

29 April 2014

NSW Department of Planning & Infrastructure  
GPO Box 39  
SYDNEY NSW 2001

By email: [Matthew.Rosel@planning.nsw.gov.au](mailto:Matthew.Rosel@planning.nsw.gov.au)

Attention: Matthew Rosel

Dear Matthew,

**RE:        PROPONENT'S COMMENTS IN RESPONSE TO COUNCIL'S SUBMISSION  
             S75W APPLICATIONS FOR SHEPHERDS BAY – MP09\_0216 & MP09\_0219**

I refer to the above s75w Modification Applications which are currently under assessment by the Department of Planning and Infrastructure (DoPI) and the amended submission provided by the Proponent dated 28 March 2014. This letter is in response to the further concerns raised by Council in their correspondence dated 15 April 2014 and is structured based on their headings.

### **Concept s75W**

#### **1. Proposed Building Form – Steeply Sloping Land**

In recognition of the clarification sought from Council with regard to which stages are regarded as 'steeply sloping land,' we reiterate that this issue affects Stages 1, 2 and 3 along the foreshore portion of the site and the south-eastern corner of Stage 4. Please refer to previous comments and justification in our correspondence dated 28 March 2014, specifically the Slopes on Site Plan prepared by R+M dated 25 March 2014.

The purpose of the proposed condition for 'steeply sloping land' is to enable the building envelopes approved in the Concept Plan to respond to the land in a manner which achieves a positive design outcome, and which will be achieved in the detailed design of these buildings. This will not result in the negative outcomes anticipated by Council.

#### **2. Road Design/Layout**

Further to our correspondence dated 28 March 2014 with regard to the road design / layout for Nancarrow Avenue / Hamilton Crescent and the supporting advice from the relevant traffic, civil engineering and public domain consultants, the relevant detailed plans and supporting documentation is continuing to be prepared for re-submission to Council as required within the Concept Approval.

### **3. Basement Car Parking**

Council's concerns with regard to deep soil planting are noted, however we wish to reiterate that the quantum of site available for significant planting remains as proposed in the Concept Approval.

### **4. Foreshore Link**

#### **(i) Timing**

The proposal seeks to provide the majority of the Foreshore Link to the west of Stage 1 in association with Stage 1. This includes the stair and pathway from Nancarrow Avenue to Rothesay Avenue, and the open areas for passive recreation and viewing platforms to the water. The portion of the foreshore link sought to be delivered with Stage 2 directly abuts the ground floor units of Stage 2 and it is practical that it is delivered accordingly. The proposal provides safe and convenient access with the Stage 2 construction processes including appropriate pedestrian safety measures

#### **(ii) Accessible Path of Travel**

Council has queried Condition B23 *Disabled Access* of the Project Approval. For clarification, the updated access report was lodged with the s75W to the Project Approval. The s75W Access Review was prepared by MGAC and is dated 30 October 2013. Refer to Section 3.2 which addresses the new foreshore link entrance.

It is noted that the provision of an accessible ramp to Lobby 2 whilst also maintaining the Foreshore Link as per the Project Approval is not realistic as it would result in multiple zig zag ramps throughout the foreshore link. Therefore, this s75W seeks to provide a foreshore link which achieves accessibility to Lobby 2 and also provides a more usable public domain

As a design outcome of satisfying Condition B23, the proposal achieves an accessible path of travel to Lobby 2 to Rothesay Avenue, as well as a valuable link to the foreshore link with suitable level changes throughout.

#### **(iii) Relationship between the Foreshore Link and adjoining Units**

Council has recognised the contradiction between providing a public through site link whilst also providing units with a high level of privacy. The proposal provides units at the foreshore link level which have an outdoor courtyard space which is directly connected to their bedroom and or living spaces and have a high level of usability. Further to justification provided in our previous correspondence, the design and amenity of the units as proposed provide a desirable living opportunity with direct access to open space and landscaping, which has proved to be highly sought after by the market. It is of specific note that these particular units were the first properties to receive offers to purchase (subject to approval) when the development was recently offered to the market.

Furthermore, the number of units with a direct connection to the foreshore link totals 4 (LG24 LG25 UB15 UB14), of which 4 have independent access to the foreshore link. All of which have access to both the bedroom and living areas which front this elevation.

This design ensures that each of the units at the foreshore link level feature a private space, buffer landscape screening and a visual and physical connection to the foreshore link. This achieves a favourable configuration which is proven to be highly sought after by the market.

#### **(iv) Unit UB15**

Council have identified that Unit UB15 has the potential for overlooking from the public stairs. In order to protect the amenity of the occupants of unit UB15, the proposal provides physical separation between the unit and the stairs, as well as buffer landscape screening. Should the Department perceive that the separation between Unit UB15 and the foreshore link stairs be an issue, the proponent has offered to relocate the stairs to increase the separation to 9 metres which is equivalent to SEPP 65 separation for residential buildings of equivalent scale. This stair arrangement is demonstrated on an optional Foreshore Link Landscape Plan, which is to follow this correspondence shortly.

#### **(v) Respite or Resting**

The proposed foreshore link comprises stairs at the northern end which are interspersed with landings for viewing and several seating areas, the remainder of the foreshore link comprises pathways with several open landing areas throughout with opportunities for viewing and passive recreation / seating areas.

To further enhance the amenity of these areas, the lookout points feature shade trees, terraced seated areas with integrated planters, built-in seating edges at the end of retaining walls, as well as a linear water feature to enhance the connection with nature.

#### **(vi) Condition 16 of the Concept Plan**

In accordance with Condition 16 of the Concept Plan, the design of the accessible path of travel along the central spine is being developed. In response to a request from Council's Urban Design Panel, this central spine is accessible through the provision of two separate lift facilities, as this has proven to be the preferable accessibility option.

As required by condition B1 of the Concept Approval, the Concept Plan was amended to include a pedestrian and cycleways plan that demonstrates that the proposed routes are both viable and integrated with Council's plans for the surrounding area. This Condition was discharged by the Department on 24 June 2013 which approved the Overall Concept and Public Domain Strategy prepared by Place Planning dated 18 June 2013. This strategy included a Pedestrian and Cycleway Route Plan which identified that the cycleway between Stages 1 and 2 was not viable or achievable due to the significant level change in this area, and the north/south cycleway link is not provided between Stages 1 and 2.

### **Project s75W**

#### **1. Additional Lower Level Units**

The additional information submitted to the Department on 28 March 2014 was in response to their request for specific sections for several lower level units. Further to the previous detailed justification supporting the amenity of these units, additional specific details are provided: -

**UB-11 and UB-12** – these units benefit from direct lobby access and courtyard areas with a direct connection from both the living and bedroom areas. These units benefit from a safe access point and are highly useable units.

**UB-13** - this unit benefits from direct lobby access and a courtyard area with a direct connection from both the living and bedroom areas. The floor level of this unit is in the order of 150-200mm lower than the

existing footpath which is indistinguishable, and this unit benefits from a leafy outlook over the planter box which provides a suitable buffer to provide a high level of amenity to this unit. This unit benefits from a safe access point and is a highly useable unit.

**UB-14 and UB-15** – this unit benefits from a direct connection to the foreshore link with secure access. The outdoor courtyard area is provided for the entire width of the dwelling with direct access to both the bedroom and living areas. The unit has an appropriate physical separation to the foreshore link which is ameliorated by the planter box which provides a suitable buffer to the public domain which affords the occupants a sense of openness. According to the market, this 1 bedroom unit has proven to be a desirable dwelling given its courtyard location and affordability as a small dwelling.

**LG-24** – the outlook from this unit is to the courtyard space and landscaping beyond. The floor to ceiling height for this unit is 3.5m which creates a greater sense of space and opportunity for light. The outdoor courtyard area is provided for the entire width of the dwelling with direct access to both the bedroom and living areas. According to the market this unit is highly desirable.

**GF-14** – Council's concern with regard to the proximity to the foreshore link stairs is noted, however the use of the stairs will be shielded from this unit due to the orientation of the stairs to the water views to the south and the extensive screening between the stairs and this unit. As shown on the View Through GF14 Balcony Plan prepared by R+M and dated 25 March 2014, that the views will largely benefit from a greened outlook which is highly desirable according to the market.

**GF-15** – this unit benefits from a greened outlook with a northerly aspect. This outlook is provided for the living area, bedroom and outdoor private open space area, all of which are also directly connected to each other and offer a high level of amenity which has proven to be appealing to the current market.

**UB-16, UB-17, UB-18 and LG-25** – refer to previous justification in relation to these units.

To reiterate, these lower level units are desirable given they benefit from courtyard positions with a direct connection to the public domain affording the occupants a sense of openness. The option for small units with a direct connection to the public domain is rarely provided within apartment buildings and is a highly sought after commodity. This is reinforced by the outlook from the unit and courtyards over their adjoining landscaped planter buffer as well as the landscaped outlook over either the foreshore link or the landscaped street setback.

Whilst recognising the Council's and DOPI's concerns, amenity is not confined to direct solar access available to these lower level units and the perception that their privacy is at risk. The design and amenity of the units as proposed provide a desirable living opportunity with direct access to open space and landscaping, which has proved to be highly sought after by the market.

## 2. Deep Soil to Hamilton Crescent

Refer to our previous correspondence dated 28 March 2014 and supporting which confirms that the design will not hamper the design / implementation of the new road connection.

### 3. Population Analysis Concept Plan

At the request of the Department, our correspondence dated 28 March 2014 included an indicative population analysis with regard to the PPR, as approved in the Concept Plan and as approved in these s75W Applications. This population analysis confirms that the proposal translates to a built form which satisfies the requirements of the PAC approval. As an outcome of the Concept Approval, the detailed design phase of these buildings has identified areas where improvements to the built form are required to optimise the public domain areas and also to improve the relationship between the dwellings and the public domain. These design measures maintain the bulk and scale and overall density of the development within the approved building envelopes.

The analysis shows that envelope controls effectively manage population density whilst also allowing change and improvements to the development. Adding other complex controls, which often conflict, would result in reducing flexibility in apartment design and type.

To reiterate, the PAC did not specify dwelling mix and size in the Concept Approval which is reflective of responding to the future market conditions for this site and locality.

### 4. Statement of Commitments

#### Stage 1

**Publicly Accessible Open Space** – Refer to Section 4 above with regard to the timing, public safety and completion of the public areas. The proposed staging sequence seeks to ensure that the ongoing staged works for Stage 1, the foreshore link and Stage 2, etc. are undertaken with full regard to the safety of future residents, the public and on-site construction staff. The majority of the foreshore link is to be completed in association with Stage 1, including the pathway and the open space areas, with a minor buffer along the western edge to be delivered with the building which is directly adjoins, being Stage 2.

**Waste Management Plan** – As requested, this commitment also includes reference to the relevant conditions of consent.

#### Concept Plan

**Road Verges and Footpaths** – Council's amended wording is not accepted given Condition 12 Public Domain sufficiently covers the delivery of roadways. The wording for this commitment is not sought to be further amended.

**Roadworks** – the roadworks commitments provided in the Revised Draft Statement of Commitments (SoC) are sought to be maintained.

### 5. Outstanding Concerns

Council has identified that they have outstanding concerns with regard to several items. Our position with regard to these concerns are maintained, as justified in our original s75W reports dated November 2013, our response to Council's issues dated 25 February 2014, our further response dated 28 March 2014 and as above. Further specific details are provided below: -

**Staging** – the amended staging as detailed in the s75W reports is maintained. In response to concerns raised by Council, Conditions 24 and 25 are not sought to be amended. The references to staging in the Revised Draft SoC dated March 2014 have been updated to reflect the amended staging plan.

**Building Height to Constitution Road** – as outlined in our original report and our response dated 25 February 2014, the building at the corner of Belmore Street and Constitution Road is a main entry point to the site and surrounding road network, and design advice suggests this should be afforded the opportunity to be architecturally designed to its full 6 storey height for this minor corner point at this location. This is seen as a better urban design outcome.

**Basement Levels above Ground Levels** – as outlined in our original report and our response dated 25 February 2014, where the site slopes excessively to the foreshore, the concept plan incorporated basement levels to be 1m above finished ground level; this resulted in blank walls and an unattractive design solution. The design of the building has now been enhanced so that ground floor units and commercial premises can be incorporated, providing a more active and attractive outcome.

**Compliance to Building Height Map** - Other than the Constitution Road corner (discussed above) no increase to the approved RLs (height) is sought. Storeys will only change due to lower level units being located level with the public domain links.

This modification gives Council the ability to determine the acceptable levels, by way of this flexible condition.

**ESD Targets** - the proposed wording in this condition seeks flexibility in applying the extensive guidelines whilst also satisfying the industry wide BASIX Commitments.

**Condition 21 Residential Amenity** - the building shape and orientation was approved by the PAC. It assumed a level of amenity where most units have a water view. The proposed modifications maintain that same level of amenity. It is not possible to comply with SEPP 65 other than the 10 principles. Compliance with the provisions of the RFDC is not possible as drafted.

**Delivery of the Community Space** - the Concept Approval does not require a specific area. The proponent is happy to maintain dialogue with Council for the community space, including its appropriate location and design parameters in accordance with Condition 18 *Community Space*. The Community Floorspace is a significant contribution which provides a direct benefit to Council and is to be designed in consultation with Council or a Council nominated community organisation, with any dispute in the quantum of floorspace being referred to the Director-General. The proposal to amend this condition allows for consideration of the community facility or facilities in appropriate locations throughout the Concept Plan site.

**Outcomes of the Design Excellence Process** – Our proposal to amend Condition 1 is maintained, to enable the delivery of a building on the Church Street site which is capable of achieving the highest standard of architectural, urban and landscape design. Should the design of this building be wholly contained within the parameters of the height and setback requirements pursuant to the Concept Approval, this will result in a standard building outcome. However, the flexibility for some modification of

these structured height and setback requirements will enable an architecturally interesting signature building.

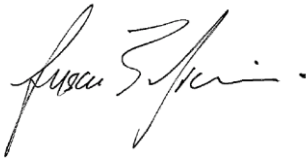
**Rewording of Condition B27** – We note council's concern, however our proposal to amend the wording as per our original s75W submission is maintained.

Overall, these applications seek to improve the design and relationship of the buildings to the public domain which is seen as a significant improvement over the original approvals and offers significant benefits to the local community.

We recognise Council does not support several aspects of these s75W modifications to the Concept and Stage 1 applications. Despite this, the purpose of this correspondence is to clarify several items raised by Council. This correspondence maintains our ongoing discussion and justification for the project and requests that the Department provide their assessment and recommendation.

Should you have any queries with regard to the above, please feel free to contact me on 8270 3500.

**YOURS SINCERELY**



**SUSAN E FRANCIS  
EXECUTIVE DIRECTOR  
CITY PLAN STRATEGY AND DEVELOPMENT**



**Matthew Rosel - RE: MP09\_0216/0219 MOD1, Shepherds Bay modification - Council's comments on RtS**

---

**From:** Holly Palmer <hollyp@cityplan.com.au>  
**To:** Matthew Rosel <Matthew.Rosel@planning.nsw.gov.au>  
**Date:** 1/05/2014 11:12 AM  
**Subject:** RE: MP09\_0216/0219 MOD1, Shepherds Bay modification - Council's comments on RtS  
**Attachments:** Optional Foreshore Link Landscape Plan\_Place\_30 April 2014.pdf

---

Good morning Matthew,

Following up our correspondence in the email below, please refer to the attached Optional Foreshore Link Landscape Plan which is detailed in Section 4 (iv) of the letter on page 3.

In response to council's concern re separation between the stairs and Unit UB15, the attached optional plan offers a resolution for the Department's consideration.

Please advise if there's any further items which we can assist with, and the likely timing moving forward so we can be kept informed. Thank you.

Please feel free to contact me with any queries.

Regards,

Holly Palmer  
Senior Project Planner

CITY PLAN SERVICES  
LEVEL 1, 364 KENT ST  
SYDNEY, 2000  
TEL: 02 8270 3513  
FAX: 02 8270 3501  
[WWW.CITYPLAN.COM.AU](http://WWW.CITYPLAN.COM.AU)

*Disclaimer*

*This message contains privileged and confidential information intended for the use of the addressee named above. If you are not the intended recipient of this message you are hereby notified that you must not disseminate, copy or take any action or place any reliance on it. If you have received this message in error please delete it immediately.*

---

**From:** Holly Palmer  
**Sent:** Tuesday, 29 April 2014 1:50 PM  
**To:** 'Matthew Rosel'  
**Subject:** RE: MP09\_0216/0219 MOD1, Shepherds Bay modification - Council's comments on RtS

Good afternoon Matthew,

Thank you for forwarding the comments in your email below.



Please find attached a letter of clarification with regard to the issues raised by Council.

We recognise Council does not support several aspects of these applications. Despite this, the purpose of this correspondence is to clarify several items raised by Council. This correspondence maintains our ongoing discussion and justification for the project and requests that the Department provide their assessment and recommendation.

Please be advised that an optional Foreshore Link Landscape Plan is being prepared and will be provided tomorrow in response to Section 4 (iv) of the letter on page 3.

We appreciate your consideration of the above. Would you be able to provide an indication of the pathway going forward as my client is keen to know when a determination can be made available. Thank you.

Please feel free to contact me with any queries.

Regards,

Holly Palmer  
Senior Project Planner

CITY PLAN SERVICES  
LEVEL 1, 364 KENT ST  
SYDNEY, 2000  
TEL: 02 8270 3513  
FAX: 02 8270 3501  
[WWW.CITYPLAN.COM.AU](http://WWW.CITYPLAN.COM.AU)

*Disclaimer*

*This message contains privileged and confidential information intended for the use of the addressee named above. If you are not the intended recipient of this message you are hereby notified that you must not disseminate, copy or take any action or place any reliance on it. If you have received this message in error please delete it immediately.*

---

**From:** Matthew Rosel [<mailto:Matthew.Rosel@planning.nsw.gov.au>]  
**Sent:** Thursday, 17 April 2014 9:25 AM  
**To:** Holly Palmer  
**Subject:** MP09\_0216/0219 MOD1, Shepherds Bay modification - Council's comments on RtS

Hi Holly,

We have now received Council's comments on the Response to Submissions, which is attached for your reference. Can you confirm whether you will be making a response to Council's submission?

Please note that I will be away on annual leave on the 22nd, 23rd and 24th of April and will therefore be returning to work Monday 28 April.

Kind regards

**Matthew Rosel**  
Senior Planner, Industry, Key Sites & Social Projects  
NSW Department of Premier & Cabinet,  
Planning & Infrastructure | GPO Box 39 Sydney NSW 2001  
T 02 9228 6213 E [matthew.rosel@planning.nsw.gov.au](mailto:matthew.rosel@planning.nsw.gov.au)



