

Our Ref: M230306

10 March 2025

REQUEST TO AMEND SEARs
MIXED USE DEVELOPMENT WITH INFILL AFFORDABLE HOUSING
BURLEIGH STREET AND RAILWAY PARADE – SSD 77260958

We act as town planning consultants to the applicant of SSD 77260958 for the mixed use development with in-fill affordable housing located at 2-4 Burleigh Street and 20-24 Railway Parade, Burwood.

This letter is a request to amend the Planning Secretary's Environmental Assessment Requirements (SEARs) issued for the proposed development on 25 October 2024. There are two parts to this request, as previously discussed with the Department of Planning, Housing and Infrastructure, which are detailed below:

SEAR 18 – Aboriginal Cultural Heritage Assessment Report (ACHAR)

In response to SEAR 18, a Preliminary Aboriginal Heritage Assessment has been prepared by Heritage Now to accompany SSD 77260958.

The Assessment provided the following conclusion:

The inspection confirmed that the Project Area has been subject to ground disturbance, and no Aboriginal sites, objects or Potential Archaeological Deposits (PADs) were identified. Based on previous Cumberland Plain investigations which have identified only low average artefact density and sparse artefact distributions in the vicinity of 1st order streams, the geotechnical investigation revealing relatively shallow topsoil, and the degree of disturbance caused by construction and demolition of buildings, asphalt and other services (on a slope landform which would have been modified to provide a level surface for these buildings), subsurface archaeological potential in the Project Area is assessed to be low.

Following the conclusion of the preliminary assessment, a full ACHAR is not considered necessary to accompany the proposed development application. Notwithstanding this, Item 18 of the SEARs issued by DPHI on 25 October 2024 requires that an ACHAR be submitted with the application regardless.

In the circumstances of the site and the preliminary assessment conducted, it is requested that the requirement for a full ACHAR in accordance with the DCCCEW guidelines not be required for SSD 77260958.

Importantly, in December 2024, the Industry Specific SEARs for In-fill Affordable Housing were updated so that a preliminary assessment report, like that submitted with SSD 77260958, would satisfy the SEAR requirement, rather than requiring an ACHAR like the previous Industry Specific SEARs, in which SSD 77260958 was issued. Therefore, it is requested that the SEARs for SSD 77260958 be amended to bring the SEAR in line with the new Industry Specific SEAR wording.

Additional Assessment Requirement – Agreement with Council

In accordance with the SEARs requirement, engagement with Burwood Council commenced on 11 November 2024, following receipt of the SEARs on 25 October 2024. The SEARs request package including architectural plans and a planning statement were sent to Council on 11 November 2024 and again on 18 November 2024. A meeting was held with Council on 19 December 2024 to discuss SSD 77260958. The intent of this meeting was to discuss Council's general position on the application, and to specifically discuss the additional assessment requirement for the SEARs in relation to Clause 4.4A of the Burwood Local Environmental Plan 2012.

Notwithstanding this, during the meeting Council advised that they had not reviewed any of the documentation for the application, despite being sent the SEARs request package on two separate occasions via email. The documentation was also referenced to Council on numerous occasions during phone discussions to organise the meeting. As such the meeting acted as a briefing by the Applicant rather than a discussion about the specifics of the application including Clause 4.4A of the LEP, since Council could not provide their opinion on the matter without reviewing the documentation first.



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As such, Council advised that they would review the proposal and provide their comments after the meeting.

On 6 January 2025 a follow up email was sent to Council for the post meeting advice. No response was received and so another email was sent to Council on 13 January 2025. In the email to Council on 13 January 2025, further information was provided regarding how the Applicant planned to deal with Clause 4.4A of the LEP as the Applicant continued to progress the EIS preparation whilst they awaited Councils advice. On 23 January 2025, Council responded via email, however, made no response to the details relating to Clause 4.4A or the VPA information detailed, and only advised that they would provide their post meeting comments during the first week of February. We again stressed the importance of attaining Councils position on a VPA in accordance with Clause 4.4A on 29 January 2025, however no response was provided.

Councils advice letter was received on 4 February 2025 and the following comment was provided in relation to Clause 4.4A of the LEP:

The site is permitted a maximum FSR under the BLEP of 6.6:1 in accordance with clause 4.4A(5) subject to the provision of community infrastructure and the limitation on residential development.

Should you wish to utilise these provisions of the LEP it is recommended you commence discussions with Council's City Planning Team. The Manager City Planning Sumathi Navaratnam can be contacted on 9911 9911.

Should you wish to utilise the bonus provisions of the Housing SEPP further information will be required to demonstrate how the GFA would be calculated when taking into consideration the bonus.

It is recommended you review Council's policy – Carrying Out Bonus Development in the Public Interest which can be found at the following link under the voluntary planning agreement policy tab

The above requested information was provided to Council a number of times ahead of the date this letter was issued. Notwithstanding this, as requested in Councils letter, emails and calls were made to Sumathi Navaratnam, The Manager of City Planning, regarding the VPA on 5th February 2025.

Further to this, a meeting was held with Council on 13 February 2025 to discuss Councils advice, with Sumathi in attendance at the meeting. Despite requesting to discuss the VPA, Council advised that we would need to hold another meeting with a different team in Council to discuss the VPA. As requested by Council, calls and emails were made immediately after the meeting to request a time to discuss the VPA. No response has been received from Council since these efforts were made from 13th February 2025.

All of the correspondence referred to above is provided to accompany and support this amended SEARs request.

Ultimately, with regard to the VPA, the process has commenced to the fullest extent possible through the efforts made thus far by the Applicant to discuss the VPA with Council ahead of lodgement and through the preparation of a letter of offer which is to be issued to Council concurrently with the formal lodgement of SSD 77260958. All next steps are outside of the Applicant's control in terms of Council's response. Importantly, the VPA and the SSD are two separate, concurrent processes, and the next steps for the VPA should have no delay factor for the acceptance of SSD 77260958 for lodgement and its assessment.

We trust that the Department will expedite this request promptly in the interests of accelerating the delivery of affordable housing and ensuring this SSD is treated consistent with the contemporary version of SEARs being issued for similar projects.

Yours faithfully,

Planning Ingenuity Pty Ltd

Sophie Perry
ASSOCIATE DIRECTOR

