



Shepherds Bay Urban Developments Pty Ltd
ABN 20 164 377 600

Mr Roy Newsome
Acting General Manager
Council of the City of Ryde
Binary Centre
3 Richardson Place
NORTH RYDE NSW 2113

07 October 2016

RE: SHEPHERDS BAY, MEADOWBANK
PROPOSED VPA FOR STAGES 2/3
COMMERCIAL-IN-CONFIDENCE

We refer to the recent meetings and correspondence relating to the above matter and now set out below our final and formal offer to enter into a Voluntary Planning Agreement with the City of Ryde Council in respect of the S96 application for development of Stages 2/3

Please note that the name "Holdmark" is used below to refer to the developer for Stages 2/3. The actual developer is intended to be Shepherds Bay Urban Developments Pty Ltd which will therefore be the entity which enters into the VPA with Council.

This letter of offer supersedes all previous correspondence and discussions regarding this matter.

1. STAGE 2/3 AFFORDABLE KEY WORKER HOUSING DEDICATION

- A. Holdmark agrees to transfer to Council (at no cost to Council) 8% of any increase in apartment numbers (calculated as a percentage of the net internal apartment area of such increase) for which DA consent is eventually received in addition to the net 17 additional apartments which were agreed as part of the legal deed between Council and Holdmark dated 8 October 2015. For the purposes of this letter, the apartments the subject of such approved increase (in excess of the net 17 additional apartments) are referred to as "the Extra S96 Apartments"
- B. Should the 8% of internal apartment area of the Extra S96 Apartments not result in a full apartment, then Holdmark will pay to Council a monetary amount calculated at the rate of \$6000 per sqm of area remaining.

For example, if there were 28 additional apartments (beyond the 17 agreed as part of the 8 October 2015 Deed) approved with an aggregate internal apartment area of, say, 2400 sqm, Council would be entitled to 8% of 2400sqm = 192 sqm of net internal apartment area. If, however, it was practical to provide apartments totalling only 180 sqm, Holdmark would pay to Council a monetary amount of (192-180) sqm @ \$6000/sqm = \$72,000.

A handwritten signature in blue ink, appearing to be "E. Newsome", located in the bottom right corner of the page.

- C. The method of measurement to be used for calculating the net internal apartment area is that used to measure strata areas (as set out in attached advice prepared by LTS Lockley)
- D. At least one of the apartments to be transferred to Council is to be a three bedroom apartment.
- E. The apartments are to be selected from those Extra S96 Apartments (and not from the 17 net additional apartments the subject of the 8 October 2015 Deed) located on the first three levels of the building (being ground level and above)
- F. The locations of the apartments to be transferred to Council are to be agreed between Holdmark and the Acting General Manager of Council, both parties acting reasonably. In the event of being unable to reach agreement, all the Extra S96 Apartments on the first three levels are to be "put into a hat" and the Acting GM can then select from the "hat" apartments at random until the 8% limit is achieved (subject to item 1 B above). Indicative plans of the Extra S96 apartments on the first three levels are attached (Drawings 2-3/VPA/001 to 2/3/VPA/003 inclusive)
- G. "Transfer Provisions" are to be included in the VPA with a trigger point for transfer to be identified (after Occupation Certificate and/or registration of the Strata Title Subdivision)
- H. Security (eg an insurance bond) is to be provided by Holdmark for the fit-out of the affordable housing apartments for the sum of \$50,000 per apartment. For the avoidance of doubt, fit-out does not include loose furnishings and the fit-out will be to the same standard as the other apartments in the Stages 2/3 development
- I. VPA is to include provisions to exclude GST payment on the apartments to be transferred to Council

2. MONETARY CONTRIBUTION IN LIEU OF COMMUNITY CENTRE

- A. In lieu of the provision by Holdmark of a Community Centre anywhere in Shepherds Bay, a monetary contribution will be provided by Holdmark to Council prior to the issue of the Occupation Certificate for the Stage 2 building or the Occupation Certificate for the Stage 3 building (whichever is the later) provided that, in any event, payment is made by no later than 31 December 2020.
- B. The amount of the monetary contribution to be paid will be \$0.50 million plus a further amount calculated as set out in item 2C below.
- C. If development consent is granted for all of the net 17 additional apartments/GFA the subject of the 8 October 2015 Deed and included in the current 75W application and associated S96 application for Stage 2/3, Holdmark will pay Council a further amount of \$3.00 million. If fewer than the net 17 additional apartments are granted development consent in the S96 determination, the payment to Council will be adjusted on a pro-rata basis such that each apartment is allocated a value equal to one seventeenth of \$3.00 million.



Thus, for example, if only 16 apartments (of the net 17 additional apartments) received development consent, Holdmark would pay Council \$0.50 million plus sixteen seventeenths of \$3.00 million = \$3,323,529.41.

- D. CPI provisions are to apply to the sum of \$3.50 million (or any other pro-rata amount calculated in accordance with items 2B and 2C above) from the date of consent being granted for the S96 application.
- E. Security (eg an insurance bond) is to be provided by Holdmark for the payment of the \$3.50 million (or any other pro-rata amount calculated in accordance with items 2B and 2C above)
- F. The 8 October 2015 Deed between Council and Holdmark is to be terminated on the date of activation of the new VPA

3. DRAFTING OF PLANNING AGREEMENT

- A. Based on the quote dated 01 September 2016 provided by Hall & Wilcox, and subject to paragraph 3B. below, Holdmark agrees to pay 100% of the external legal costs incurred by Council in respect of the drafting and finalisation of the VPA provided the process set out below is followed.
 - (i) General format/template of the VPA and key commercial details are to be promptly agreed between Holdmark and Council prior to commencement of drafting by Hall & Wilcox
 - (ii) Subject to item 3A(i), following acceptance of the VPA Offer by Councillors, drafting of the VPA document is to be promptly commenced by Hall & Wilcox. It is understood that the first draft of the VPA document will be produced by Hall & Wilcox in approximately one week. Finalisation of the VPA document will be undertaken expeditiously by all parties (Holdmark, Council, Hall & Wilcox)
- B. Holdmark accepts liability for the legal costs as per item 3A above in circumstances where:
 - (i) Holdmark unilaterally elects, of its own free will, to not execute the VPA; or
 - (ii) Both parties jointly agree to not execute the VPA

If Council unilaterally elects not to execute the VPA, Holdmark will not pay any of the legal costs.
- C. The VPA would not be activated until determination of the current S96 application for Stages 2/3

The offer contained in this letter expires at 5.00pm on 27 October 2016.

Yours sincerely,



GAVIN D M CARRIER
Head of Development
Shepherds Bay Urban Developments Pty Ltd