

# Modification of Minister's Approval

## Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation dated 14 September 2011, I the Deputy Director General, Development Assessment Systems Performance, approve the modification of the Concept Plan referred to in schedule 1, subject to the conditions in schedule 2.

Deputy Director-General  
Development Assessment & Systems Performance  
Department of Planning & Infrastructure

Sydney

2012

### SCHEDULE 1

**Concept Approval:** Breakfast Point Concept Plan 2005 granted by the Minister for Planning on 7 April 2006 and as amended on 18 October 2010.

**For the following:** Concept approval for development solely within the concept plan area including:

- (1) 183,480m<sup>2</sup> maximum gross floor area;
- (2) 1,519m<sup>2</sup> maximum commercial and non-residential uses (within the 183,480m<sup>2</sup> maximum gross floor area specified above);
- (2a) 37,004m<sup>2</sup> maximum gross floor area for Serviced Self-Care Housing (as defined by State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (within the 183,480m<sup>2</sup> maximum gross floor area specified above);
- (3) 989 residential dwellings (and up to a maximum of 1,189 residential dwellings, subject to compliance with Condition No. 7 of the approval);
- (3a) 227 seniors housing dwellings;
- (4) Landscaped public and private open space;
- (5) Associated services and infrastructure;
- (6) Land use distribution, building heights, densities, dwelling mixes and types;
- (7) Subdivision into no more than 100 Torrens Title Lots; and
- (8) Subdivision into no more than 1,189 strata subdivision lots (for residential dwellings) subject to compliance with the conditions of this approval.

**Modification:** Breakfast Point Concept Plan MOD 2 for:

- 6 x two storey dwellings in place of the Breakfast Point Power House;
- remediation of the site to residential standards; and
- Torrens Title subdivision of the site into 6 lots.

## SCHEDULE 2 CONDITIONS

The above approval is modified as follows:

- a) *Condition 1 is amended by deletion of the struck out words and insertion of the **bold and underlined** words and deletion of ~~struck-out~~ words as follows:*

### 1. Development Description

Concept approval is granted only to the carrying out the development solely within the concept plan area as described in the document titled "Breakfast Point Concept Plan 2005" prepared by Giles Tribe Architects & Urban Planners (dated 22 March 2006 – Issue 3) as amended by plans by Giles Tribe Architects & Urban Planners dated 24 May 2010 – Issue 4 **and by Giles Tribe Architects & Urban Planners dated 4 April 2011 – Issue 5** including:

- (1) 183,480m<sup>2</sup> maximum gross floor area;
- (2) 1,519m<sup>2</sup> maximum commercial and non-residential uses (within the 183,480m<sup>2</sup> maximum gross floor area specified above);
- (2a) 37,004m<sup>2</sup> maximum gross floor area for Serviced Self-Care Housing (as defined by State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (within the 183,480m<sup>2</sup> maximum gross floor area specified above);
- (3) 989 residential dwellings (and up to a maximum of 1,189 residential dwellings, subject to compliance with Condition No. 7 of this approval);
- (3a) 227 seniors housing dwellings;
- (4) Landscaped public and private open space;
- (5) Associated services and infrastructure;
- (6) Land use distribution, building heights, densities, dwelling mixes and types;
- (7) Subdivision into no more than 100 Torrens Title Lots; and
- (8) Subdivision into no more than 1,189 strata subdivision lots (for residential dwellings) subject to compliance with the conditions of this approval.

- b) *Condition 2 is amended by insertion of the **bold and underlined** words as follows:*

### 2. Development in Accordance with Plans and Documentation

The development shall also be generally consistent with the following plans and documentation:

- (1) Breakfast Point Concept Plan 2005 prepared by Giles Tribe Architects & Urban Planners (dated 22 March 2006 – Issue 3), as amended by plans by Giles Tribe Architects & Urban Planners dated 24 May 2010 (Issue 4) **and by Giles Tribe Architects & Urban Planners dated 4 April 2011 – Issue 5.**
- (2) Statement of Commitment for the Concept Plan prepared by Rosecorp (dated 24 March 2006)
- (3) Breakfast Point Response to issues raised in submissions prepared by Rosecorp (dated 24 March 2006)

- (4) Response to issues raised in Council's submission prepared by Rosecorp (dated 24 March 2006)

Except for otherwise provided by the plans and documentation described in Condition 1, Schedule 2 and the Department's conditions of approval as set out in Schedule 2, and the proponent's statement of commitments.

*c) Condition 11 is amended by deletion of struck out words as follows:*

**11. Dedication of Power House and Curtilage**

~~Within 12 months of the determination date in Part A of Schedule 1 of the Breakfast Point Concept Plan, the Applicant shall use their best endeavours to seek the dedication of approximately 240m<sup>2</sup> of the Power House's gross floor area and the curtilage (as identified in Schedule 3) into the care, control and maintenance of Council. Should an agreed outcome not be reached within that timeframe (and the Director General has not specified an alternative timeframe), the Power House and the curtilage shall remain in the care, control and maintenance of the owner at that time.~~

~~The Applicant shall liaise with Council and the NSW Heritage Office regarding the appropriate construction standards so that the Power House and curtilage may be dedicated to the Council in the future, if Council chooses to accept the dedication. The final design detail of the Power House and curtilage is to be approved by the Department prior to the issue of the construction certificate for these works.~~

~~In the event that Council accepts the dedication, a public positive covenant and right of carriage way is to be created over the Power House and curtilage to allow full public access to the development to the dedicated area. In addition, the owner is to be burdened with the requirement to maintain the Power House and curtilage to the constructed standard. These mechanisms are to be created pursuant to Section 88B of Section 88BA of the Conveyancing Act, 1919 and are to be shown on the title of the land. Details of these mechanisms are to be approved by the Director prior to release of the relevant subdivision certificate or the strata subdivision certificate.~~

**Prior to the submission of any future application pursuant to this Concept Plan in relation to the Breakfast Point Power House site, the Proponent shall submit documentary evidence to the Director General that a Voluntary Planning Agreement has been entered into with Council for monetary contribution of \$1.65 million to Council in lieu of the public benefits originally intended from dedication of the Power House Building and associated curtilage (as identified in schedule 3).**