

29th September 2023

Ruth Ormella
Queanbeyan Palerang Regional Council
PO Box 90,
Queanbeyan NSW, 2620

Dear Ruth,

RE: Additional Information Required Before Determining Application

**Development Application No. DA.2023.0044 for land/premises at
LOT 31 DP771673, LOT 2 DP 748338, LOT 18 DP 548244 AND LOT 2 DP 1179998
257 CRAWFORD & 6 RUTLEDGE STREET QUEANBEYAN NSW 2620**

Further to your letter dated 4 July 2023 and subsequent meetings with the Contract Planner and Council for this application, Village Building Co (VBC) have reviewed and updated the Clause 4.6 request as follows:

- Provision of separate and updated clause 4.6 requests which adequately address departures from the building height and FSR standards, and due to the addition of 15% affordable housing, demonstration that the 'unreasonable and unnecessary' requirement is met because the burden placed on the community by not permitting the variation and the addition of 27 apartments for the purpose of affordable housing would be disproportionate to the non-existent or inconsequential adverse impacts arising from the proposed non-complying development. This disproportion provides sufficient grounds to establish unreasonableness (relying on comments made in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 at [15]).
- Inclusion of an assessment against the aims and objectives of the QPRLEP22 and comment against the aims of the EP&A Act 1979. It should be noted that there is a growing body of case law that has determined that it is in the public interest to give effect to the objectives of relevant legislation. It is relevant in this regard that the EP&A Act 1979 has as an objective 'the delivery and maintenance of affordable housing' (Clause 1.3(d)). The provision of an additional 27 apartments being made available as affordable housing and will be managed by a community housing provider, gives effect to the objective of the Act and demonstrates that there is no public benefit in maintaining the development standard in this instance.

Canberra – Head Office
Argyle Corner, 92 Hoskins Street
Mitchell ACT 2911

P 02 6241 6844
E info@villagebuilding.com.au
villagebuilding.com.au

- Confirmation that whilst the Housing SEPP 2021 has had recent amendments which provide for the provision of an additional 30% FSR and 30% Additional Height if 15% Affordable Housing is provided as part of the development, there is a savings provision for this amendment which does not allow the consideration of these changes for an application lodged but not determined prior to the 14 December 2023. Legal advice has confirmed this position.

Whilst we are unable to call up the recent amendments to the Housing SEPP 2021, the application is also being modified to include 15% Affordable Housing as part of the development and these 27 apartments will be owned/managed by a Community Housing Provider and will be made available as affordable housing for at least 15 years (as required by the SEPP Housing 2021).

Village is cognisant that there is the opportunity to withdraw this application and relodge as State Significant Development under the recent changes to the SEPP Housing 2021 and the SEPP Planning Systems 2021, however we would like to avoid this due to the added time that will be required to determine such an application.

Whilst not a consideration for this application, the proposal does comply with all the requirements and Development standards to comply with the amended SEPP Housing 2021 to meet the definition of affordable housing – Infill affordable housing.

If you require anything further to finalise the assessment of this application, please do not hesitate to contact me.

Kind regards,



Kylie Coe

Planning and Development Manager
Village Building Co.