including child care centres, function centres, hotel or motel accommodation and restaurants. No Minimum Lot Size, Height of Building or Floor Space Ratio (FSR) controls apply to this site (an extract from the land use table is at [Appendix 3](#)).

Adjoining lands are zoned R2 Low Density Residential under Penrith Local Environmental Plan 2010. This zone permits residential development inclusive of dwelling houses and dual occupancies. It also allows more intensive forms of development including educational establishments, places of public worship and hospitals (an extract from the land use table is at [Appendix 4](#)).

The provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP) as the subject site adjoins land zoned primarily for urban purposes.

A Site Compatibility Certificate pursuant to the Seniors Housing SEPP was previously approved on this site on 23 January 2013 for seven self-contained seniors housing (A copy of this approval is at [Appendix 5](#)). As the applicant has lodged a development application to Penrith Council for eight self-contained seniors housing, a new site compatibility certificate application must be considered and a new certificate issued for an additional seniors housing dwelling, eight in total.

CLAUSES 24(2) AND 25(5)

The Secretary must not issue a certificate unless, the Secretary:

- (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; and
- (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).

These matters are considered below:

COMMENTS FROM PENRITH CITY COUNCIL

Penrith City Council's comments were sent via email (copy at [Tag G](#)). The comments received from Council were received within the 21 day timeframe, and are as follows:

- The proposed site offers the best opportunity for re-development given that it is relatively flat, is not extensively vegetated, has direct access to Leonay Parade and existing services and is not affected by flooding.
- The proposed site adjoins 'Leo Buring Cottage' to the south, which is listed as a local heritage item under Penrith Local Environmental Plan 2010. The proposed development

should be supported by a heritage impact statement which assesses the impact of the proposal on the heritage significance of this heritage item.

- The mapped vegetation on the site is 'River-Flat Eucalypt Forest' which is listed as an endangered ecological community under the Threatened Species Conservation Act 1995. While this portion of the site is not heavily vegetated, the ecological impacts of the proposed development must be investigated. The development involves the removal of a number of trees and shrubs which significantly contribute to the existing and established streetscape of Leonay Parade. Consideration should be given to increasing the depth of the lot in order to retain the natural features of the site.
- The site is located within an area of Leonay Golf Course adjacent to the fourth tee. The development proposes the use of a 8.5m high net for protection from golf balls. This element is not found throughout the course, despite the majority of the golf course being surrounded by residential development. This indicates that there is insufficient separation between the development and the golf course. This measure should not be the only means of safeguarding the amenity of future residents.
- If appropriately sited and designed the proposed development is unlikely to adversely impact on the function of Golf Course.
- *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 set out principles to achieve compatibility. In this regard, Roseath C. states that *for a building to be visually compatible with its context, it should contain or at least respond to the essential elements that make up the character of the surrounding urban environment... The most important contributor to urban character is the relationship of built form to surrounding space, a relationship created by building height, setbacks and landscaping.* The proposed application has not demonstrated an understanding of the urban environment. The documents accompanying the Site Compatibility Certificate state '... given the site is an 'island' in terms of built forms there is no impact on the character and future uses of land in the vicinity of the development'. The development, while primarily being surrounded by recreational space, must still respond to the established urban character of Leonay Parade which predominately consists of low density detached housing with substantial landscape setbacks and gardens.
- Given there are limited, if any, other feasible opportunities for this type of development in the locality it is undesirable for this development to set its own urban character. The suburb of Leonay has a distinct residential form and setting which is unlikely to change substantially over time.

Council also advised that the subject development forms part of a current development application (DA14/1614) lodged to Council on 24/12/2014. The application was advertised in the local paper and notified to adjoining and surrounding properties between 19/1/2015 and 2/2/2015. Council received 11 submissions on the proposed development in the form of a pro forma letter. The submission indicated that the built form, being attached terrace housing, is unwanted and unsuitable for Leonay and would set a dangerous precedence for the area.

Comment:

The issues raised by Council have been considered in detail. It is considered that no issues that were raised in the submission identified that the site was unsuitable for seniors living development. Further, these matters can be addressed as part of the development application stage, noting that the site compatibility certificate application is only seeking one additional self-contained seniors housing dwelling on top of the existing approval for seven self-contained seniors housing dwellings on the site.

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The Secretary 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))**

PREVIOUS APPROVAL OF A SENIORS HOUSING SITE COMPATIBILITY CERTIFICATE

On 23 January 2013, a site compatibility certificate pursuant to the SEPP (Seniors Housing) was approved on the site for seven self-contained seniors housing. This application is essentially for one additional self-contained seniors dwelling on the site.

As it has recently been determined that the site is suitable for more intensive development of up to seven self-contained seniors housing dwellings, it is considered that the site is suitable and capable for the development of eight self-contained seniors housing dwellings.

This site compatibility certificate for seven self-contained seniors housing dwellings was approved in January 2013 as it was considered that the proposal was generally consistent with Clause 24 and 25 of the SEPP (Seniors Housing) and the site was considered suitable for the purposes of housing for seniors or people with a disability.

STRATEGIC CONTEXT

A Plan for Growing Sydney

The current population projections indicate that New South Wales will have an increase in ageing populations. It is expected that the population aged between 65-84 will increase from 908,000 in 2011 to an expected 1,239,500 by 2021 to 1,576,250 by 2031.

Similarly in Penrith local government area, the population between 65-84 is also expected to increase from 15,600 in 2011, to an expected 27,800 by 2021, and 38,300 by 2031.

LGA	Age Group	2001	2011	2021	2031
PENRITH	<15	42750	39450	48150	54500
PENRITH	15-44	84250	82200	93650	103750
PENRITH	45-64	37050	45500	51150	59150
PENRITH	65-84	11250	15600	27800	38300
PENRITH	85+	950	1900	3150	5750
PENRITH	Youth dependency	0.35	0.31	0.33	0.33
PENRITH	Age dependency	0.10	0.14	0.21	0.27

Reference: <http://www.planning.nsw.gov.au/en-au/deliveringhomes/populationandhouseholdprojections/yourarea.aspx>

Therefore the proposal to provide eight self-contained seniors housing dwellings will assist in providing housing for the ageing population in the Penrith region, and will assist in meeting some key objectives in *A Plan for Growing Sydney* including, to improve a housing supply across Sydney, providing homes in a suitable location, and improve housing choice to suit different needs and lifestyles.

Comment: It is considered that proposal is generally consistent with the above objectives in a Plan for Growing Sydney.

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND SURROUNDING LAND USES

The Secretary must not issue a certificate unless 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))**

Surrounding land uses

The surrounding area is zoned R2 Low Density Residential. The proposed site is located on an existing golf course, and the proposed development would consist of eight self-care seniors housing dwellings which would be consistent with the low density character of the surrounding area.

The proposal is considered to be consistent with the surrounding land uses.

Flood Risk

The site and the surrounding land is located above the 1% AEP flood level.

Bushfire Hazard

The site is not considered to be bushfire prone.

Significant Vegetation

Some significant vegetation, including 'River-Flat Eucalypt Forest' has been identified on the golf course but not located where the proposed seniors housing development is to be sited.

Council has requested that consideration be given to retaining the natural features of the site, as there are some existing trees which contribute to the streetscape located where the proposed seniors housing development is to be located.

The exact location of the seniors housing dwellings and removal of streetscape trees onsite can be addressed at development application stage.

It is considered that the proposal will not have any significant impacts on the existing significant vegetation on the larger area of the golf course.

Heritage and Scenic Landscape

The site does not contain any local or state listed heritage items under the Penrith Local Environmental Plan 2010. There is a local heritage item adjacent to the site. Council has requested that the development application would need to be supported by a heritage impact statement for the adjoining local heritage listed item.

Comments: The subject site is not hindered by any known environmental values or hazards, and no existing and approved uses in the vicinity of the proposed development will not be negatively impacted.

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

It is considered that given the small nature of the proposed development, it would not have an adverse impact on the existing or the future uses. The proposal will increase the density of development on the site to one additional seniors housing dwelling than has already been approved in a previous site compatibility certificate in 2013.

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 Facilities (clause 26):

Location and Access to Facilities, of the SEPP (Seniors Housing) requires that residents of a proposed development have access to:

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

This clause notes that access is complied with if:

- the facilities and services are located no more than four-hundred metres from the site; or
- if these facilities are not so located, that there is a public transport service available that will take residents to within four hundred metres of the required facilities.

It is noted that the site is serviced by two regular bus services with a 30 minutes and 60 minutes frequency. The nearest bus stop is 100 metres to the south of the site. The bus routes provide access to and from Penrith CBD, Emu Plains Shopping Centre, Lennox Shopping Centre and Leonay Neighbourhood shops. The Leonay shops are only 200m from the subject land.

These centres provide a full range of services and facilities including:

- shops;
- commercial Services;
- community facilities; and
- general and specialist medical facilities;

Comments: The proposal is consistent with the requirements pursuant to clause 26 of the SEPP.

Utility Infrastructure

The subject lands and the adjoining urban development have access to the Sydney Water reticulated water and sewer networks. In addition, the site and adjacent lands are served by a full range of energy and telecommunication facilities as well as access to both regional and local road networks. There are no known capacity constraints relating to those local services and infrastructure.

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))

The application relates to land that is zoned RE2 Private Recreation. However, it is considered that given the small nature of the development (only eight self-contained seniors housing dwellings), the proposal would not adversely affect the privately owned open space land.

The concept development plans indicate that each of the self-contained seniors housing dwellings will each have their own private open space areas.

This view is also supported by Council, which advised that “if appropriately sited and designed the proposed development is unlikely to adversely impact on the function of Golf Course”.

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 applicant’s report indicates that the development comprises of, eight, two storey seniors housing dwellings, which is compatible with the existing and future surrounding land uses.

The proposed height is consistent with the controls in the adjoining R2 Low Density Residential zone.

Council has indicated that the concept development plans submitted by the applicant do not entirely reflect the overall character of the surrounding area, which includes detached dwellings on larger landscaped setbacks. That being said, the final design of the development can be addressed at the development application stage. It is unlikely that eight self-contained seniors dwellings houses will be a significant impact upon the locality, and the future uses of land in the vicinity.

6. 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 (clause 25(5)(b)(vi))

Some significant vegetation, including ‘River-Flat Eucalypt Forest’ has been identified on the golf course but not located where the proposed seniors housing development is to be sited.

Council has requested that consideration be given to retaining the natural features of the site, as there are some existing trees which contribute to the streetscape located where the proposed seniors housing development is to be located.

The exact location of the seniors housing dwellings and removal of streetscape trees onsite can be addressed at development application stage, as this vegetation these has not been identified as significant vegetation under the Native Vegetation Act 2003.

CONCLUSION

Having regard to all of the above matters, it is considered that the proposal is generally consistent with Clause 24 and 25 of the SEPP (Seniors Housing) and the site is considered suitable for the purposes of housing for seniors or people with a disability.

RECOMMENDATION

It is recommended that the Secretary:

- **notes** this report and its appendices;

- **notes** the site compatibility certificate application (Tab E and F);
- **considers** any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the relevant General Manager within 21 days after the application for the certificate was made as set out in the report;
- **forms the opinion** that the site of the proposed development is suitable for more intensive development;
- **forms the opinion** that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having had regard to the criteria specified in clause 25(5)(b); and
- **determines** the application for a site compatibility certificate under clause 25(4)(a) by issuing a certificate (Tab B) for Lot 110 DP 1135581, Leonay Golf Club, Leonay.