



10 October 2017
Mr Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and Environment
GPO BOX 39
SYDNEY NSW 2001

Our Ref: 2017/375446

Dear Mr Ray

Site Compatibility Certificate for 199 Forest Way Belrose – State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

I refer to your letter dated 29 September 2017 in relation to the above matter.

The advice provided by the Department is to the effect that a Development Application can be lodged for the subject site pursuant to Warringah Local Environmental Plan 2000 (WLEP 2000) and the Applicant need not rely upon SEPP (HSPD) 2004 and an accompanying Site Compatibility Certificate (SCC).

Council made its position on this issue quite clear in the submission to the Department in relation to an application for a SCC on the subject site. In summary, Council considers the site does not physically adjoin urban land or land zoned primarily for urban purposes. As the consent authority it is Council that must be satisfied whether the land adjoins land zoned for urban purposes.

This position is based on correctly applying the planning provisions of the WLEP 2000 and relevant case laws. In respect to the primary planning issue, Council does not agree that a physical separation of 147 metres between the subject site and the nearby R2 – Low Density Residential Zone can satisfy the requirement that the site is adjoining urban land or an urban zone.

Also, Council has not been advised of the outcome of the application to the Department for a SCC and we are not aware of the Department's stated position regarding the permissibility of the proposed use on the subject site. From your letter, it appears that the Department is satisfied that the site is adjoining simply based on historical circumstances, rather than satisfying the specific planning controls and being consistent with relevant case laws.

In the letter, you also make reference to varying the development standards within Clause 29 of WLEP 2000 using the provisions of State Environmental Planning No 1 – Development Standards. However, by virtue of Clause 5 of WLEP 2000, SEPP 1 does not apply to the WLEP 2000.

In this regard, Council's position remains unchanged and respectfully request that the Department finalise their position and determine the SCC. In doing so, Council would expect that the Department clearly outlines its case for issuing the SCC, should it decide to do so.

Should you have any enquires in relation to this matter, please do not hesitate to contact Lashta Haidari, Principal Planner on 9942 2466.

Yours faithfully

A handwritten signature in black ink, consisting of a large 'O' followed by a 'K' and a horizontal line extending to the right.

David Kerr
General Manager Planning Place and Community