

26 August 2016

**Our Ref:** P15-190

**Matthew Rosel**

NSW Department of Planning & Environment  
Level 3, Room 313, 23 - 33 Bridge Street,  
NSW 2000

Dear Matthew,

**RE: MP09\_216 MOD 2 - SHEPHERDS BAY - RESPONSE TO COUNCIL'S SUBMISSION**

We refer to the City of Ryde's (undated) submission to the NSW Department of Planning & Environment (DPE) in relation to the proposed modification to Concept Plan MP09\_216. We note they have entitled the submission to relate to Project Application MP09\_219, but this application is not the subject of any modification application by our clients, Holdmark.

Firstly, we would like to confirm as you are aware that the subject modification application was prepared with the full knowledge of the Council and obviously, by virtue of the Deed of Agreements in relation to Council's request to move and reduce the size of the community centre, Council was fully aware of the extent of the proposal. It was therefore a surprise to see the submission expressed in the way that it was without any prior warning from Council. We have thus met with Council to seek clarification of the intent of their submission and to see if we can assuage their concerns. This meeting was held on 17 August 2016 and we have attached the minutes of that meeting (**Appendix 1**).

In summary, The City of Ryde (COR) council has expressed the following concerns in its submission:

- A preference for the Stage A Design Excellence scheme (height of tower only);
- A preference to reduce by two (2) levels the height of the podium building included in the Design Excellence Scheme for Stage A;
- Reversion of Stage 9 to a single storey element and a changed view as to the location of the community centre from stage 9 to either Stage A or a financial contribution of \$3.5mill via a VPA;
- Concerns as to shadows on some Waterview Street properties;

- A changed position as to the retention of the dwelling and parking caps for Stage A and a reduction in that cap relative to the numbers sought in the modification application;
- Clarification as to the quantum of affordable housing provided; and
- Concern as to the traffic access via Church St, entry off Parsonage Street and public domain upgrade works generally.

All the above items were discussed with Council at the meeting of 17 August 2016, as evidenced by the attached minutes (refer to **Appendix 1**). We have also prepared a separate, detailed response to these matters, as provided separately. For clarity, we note that Council has no objection to the proposed amendments to Stage 2 & 3.

Holdmark is prepared to address Council's concerns by compromising as follows:

### **Stage A Building Height**

Holdmark will consider reducing the height of the podium building by 2 levels lower than the Design Excellence scheme (i.e. to 4 levels in lieu of 6 levels) but only if the full height of the tower is accepted, as is currently proposed in the modification application before DPE (i.e. maximum roof FFL height RL of 89.8m, with the exoskeleton features and services above this, equating to an overall envelope RL of 95.8m). It is considered that the reduction in the podium would be a good urban design outcome but the reduced yield obviously reduces the ability of the development to support the VPA amount offered for the full scheme sought in the modification application.

The extra levels on top of the tower would not be discernible in terms of the perception of the tower from the public domain. The height of this structure has been considered and endorsed by a Design Integrity Panel (DIP) who undertook the judging of the Design Excellence process (refer to minutes of DIP meeting held on 15 February 2016 - **Appendix 2**). Further, DPE also suggested an increased height would enhance the slender nature of the tower, as noted in its assessment report to the NSW Planning Assessment Commission, dated December 2012.

### **Community Centre**

Holdmark is prepared to revert Stage 9 to the Concept and existing DA approval and pay a contribution of \$3.5 million for a community facility to Council, provided all of the modifications to Stage 2/3 are approved as per the current modification application before DPE. Any contribution should be paid prior to the issue of an occupation certificate for Stage A.

### **Stage A Overshadowing**

Amended shadow diagrams have been provided to Council (see **Appendix 3**) which demonstrate that the shadows cast on the Waterview Street properties allow for 5 hours of sunlight to those properties during mid-winter. This represents a fully compliant outcome in terms of the Ryde Development Control Plan 2014.

### **Dwelling & Parking Caps**

Holdmark is prepared to retain both the parking and dwelling caps so long as they relate to the number of dwellings and parking spaces sought in the modification application currently before DPE. We would still argue strongly that the use of a dwelling cap is the wrong tool to control the intensity of activity from the site and that, as suggested by ourselves, the use of a parking cap is the sole appropriate tool should Council now wish to have a cap that includes Stage A

(which is contrary to the position Council advised to Holdmark in a meeting held on 24 November 2015, and Holdmark has never received any differing advice from Council to date).

We note in Council's submission that the difference between the proposed parking numbers and Council's suggested cap number, being 108 spaces, could be dealt with at the DA stage. We would be happy if that transpired to be the outcome but are obviously concerned as to the uncertainty of such an action and resolution into the future. This approach merely leads to uncertainty and confusion. We would thus request that, as Council seems to be happy to consider an increased parking cap inasmuch as it relates to the supermarket use, that this be dealt with now as part of the modification application.

### **Affordable Housing**

The quantum of affordable housing proposed by the proponent is 8% of the additional GFA as agreed with the Council in respect of Stages 2/3. Holdmark's correspondence with Council in relation to this matter was provided on 9 December 2015 (copy provided at **Appendix 4**). Holdmark is not resiling from this offer. In relation to Stage A, Holdmark is prepared to agree to 2% of the apartments being for affordable housing purposes provided the market value of these apartments is included in the overall offer amount of \$4.13 million. This position was outlined to Council in the proponent's correspondence dated 14 March 2016 and 23 June 2016 (copies provided at **Appendix 5**).

### **Stage A Traffic**

We understand that the traffic concerns raised by Council had been considered and addressed by the RMS, by way of approval. Details of RMS' responses are attached at **Appendix 6**. Holdmark would agree to conditions of any approval to ensure the construction of the required infrastructure works.

### **Conclusion**

In conclusion, we do not believe that there is significant disagreement between the Council and Holdmark in respect of the terms of the proposal. It is however complex. We would therefore be pleased to come and clarify these issues either separately or with Council so that there can be clarity as to the desired outcome. We will contact you shortly to arrange such a meeting.

As it is now over nine (9) months since the application was lodged with DPE, this matter is now exceptionally urgent to our client. Our client is under significant commercial pressure as a result of the extended assessment time. Therefore, our client would appreciate if DPE could expedite finalisation of their assessment.

Yours Sincerely,



**Susan E. Francis**  
Executive Director

CC: Ben Lusher - Director, Key Sites Assessments, NSW Department of Planning & Environment