



Ms J Hughes and Ms A Petterd
Partners
Baker & McKenzie
PO Box R126
ROYAL EXCHANGE NSW 1223

Dear Ms Hughes & Ms Petterd

I refer to your letter dated 6 May 2014 requesting information regarding the selection of an aged care proposal for consideration by the Sydney Harbour Federation Trust (Trust) and decisions by the Trust's Board in relation to that proposal.

I have given careful consideration to the matters raised in your letter, and in order to assist your client in understanding the procedures applicable to the selection and ongoing consideration of the proposal, I respond to the subject matters below.

1. Application of the Trust's Leasing of Land and Building Policy

The Trust's leasing process is governed by a number of Board-approved policies. The Trust has conformed with the requirements of these policies by conducting a public Expressions of Interest at Middle Head in 2009 for a "wide range of uses" which, upon conclusion, was followed by a direct marketing process (open leasing). During the direct marketing (open leasing) process the Trust also conducted use-specific EOIs to gauge interest from hoteliers. Use-specific campaigns augment, not terminate, the direct marketing (open leasing).

In 2012, interested parties were requested to make their submissions by a set closing date. The submissions were then evaluated against the Trust's tenant selection criteria, which included an assessment of the extent of each proposal's compatibility with the Middle Head Management Plan. The aged care proposal was selected as best meeting the criteria and the Trust's Tenant Selection Committee resolved to recommend the proposal to the Board for further consideration.

2. Board Consideration

In accordance with the Trust's leasing policies, Board approval is required for leases in excess of 500sqm and for the amendment of a Management Plan. Between December 2012 and June 2013, the Trust's Management presented papers to the Board to brief members on the proposal.

The Board has not yet made a decision to approve or decline either the proposal or the draft amendment to the Management Plan and will not do so until completion of a comprehensive assessment.

Under the provisions of the SHFT Act 2001 and the Trust's leasing policies the Board will make the final decision on whether to approve or decline the proposal, having regard to all available inputs at the time of making the decision including the views of specific interest groups such as your client.

3. Application of Commonwealth Procurement Rules

While Commonwealth Procurement Rules (CPRs) are not directly applicable to the selection of tenants, the principles the CPRs establish of competition, fairness and transparency are incorporated into SHFT's leasing policies. In this respect, the Trust is satisfied it has followed generally accepted probity principles in obtaining, considering and selecting leasing proposals.

As your client will be aware, the aged care proposal is subject to assessment by the Minister for the Department of the Environment under the *Environment Protection and Biodiversity Conservation Act 1999*. The Trust also intends to finalise its assessment under the *Sydney Harbour Federation Trust Act 2001* for the Board to make an informed decision whether to approve or decline the proposal.

With respect, the Trust could never accede to a third party's request to "suspend" further assessment of any proposal as to do so would amount to an abrogation of the Trust's responsibilities which might have a possible consequence of legal liability.

Finally, in regard to the copies of your letter forwarded to the Trustees, I have been asked to assure you that they will give due consideration to both its content and my reply.

I trust this information clarifies matters for your client.

Yours sincerely



Geoff Bailey
Executive Director

// June 2014