

APPENDIX 2

Draft Condition by DPE	CPSD/Holdmark Response	Recommended Condition by CPSD/Holdmark (amendments highlighted yellow)
Project Description		
<p>Project:</p> <p>MP09_0216 MOD2: the modification includes:</p> <ul style="list-style-type: none"> • increase in the maximum height of the Stage A building envelope by 5 storeys (from 10 to 15 storeys); • deletion of the site-wide maximum dwelling yield development cap; • exclusion of Stage A from the site-wide maximum car parking yield development cap; • varying increases of the number of storeys contained within Stages 2 and 3 building envelopes and increase in the height of part of the Stage 2 building envelope by 300mm; • provide a financial contribution to council in lieu of providing an on-site community facility, or alternatively, relocate the community facility from Stage 3 to Stage A and reduce its size by 500m² (from 1,000m² to 500m²); • deletion of the exception within FEAR 3A that allows the inclusion of an additional storey within buildings on steeply sloping land; and • provision of affordable housing. 	<p>The proposal sought 24 storeys for Stage A. As required by Condition 1 (Schedule 3) of the original Concept Approval, Stage A was subject to a Design Excellence Competition (DEC) which endorsed a scheme at 19 storeys (the scheme was in fact the equivalent of 20 storeys due to the double height retail level. The DEC winning entry will henceforth be referred to as a 20 storey scheme). The DEC jury suggested additional building height as well as design excellence could be achieved above 20 storeys. Cox Kennedy responded accordingly with the proposed 24 storey scheme. The proposal was also subject to Design Integrity Panel (DIP) reviews post the competition process. These fully endorsed the 24 storey scheme.</p> <p>At 20 storeys, the design excellence scheme was only just viable (21% return). To reduce the scheme to 15 storeys renders the scheme/design not viable at 9.55% return (less than half of the usual 20% benchmark required by financiers). By reducing the envelope to 15 storeys, DPE is in contravention of Condition 1 (Schedule 3) of the original Concept Approval because the scheme endorsed by that condition cannot be delivered at only 15 storeys with design excellence. As such, Holdmark has indicated that it is unlikely that it will be able to develop the site in the manner sought by the project description and subsequent conditions. Conversely, it may be possible to redevelop the site, but with a conventional design and not one displaying design excellence. Dot point 1 in DPE's project description should therefore be amended as shown in the following column.</p> <p>If, in the event the Planning Assessment Commission (PAC) adopts the 15 storey height, Condition 1 (Schedule 3) of the original Concept Approval relating to design excellence would have to be deleted. That is, it has been demonstrated that any scheme at the Stage A site of less than 20 storeys cannot be developed feasibly if design excellence is the desired outcome. Therefore, the requirement for a Design Excellence Competition and design excellence forming part of any DA for the Stage A site should be removed. In any event, as the Design Competition has been undertaken, the condition has been satisfied.</p> <p>At its meeting of 25 October 2016, the City of Ryde Council resolved to accept a VPA from Holdmark where it would contribute \$3.5m to Council for the construction of the Community Facility elsewhere in the Ryde LGA. It was agreed that the facility would not be constructed as part of Stage A or 2/3. We therefore recommended the project description be amended to delete any reference to a Community Facility within Stage A to avoid any confusion. The project description has been amended accordingly in the following column.</p>	<p>MP09_0216 MOD2: the modification includes:</p> <ul style="list-style-type: none"> • increase in the maximum height of the Stage A building envelope by 14 storeys (from 10 to 24 storeys); • deletion of the site-wide maximum dwelling yield development cap; • exclusion of Stage A from the site-wide maximum car parking yield development cap; • varying increases of the number of storeys contained within Stages 2 and 3 building envelopes and increase in the height of part of the Stage 2 building envelope by 300mm; • provide a financial contribution to council in lieu of providing an on-site community facility, in accordance with the Voluntary Planning Agreement for Stage 2/3 proposed by Holdmark, dated 28 September 2016 and signed by Gavin D M Carrier. Alternatively, relocate the community facility from Stage 3 to Stage A and reduce its size by 500m² (from 1,000m² to 500m²); • deletion of the exception within FEAR 3A that allows the inclusion of an additional storey within buildings on steeply sloping land; and • provision of affordable housing in Stage 2 in accordance with the Voluntary Planning Agreement for Stage 2/3 proposed by Holdmark in its correspondence to City of Ryde Council dated 28 September 2016, signed by Gavin D M Carrier. <p>NOTE: Should the PAC consider the 20 storey Design Excellence winning scheme to be preferable, the first dot point of the modified project description should read as follows:</p> <ul style="list-style-type: none"> • increase in the maximum height of the Stage A building envelope by 9 storeys (from 10 to 20 storeys);

Draft Condition by DPE	CPSD/Holdmark Response	Recommended Condition by CPSD/Holdmark (amendments highlighted yellow)																				
	<p>The proposal, as submitted, included affordable housing within Stage 2/3 and Stage A, where Stage A was 24 storeys (refer to Appendices E & F – Proposed VPA offers from Holdmark to City of Ryde Council for Stage A and Stage 2/3 respectively). Affordable housing cannot be delivered as part of Stage A if the height is reduced below 20 storeys due to a lack of appropriate development yield. Therefore, in the event Stage A is reduced to 15 storeys, dot point 7 should be reworded as demonstrated in the following column.</p> <p>We bring to the PAC’s attention what appears to be an inconsistency between the recommended modified project description and Condition 1A and 23 of the modified instrument, as recommended by DPE. That is, the project description deletes the dwelling cap for the entire precinct and excludes Stage A from the parking cap, whilst the stated conditions apply a dwelling cap to the entire precinct and retains Stage A as part of a parking cap.</p> <p>For the reasons stated below, we recommend that DPE’s recommended project description be retained and Conditions 1A and 23 be amended to reflect the project description (as is outlined below).</p>																					
Schedule 2 – Part A Administrative Conditions																						
<p>(b) Schedule 2 Part A – Terms of Approval A5 is amended by the insertion of the bold and underlined words / numbers and deletion of the bold struck-out words/numbers as follows:</p> <p>Maximum Gross Floor Area (GFA)</p> <p>A5</p> <ol style="list-style-type: none"> 1. The maximum GFA for commercial, retail or community uses shall not exceed 10,000m² 2. The maximum number of dwellings shall not exceed 2,140 	<p>As indicated earlier, this condition’s reference to a dwelling cap is inconsistent with DPE’s recommended project description. We recommend proceeding with the project description and deleting this condition.</p> <p>For reference, the dwelling cap was only introduced as part of MOD 1 (it was never included in the original Concept Approval) to control traffic and parking generation throughout the precinct and surrounds. As has been stated during the application, we conclude that a dwelling cap is an inappropriate tool to control parking and traffic generation. This is because for example, the recommended 2,140 dwellings could be provided in a variety of combinations (e.g. studio, 1, 2, 3 or more bedroom dwellings), each with their own traffic and parking rates. If DPE and PAC are committed to controlling traffic and parking generations, the proponent would be willing to accept a parking cap only, inclusive of Stage A, but only if it reflects all the parking as proposed in this application (i.e. 3,084).</p> <p>We also recommend deleting a dwelling cap because it is an arbitrary figure which may not necessarily account for all the constraints and opportunities which may arise whilst preparing detailed DA plans for Stage A. At this stage, the plans for Stage A are only conceptual and cannot account for all details.</p>	<p>(b) Schedule 2 Part A – Terms of Approval A5 is amended by the insertion of the bold and underlined words / numbers and deletion of the bold struck-out words/numbers as follows:</p> <table border="0"> <thead> <tr> <th>Maximum</th> <th>Gross</th> <th>Floor</th> <th>Area</th> <th>(GFA)</th> </tr> </thead> <tbody> <tr> <td colspan="5">A5</td> </tr> <tr> <td colspan="5">1. The maximum GFA for commercial, retail or community uses shall not exceed 10,000m²</td> </tr> <tr> <td colspan="5">2. The maximum number of dwellings shall not exceed 2,140</td> </tr> </tbody> </table> <p>NOTE: If the PAC proceeds with a dwelling cap, we recommend a cap of 2,177 if the 24-storey scheme is adopted, or a cap of 2,140 if the 20-storey design competition scheme is adopted.</p>	Maximum	Gross	Floor	Area	(GFA)	A5					1. The maximum GFA for commercial, retail or community uses shall not exceed 10,000m ²					2. The maximum number of dwellings shall not exceed 2,140				
Maximum	Gross	Floor	Area	(GFA)																		
A5																						
1. The maximum GFA for commercial, retail or community uses shall not exceed 10,000m ²																						
2. The maximum number of dwellings shall not exceed 2,140																						

Draft Condition by DPE	CPSD/Holdmark Response	Recommended Condition by CPSD/Holdmark (amendments highlighted yellow)
Schedule 2 – Part B Modification		
<p>(d) Schedule 2 Part B – Modification B1B is added by the insertion of the <u>bold and underlined</u> words / numbers as follows:</p> <p><u>B1B The Concept Plan building envelope shall be amended so that a maximum of 15 storeys shall apply to the 24 storey element on Stage A, Church Street site. The following Concept Plan drawings shall be amended to demonstrate compliance with this modification and shall be submitted to, and approved by, the Secretary within 1 month of the date of this approval.</u></p> <p>a) <u>PPR 001 Maximum Heights with Setbacks;</u> b) <u>PPR 002 Maximum Number of Storeys Above Ground Level (Finished) Plan; and</u> c) <u>Figure 18 Stage A. Building Envelope Control Diagrams</u></p>	<p>For the reasons stated above in relation to project description, the originally proposed 24 storey envelope should be supported by the PAC. If PAC proceeds with the 24-storey envelope, this recommended condition should be deleted.</p> <p>However, if the PAC adopts the 20 storey envelope endorsed as part of the Design Excellence Competition, then this condition should be reworded as provided in the following column.</p> <p>At the least, the PAC is encouraged to adopt the 20-storey envelope given it is the winning entry from the Design Excellence Competition undertaken for the site as required by the original Concept Approval, plus it is the <u>minimum</u> height required to achieve commercial viability for a Design Excellence Scheme.</p>	<p>(a) Schedule 2 Part B – Modification B1B is added by the insertion of the <u>bold and underlined</u> words / numbers as follows:</p> <p><u>B1B The Concept Plan building envelope shall be amended so that a maximum of 20 storeys shall apply to the 24 storey element on Stage A, Church Street site. The following Concept Plan drawings shall be amended to demonstrate compliance with this modification and shall be submitted to, and approved by, the Secretary within 1 month of the date of this approval.</u></p> <p>a) <u>PPR 001 Maximum Heights with Setbacks;</u> b) <u>PPR 002 Maximum Number of Storeys Above Ground Level (Finished) Plan; and</u> c) <u>Figure 18 Stage A. Building Envelope Control Diagrams</u></p> <p>Note: If PAC supports the 24-storey envelope, this condition should be deleted in its entirety.</p>
Schedule 3 – Future Environmental Assessment Requirements		
<p>(e) Schedule 3 – Future Environmental Assessment Requirement 1A is amended by the insertion of the <u>bold and underlined</u> words / numbers and deletion of the <u>bold struck out</u> words/numbers as follows</p> <p>Dwelling Cap</p> <p>1A. Future Development Applications shall provide for a total number of dwellings up to a maximum of <u>2,005 2,140</u> across the Concept Plan site (including Stage 1).</p> <p>Future Development Applications shall include a projected dwelling forecast for each remaining stage demonstrating that the total dwelling numbers will adhere to the dwelling cap.</p>	<p>As provided earlier, we recommend deleting any reference to a dwelling cap.</p>	<p>(e) Schedule 3 — Future Environmental Assessment Requirement 1A is amended by the insertion of the <u>bold and underlined</u> words / numbers and deletion of the <u>bold struck out</u> words/numbers as follows</p> <p>Dwelling Cap</p> <p><u>1A. Future Development Applications shall provide for a total number of dwellings up to a maximum of 2,005 2,140 across the Concept Plan site (including Stage 1).</u></p> <p>NOTE: If the PAC proceeds with a dwelling cap, we recommend a cap of 2,177 if the 24-storey scheme is adopted, or a cap of 2,140 if the 20-storey design competition scheme is adopted.</p>

Draft Condition by DPE	CPSD/Holdmark Response	Recommended Condition by CPSD/Holdmark (amendments highlighted yellow)
<p>(g) Schedule 3 – Future Environmental Assessment Requirement 18 is amended by the insertion of the <u>bold and underlined</u> words / numbers and deletion of the bold struck out words / numbers as follows:</p> <p>Community Facilities</p> <p>18. <u>The developer shall provide for a community facility via one of the follow two options:</u></p> <p><u>i) The developer shall enter into a Voluntary Planning Agreement with Council for the payment of \$3.5 million in lieu of providing the on-site community space. The payment shall be indexed by Sydney CPI annually from the date of consent of Modification 2 to the Concept Plan (MP09 0216 MOD2); or</u></p> <p><u>ii) Any future Development Application/s for the 1000th dwelling Stage A shall include, at no cost to Council, the delivery of an appropriate community space within the development, which can be used by Council or members of the community for community purposes and related uses.</u></p> <p>a) The community facility must be a minimum of 4,000 500m² in area and be primarily located on ground level. The configuration of floorspace should be designed in consultation with Council or Council nominated community organisation(s).</p> <p>b) The primary use of the designated community floor space must be for community uses. A range of other activities, such as private functions, community markets and garage sales, may be undertaken within the community facility provided that they are subsidiary to the core community function.</p> <p>c) The designated community floor space must not be used for any other commercial, retail or residential use unless Council decides not to accept the designed floorspace.; and</p> <p>d) The provision of community floorspace is in addition to Council's Section 94 Contributions for the development.</p> <p>e) The facility to be delivered is to be located around the contiguous central public open space area in either Stage 2 or 3</p>	<p>The City of Ryde Council approached Holdmark in August 2015 to relocate and reduce the size of the community facility and to compensate Holdmark for the extra costs involved, Council agreed to support net 17 additional dwellings in Stage 2/3. Council recommended relocating the community facility to Stage 9 of the development. A Deed of Agreement to document this arrangement was executed by Council and Holdmark on 8 October 2015.</p> <p>In August 2016, Council changed its mind and sought either relocation of the facility in Stage A or a financial contribution to allow them to appropriately locate the facility elsewhere. On the basis of this changed position, Holdmark agreed to pay Council \$3.5 million to relocate the facility off site.</p> <p>A Voluntary Planning Agreement (refer to Appendix 13 of report) was endorsed by Council on 25 Oct 2016 stating that a payment of \$3.5 million will be made by Holdmark to Council in lieu of providing the stated community facility. The proposed VPA further stipulates that, in accordance with the provisions of the Deed dated 8 October 2015, the payment will be made only on the basis that the net 17 additional dwellings receive Development Consent. This condition should be amended to reflect the deed and the VPA (i.e. that the facility no longer needs to be provided within the precinct). The recommended amendments are provided in the following column.</p> <p>This condition should be amended to refer to the proposed VPA specifically.</p> <p>Item ii)(d) of this condition should also be deleted because it allows for “double dipping”. That is, Council collects monies for community facilities and yet one is being delivered by the proponent.</p>	<p>Schedule 3 — Future Environmental Assessment Requirement 18 is amended by the insertion of the <u>bold and underlined</u> words / numbers and deletion of the bold struck out words/numbers as follows</p> <p>Community Facilities</p> <p>18. The developer shall provide for a community facility via one of the following two options:</p> <p>i) The developer shall provide a payment of \$3.5 million to Council in lieu of providing the <u>an</u> on-site community facility. The payment shall be subject to the provisions of the Voluntary Planning Agreement offer for Stages 2/3 proposed by Holdmark dated 28 September 2016, signed by Gavin DM Carrier. And endorsed by Ryde Council on 25 October 2015. The payment shall be indexed by Sydney CPI annually from the date of consent of Modification 2 to the Concept Plan (MP09_0216 MOD2); or</p> <p>ii) Any future Development Application/s for the 1000th dwelling Stage A shall include, at no cost to Council, the delivery of an appropriate community space within the development, which can be used by Council or members of the community for community purposes and related uses.</p> <p>a) The community facility must be a minimum of 1,000 500m² in area and be primarily located on ground level. The configuration of floorspace should be designed in consultation with Council or Council nominated community organisation(s).</p> <p>b) The primary use of the designated community floor space must be for community uses. A range of other activities, such as private functions, community markets and garage sales, may be undertaken within the community facility provided that they are subsidiary to the core community function.</p> <p>c) The designated community floor space must not be used for any other commercial, retail or residential use unless Council decides not to accept the designed floorspace.</p> <p>d) The provision of community floorspace is in addition to Council's Section 94 Contributions for the development.</p> <p>iii) The facility to be delivered is to be located around the contiguous central public open space area in either Stage 2 or 3</p>

Draft Condition by DPE	CPSD/Holdmark Response	Recommended Condition by CPSD/Holdmark (amendments highlighted yellow)
<p>(h) Schedule 3 – Future Environmental Assessment Requirement 18A is added by the insertion of the <u>bold and underlined</u> words / numbers as follows:</p> <p><u>18A The developer will dedicate to Council (as key worker housing) 8% of any increase in apartment numbers resulting from this modification application (MP09 0216 MOD 2), for which consent is eventually granted. The affordable housing calculation excludes dwellings that may be located in place of the relocated community centre, as specified in Holdmark’s letter to Council titled Re: Shepherds Bay – Meadowbank Section 96 Application For Stage 2/3 signed by Gavin M Carrier and dated 9 December 2015.</u></p>	<p>Holdmark seeks to ensure any requirement for affordable housing provisions in relation to Stage 2/3 <u>only</u> applies to those dwellings <u>in addition</u> to those net 17 dwellings provided to compensate for relocating the proposed community facility space. Any affordable housing requirements in Stage 2/3 should reflect the affordable housing provisions stated in the proposed VPA offer dated 28 September 2016 sent by Holdmark to Council and subsequently endorsed by Council on 25 October 2016. This condition should therefore be amended accordingly, and to make specific reference to the proposed VPA offer dated 28 September 2016. Amendments to the condition are provided in the following column.</p>	<p>(a) Schedule 3 – Future Environmental Assessment Requirement 18A is added by the insertion of the <u>bold and underlined</u> words / numbers as follows:</p> <p><u>18A The developer will dedicate to Council (as key worker housing) 8% of any increase in apartment numbers resulting from this modification application (MP09 0216 MOD 2), for which development consent is eventually granted. The affordable housing calculation excludes the net 17 additional dwellings that may be located in place of the relocated community centre, as specified in Holdmark’s letter to Council titled Re: Shepherds Bay – Meadowbank Section 96 Application For Stage 2/3 signed by Gavin M Carrier and dated 9 December 2015 and as further set out in the proposed Voluntary Planning Agreement for Stages 2/3 as per Holdmark’s letter to the City of Ryde Council dated 28 September 2016 and signed by Gavin D M Carrier.</u></p>
<p>(i) Schedule 3 – Future Environmental Assessment Requirement 23 is amended by the insertion of the <u>bold and underlined</u> words / numbers and deletion of the bold struck out words / numbers as follows:</p> <p>Car Parking</p> <p>23. Future Development Applications shall provide on-site car parking in accordance with Council's relevant Development Control Plan up, to a maximum of 2,976 spaces across the Concept Plan site.</p> <p>Future Development Applications shall provide:</p> <p>(a) a car parking rate which relates to the site-wide car parking provision and demonstrates that car parking may be provided for future stages within the total car parking figure of 2,976; and</p> <p>(b) a projected car parking forecast for each remaining stage demonstrating that the total car parking provision can be adhered to.</p>	<p>As provided earlier, this condition is inconsistent with the project description as it does not exclude Stage A from any parking cap (whereas the project description does). We agree that Stage A should be excluded from any parking cap because it is isolated from the bulk of the envelopes which relate to the Concept Approval (i.e. Stage 1 – 9). As such, Stage A does not contribute to any traffic generation associated with Stages 1 – 9 and should therefore not be subject to its parking cap.</p> <p>Further, the detailed traffic study in this current application, as with the original Concept Application, demonstrates that Stage A in and of itself does not result in any unreasonable traffic impacts, further confirming that it should not form part of a parking cap.</p> <p>Amendments to the condition are provided in the following column. It should be noted that the figure provided in the recommended condition considers existing parking provisions for Stages 1 – 9, as well as additional parking provisions in Stage 2 & 3 as proposed by this application.</p> <p>(Note: If the PAC determines a parking cap should include Stage A, it is requested that any cap reflects the number of car spaces currently proposed in Stage A, being 416 onsite spaces. Considering the spaces proposed in Stage 2 & 3, the total cap would therefore be 3,084).</p>	<p>(i) Schedule 3 — Future Environmental Assessment Requirement 23 is amended by the insertion of the <u>bold and underlined</u> words/numbers and deletion of the bold and struck out words/numbers as follows:</p> <p>Car Parking</p> <p>23. Future Development Applications for Stages 1 - 9 shall provide on-site car parking in accordance with Council's relevant Development Control Plan, up to a maximum of 2,976 spaces. across the Concept Plan site. Stage A is excluded from any cap.</p> <p>Future Development Applications for Stages 1 - 9 shall provide:</p> <p>(a) a car parking rate which relates to the site-wide Stage 1 – 9 car parking provision and demonstrates that car parking may be provided for future stages within the total car parking figure of 2976; and</p> <p>(b) a projected car parking forecast for each remaining stage demonstrating that the total car parking provision can be adhered to.</p> <p>NOTE: If the PAC determines that Stage A should be included as part of a parking cap, we recommended adopting a cap of 3,084 spaces if the 24-storey scheme is adopted, or 2,948 spaces if the design competition 20-storey scheme is adopted.</p>

Draft Condition by DPE	CPSD/Holdmark Response	Recommended Condition by CPSD/Holdmark (amendments highlighted yellow)
Proposed Amendments to MP09_216 MOD 1 Conditions and/or Proposed New Conditions		
<p><u>Proposed amendment to condition in original Concept Approval</u></p> <p>Design Excellence</p> <ol style="list-style-type: none"> 1. Future Development Application/s for Stage 5 (the signature building fronting Church Street) shall demonstrate design excellence in accordance with the Director General's Design Excellence Guidelines. 2. Future Development Applications shall demonstrate that the development achieves a high standard of architectural design incorporating a high level of modulation / articulation of the building and a range of high quality materials and finishes. 	<p>As stated in the covering letter to this table, design excellence cannot be achieved if the Cox Kennedy scheme is reduced to 15 storeys. Specifically, it would not be commercially viable to deliver a reduced height Cox Kennedy scheme as proposed in the modification application at 15 storeys.</p> <p>It may be possible to deliver a 15 storey scheme on the Stage A site but with a conventional design and not one displaying design excellence. Therefore, if the PAC were to proceed with any scheme lower than 20 storeys, conditions 1 and 2 in Schedule 3 of the original concept approval should be deleted.</p>	<p>Conditions to be deleted.</p>
<p><u>Proposed New Condition</u></p>	<p>To demonstrate Holdmark's commitment to delivering design excellence for the Stage A development, if the PAC were to endorse a 20 storey or higher envelope, and in order to ensure design excellence is delivered as part of any Construction Certificate or actual construction stage, Holdmark is willing to have a relevant condition inserted. A suggested condition is proposed in the following column.</p> <p>If the PAC prefers, this condition could be provided as a Statement of Commitment, as opposed to a condition.</p>	<p><u>Design Integrity</u></p> <p>A Design Integrity Panel, comprising at least 2 members of any jury which takes part in a Design Excellence process for Stage A, shall be retained to ensure the scheme which is selected as the winner of the Design Excellence Competition continues to maintain design excellence. Specifically, prior to the issue of any Construction Certificate relating to the podium building or tower component, a written notification must be issued by the Design Integrity Panel to the Principal Certifying Authority confirming that the scheme retains design excellence.</p>