

24 June 2013



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# S75W Modification Breakfast Point – Seashores Precinct, Re-instate Residential uses: Supporting Environmental Assessment

## 1. Summary

This environmental assessment has been prepared by Jason Perica, Director of Perica and Associates Urban Planning Pty Ltd.

This report is an assessment of the environmental impacts associated with a modification to a Minister's approval of a Concept Plan at Breakfast Point, previously approved under Part 3A of the Environmental Planning and Assessment Act 1979 (EPA Act). The modification is made under s75W of the EPA Act, and relates to a proposal to re-incorporate residential uses within a part of the site yet to be constructed (the Seashores Precinct). These changes are within the envelopes previously approved, and reinstate residential uses previously and originally approved as part of the Concept Plan approval (while not exceeding the FSR control and also remaining within approved envelopes).

This proposed modification arises due to a previous proposal/approval to “convert” the Seashores Precinct into a Seniors Housing Precinct not proceeding, due to financial reasons. Therefore, the proposal is largely to revert to the previously approved residential uses within the approved envelopes and approved gross floor area for the Seashores Precinct. At the same time, the total number of apartments and car spaces is proposed to increase, with a further proposed “internal” change to the approved envelopes to not require the upper level to be linked to the level below.

The total number of additional dwellings is 173 (above the 227 seniors housing dwellings approved in the Seashores Precinct), while the total number of bedrooms is increasing by 101, including the bedrooms in the seniors housing development. This is because a larger number of 1 bedroom and 2 bedroom apartments are proposed as part of the modification. At the same time, no changes to height/number of storeys is proposed (other than converting an “attic” level to a storey). Further, the change does not increase the approved GFA for either the Seashores Precinct or the whole Concept Plan area.

The proposal has been assessed in accordance with the EPA Act 1979 and Regulations. The main issues relate to the increase in apartments above the previously approved total (but generally within the approved envelopes and

gross floor area), traffic impacts and the proposal to not retain the former Plumbers Workshop Building (consistent with the originally approved Concept Plan).

Having considered all issues related to the proposal, and in accordance with the EPA Act 1979, it is considered the proposal is suitable for the site and locality, and should be approved.

In summary, the proposal should be approved because:

- a. The proposal meets the objects of the EPA Act;
- b. The proposed use for the Seashores precinct is the same as originally approved;
- c. The proposal is generally consistent with the built form controls and envelopes already approved in the Concept Plan, and does not increase the overall GFA;
- d. The overall increase in apartments across the Concept Plan area is modest, at an additional 132 bedrooms or around 2%;
- e. The proposal meets the FSR standard within the Canada Bay LEP 2008 and the LEP objectives, and any non-compliances with provisions in a Schedule of the LEP are justified;
- f. The proposal meets the objectives, development standards and key terms of draft Canada Bay LEP 2011;
- g. The former Plumber's Workshop Building was previously approved to be removed and replaced with a residential building (and is not currently listed as a heritage item);
- h. The proposal does not compromise the quality of services for the site or the amenity of existing or future residents;
- i. The amenity of residents within the surrounding area will not be compromised by the proposal;
- j. Infrastructure (civil and social) is available to service the proposal;
- k. The traffic impacts associated with the proposal are acceptable;
- l. Appropriate parking is provided with the proposal to meet demands of future residents;
- m. The proposal will allow a greater mix of dwelling types to meet changing needs of the community;
- n.** Granting consent would be in the public interest.

## 2. Background

The following is a chronology of recent approvals and related matters for the site, and a brief description:

- **1998** – LEP 91 amended Concord Planning Scheme Ordinance to rezone the site “Residential E” and applied development standards, including an FSR of 0.7:1 (GFA 362,740sqm), with limitations on non-residential uses and a density maximum of 40 dwellings per hectare, equating to a maximum of 2073 dwellings.
- **1999 and 2002** – Masterplan approved for the whole site, and agreement between the owner and the Council reached regarding contributions towards infrastructure (\$1830/dwelling).
- **2005** – Concept Plan lodged for the “undeveloped” parts of the site, comprising 20.73 hectares of the 51.82 hectare site. The area outside the concept plan area, within the Masterplan area, had 876 dwellings and approximately 5000sqm of other uses (GFA 158,532sqm) approved or completed.
- **2005** – s94 Plan and s94A Plan adopted by Council.
- **7 April 2006** – Concept Plan approved, with modifications (hereinafter called conditions). This included approval for 989 dwellings (with allowance of an additional 200 to a total of 1189, provided details were approved), and 1519sqm of non-residential floor space. Other conditions related to contributions, details to follow, and matters to be addressed in subsequent applications. The Concept included 10 precincts, comprising a mixture of dwellings and apartments.
- **4 August 2006** – Approval by the Department of Planning (DoP) of further details required by the consent, including the additional 200 dwellings and a staging plan.
- **29 June 2006** – Project application approved for the Riverfront and Vineyards Precincts
- **30 June 2006** – Project application approved for The Point Precinct
- **13 July 2006** – Project application approved for the Vineyards North Precinct
- **29 July 2006** – Project application approved for the Country Club North Precinct
- **30 November 2006** – Modification to Project approval for Vineyards South Precinct

- **7 March 2008** – Canada Bay LEP 2008 gazetted (Comprehensive LEP). The site is zoned General Residential R1 and the 0.7:1 FSR as applicable under the previous LEP 91 was retained for the site (along with some other site-specific controls). No height limit is imposed on the site by the LEP.
- **11 March 2008** - Modification to Project approval for Vineyards North Precinct
- **6 October 2008** – Project application approved for Plantations Precinct
- **23 November 2008** – Project application approved for Silkstone Precinct
- **27 March 2009** - Modification to Project approval for Silkstone and Plantation Precincts
- **13 August 2009** - Modification to Project approval for Plantations Precinct
- **27 August 2009** - Project approval for Blacksmiths Workshop
- **7 September 2009** - Modification to Project approval for The Point and Plantations Precinct
- **21 September 2009** - Project approval for Blacksmiths Workshop
- **23 December 2009** - Modification to Project approval for Plantations Precinct
- **24 September 2010** - Modification to Project approval for the Plantation Precinct (Buildings 6C1 and 6C2) involving minor external changes
- **18 October 2010** – Modification to the Concept Plan approval for the Seashores Precinct for Seniors Housing within 4 approved residential building envelopes (and other miscellaneous changes)
- **7 December 2010** - Modification to Project approval for the Silkstone Precinct
- **16 December 2010** - Modification to Project approval to the Riverfront Precinct (pool and landscaping changes)
- **4 June 2011** – Kendall Bay Marina Project application refused
- **12 October 2011** - Modification to Project approval for the Point Precinct, with changes to the dwelling numbers and mix, car parking and gross floor area
- **28 November 2011** - Modification to Project approval for the Riverfront Precinct (pool and associated landscaping)
- **13 January 2012** - Project approval for a 5 storey residential building at the Seashores Precinct (7D5, southern section) with 60 apartments;

- **15 March 2012** - Modification to Project approval at the Point Precinct (Building 5B2) involving minor changes to the envelopes, changes to unit numbers and mix and additional parking
- **19 September 2012** – Modification to the Concept Plan approval for 6 dwellings in the Powerhouse Precinct, remediation and subdivision
- **2 October 2012** – DA 184/2012 approved by Canada Bay Council for 7B2 with 91 dwellings
- **15 October 2012** – Modification to Project approval for a building in the Harbour Precinct (Building 5B1) with changes to the dwelling numbers and mix, car parking and gross floor area;
- **14 June 2013** - DA 65/2013 for 100 dwellings at Building 7B1 and DA 68/2013 for 4 dwellings at Building 7B3 approved by Canada Bay Council;
- **June 2013** – Recommendation made regarding a Modification to the Concept Plan approval relating to a Community Enhancement Plan (Condition 9), understood to have been approved.

So as can be seen above, there has been two previously approved modifications to the approved Concept Plan, one of which related to the Seashores Precinct to “convert” residential uses to a Seniors Housing development and other miscellaneous changes. The essence and form of the originally approved Concept Plan has been maintained since 2005, and moreso with the subject proposal to revert to residential uses in the Seashores Precinct.

In addition to the above, there is also one application currently being assessed by Canada Bay Council, as follows:

- DA 126/2013 for 6 Town Houses at the Powerhouse Precinct (with Canada Bay Council).

Canada Bay Council previously prepared and exhibited a draft comprehensive LEP for its Local Government Area, which incorporates a number of changes at Breakfast Point, including controls applying to the Concept Plan area. Further detail regarding these changes is provided in Part 5 of this report.

The draft LEP was exhibited between 14 November 2011 and 24 February 2012 and Council received 226 submissions.

The draft LEP was reported to the elected Council on 17 July 2012 and it was resolved to re-exhibit the draft LEP for a further period of 28 days between 20 August 2012 and 17 September 2012. Further changes to Breakfast Point were proposed (including changes after the original exhibition period).

The draft LEP was subsequently submitted to the Department of Planning and Infrastructure and is expected to be gazetted soon.

### 3. Site and Locality

The whole of the Breakfast Point site 51.82 Hectares (Ha), of which 20.73 Ha is within the Concept Plan area. The site is located on the Mortlake Peninsula, approximately 9km west of Sydney CBD, and is wholly located within the Local Government Area of Canada Bay. It is bounded by Tennyson Road, Emily Street and Adams Lane to the west, and Brays Road, Bishop Street and Medora Street to the south and east. The site has frontage of approximately 1.3km to Parramatta River, to the north and east.

The Site was formerly occupied by the AGL gasworks, which has since been decommissioned, and the site has been remediated.

In terms of the current status of the Breakfast Point development (as at September 2012), there are 1586 dwellings completed (of 2069 approved), with 160 under construction, 60 approved by DA, 160 being assessed and 103 to be submitted/constructed.



S75W Modification – Seashores Precinct – Reinstate Residential uses



Site

☆ Seashores Precinct

The following recent photos show parts of the site relevant to the proposed modification.



**Photo 1:** View east (7D5 on left)



**Photo 2:** Former plumbers workshop



**Photo 3:** View NW across Seniors Living



**Photo 4:** View NE across The Point Precinct



The former Plumber's Workshop building is not heritage listed (see Photo 2 above), although is a proposed heritage item in draft Canada Bay LEP 2011, after being added as a proposed item after original exhibition of the draft LEP. The site is not located in a Heritage Conservation Area.

The "Seashores Precinct" is undeveloped, with the exception of the former Plumbers Workshop Building and Building 7D5 to the south, and contains no trees. It is surrounded by internal streets on three sides, while part of the southern boundary adjoins three buildings, which vary from 3-9 storeys in height, within the "Spyglass Hill" precinct. The precinct has good access to the Village Centre, open space (including the foreshore walk and Village Green), and bus services along Tennyson Road. The site has been remediated and some clean fill exists on the site.

Surrounding development is characterised by low density housing. Industrial and maritime-related uses exist along Tennyson Road to the west. Cabarita Park and Majors Bay Reserve are located within 1km of the site.

#### 4. Proposal

Essentially, the proposed modification involves 5 components, being:

1. Residential Uses within 5 building envelopes within the Seashores Precinct, as opposed to Seniors Housing use as previously approved in a Modification approval, but consistent with the original Concept Plan approval. This includes Buildings 7D1-7D4 and 7D6, the latter being the central building to replace the existing former Plumbers Workshop Building;
2. An increase in the number of apartments from 1416 apartments in the Concept Plan Area (being the previously approved 1189 apartments + 227 Seniors Housing Units) to 1589 apartments (an increase in 173 apartments), yet within the total approved gross floor area;
3. A change to the internal configuration of the approved envelopes within the Seashores Precinct to remove a requirement for the top

“attic” floor to be linked to the floor below (thereby being 6 storeys rather than 5 + attic floors); and

4. An increase in the number of car spaces within the Seashores Precinct from 304 to 555 spaces.

It is important to note that these changes do not increase the overall GFA/FSR within either the Seashores Precinct or the overall Concept Plan area. While there is some change to the envelopes within the Seashores Precinct due to the change to the upper level from an attic to a more conventional storey, the overall height is not increasing (indeed it will be lower due to the change from a pitched to a flat roof).

The proposal stems from internal reconfiguration of buildings to better respond to the market, in terms of dwelling sizes and unit mix, and associated changes in the provision of parking, while respecting both the aesthetic of the Concept Plan area and the key parameters of the originally approved Concept Plan.

The changes to the approved Concept Plan are shown on Page 29 of the Concept Plan amendment Plans by Giles Tribe Architects and Urban Planners.

The following table summarises the uses approved within the Concept Plan, and the proposed modification:

Uses	Concept Plan approved <sup>#</sup>	Proposed Modification	Comment
<b>Retail</b>	2141sqm	2141sqm	No change
<b>Commercial</b>	2460sqm	2460sqm	No change
<b>Community</b>	2077sqm	2077sqm	No change
<b>Res. Units<sup>#</sup></b>	1416	1589	173 extra units
<b>1 Bedroom</b>	389	564	Extra 175
<b>2 Bedroom</b>	704	741	Extra 37
<b>3 Bedroom+</b>	317	284	33 less

**Table 1** – Summary of proposal compared to Concept Plan approval

# Includes 227 Seniors Living Units (which included a total of 509 bedrooms)

### **Modifications required to the Concept Plan approval**

This is included in **Attachment 4** of this report, where all changes to the approval are shown as ~~strike through~~ for deletions and new provisions shown in ***bold and italics***. A “fresh” set of plans is provided at **Attachment 1**, for which approval is sought.

## **5. Economic, Social and Environmental Impacts**

The application has been assessed under s75W of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

### **5.1 Objects of the EPA Act**

The proposal is consistent with the objects in Section 5 of the Act. Particularly, the proposal is consistent with objects relating to economic and orderly development of land, and principles of Ecologically Sustainable Development. In terms of impacts from Climate Change, the buildings are well above sea level, and the changes proposed in the modification will not lead to adverse consequences in terms of climate change.

### **5.2 Environmental Planning Instruments and Draft Environmental Planning Instruments**

#### **(a) State Environmental Planning Policies**

There are three relevant State Environmental Planning Policies (SEPPs), being Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, which is a deemed SEPP, State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Infrastructure) 2007.

### ***Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005***

As no physical works or changes are proposed, the relevant parts of this instrument relate to its' objectives and the matters to be considered in assessing development applications.

The objectives and principles outlined in Sections 2 and 13 of the deemed SEPP seek to "*recognise, protect, enhance and maintain Sydney Harbour and its catchment... as a national public asset... for existing and future generations*". In terms of land based development, the impact of new proposals on the setting of the harbour and the visual impact upon the harbour is an important consideration.

In this regard, while no works are proposed, the envelopes and buildings will remain largely unchanged compared to the original approval. No adverse impact will arise from the proposal on the setting and qualities of Sydney Harbour. This is consistent with the aims of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Similarly, all of the matters for consideration in Division 2 of the Plan, insofar as they are relevant to the proposal, are such that they lead to a reasonable conclusion to support the proposal.

### ***State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (SEPP 65)***

This is not directly applicable at Concept Plan stage, although the rules of thumb applicable to building envelopes are relevant to consider, as is whether the proposed modifications would achieve the principles of SEPP 65.

It is again highlighted that the proposal is generally consistent with the approved envelopes and uses as originally approved in the Concept Plan. So the separation of buildings, length/depth of buildings etc, remain the same.

The following table provides a response to each of the 10 Principles within SEPP 65, concentrating on the modifications, rather than what is already approved:

PRINCIPLE	COMMENT
<b>1 Context</b>	The context of high quality buildings set in a landscaped waterfront site will be retained.
<b>2 Scale</b>	The scale remains generally unchanged from the approved concept plan.
<b>3 Built Form</b>	The built form remains generally unchanged from the originally approved concept plan.
<b>4 Density</b>	The density is below the maximum FSR for the site and below the previously approved maximum GFA approved in the Concept Plan (both the precinct and overall Concept Plan area). There is change proposed to the unit composition, although the overall changes are not significant in the context of the approved concept plan. While the number of units is proposed to increase by 173 in the Seashore Precinct, there is only an increase in 132 bedrooms in the Seashores Precinct, and an overall increase of 101 bedrooms (APPROXIMATE 2% change across the whole Concept Plan site).
<b>5 Resource, Energy and Water Efficiency</b>	Future residential buildings will comply with BASIX. Providing dwellings better suited to market demand is efficient use of resources.
<b>6 Landscape</b>	The landscape qualities of the site will not be affected. A greater range of occupants will be able to enjoy the site's landscape and harbour setting.
<b>7 Amenity</b>	The buildings will have high amenity. There will be negligible impact on the amenity of existing or surrounding residents from the proposed modifications.

PRINCIPLE	COMMENT
<b>8 Safety and Security</b>	These are matters for detailing at the DA stage. The proposed modifications do not significantly alter previously approved envelopes.
<b>9 Social Dimensions</b>	The change in unit composition allows a greater unit mix, and therefore likely greater mix of household types. The revised unit mix across the Concept Plan area includes 284 three-bedroom apartments (18%), 741 two-bedroom apartments (46%) and 564 one-bedroom apartments (35%). This is a balanced mix.
<b>10 Aesthetics</b>	The proposal does not significantly alter the originally approved building envelopes. The aesthetic quality of future buildings will remain high and can be considered at the DA stage.

**Table 2** – SEPP 65: 10 principles summary response

### **State Environmental Planning Policy (Infrastructure) 2007**

The Seashores precinct has 304 car spaces approved (relative to the Concept Plan Modification Approval 1), or 367 spaces as originally approved in the Concept Plan. The proposal involves 555 car spaces in the Seashores Precinct. This is above the 200 car space threshold for referral to the RTA in Schedule 3 of the SEPP (although there is less than 200 compared to the original Concept Plan approval).

A Traffic and Parking Impact Assessment is included as **Attachment 2**.

### **(b) Local Environmental Plan – Canada Bay LEP 2008**

The proposal is permissible with development consent in the Residential R1 zoning.

The various aims and objectives of the LEP have been considered, and the proposal is not inconsistent with any aims and objectives, while being consistent with the following objectives of the LEP:



- (d) *to ensure development embraces the principles of:*
  - (i) *ecological sustainability, and*
  - (ii) *quality urban design,*
- (e) *to identify and conserve those items and localities that contribute to the local, built form, environmental and cultural heritage of Canada Bay,*
- (f) *to promote opportunities for social, cultural and community activities,*
- (j) *to provide clarity and certainty for the community and development applicants, while allowing flexibility to respond to changing needs.*

The objectives of the Residential R1 zone are also met. In particular:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

In terms of other provisions of the LEP:

- a) The FSR applying to the site is 0.7:1. The proposal does not breach this control and does not increase the total Gross Floor Area approved in the Concept Plan;
- b) No height limit applies to the site. The height controls are governed by the approved Concept Plan, and are not being varied as part of this proposal (the maximum height is not increasing). The internal change relating to the top two levels or envelopes in the Seashores Precinct is minor;
- c) No trees are required to be removed as a consequence of the proposal;
- d) Part of the Seashores Precinct is identified as Class 2 in the Acid Sulphate Soil map. This matter can be appropriately addressed at the time of the relevant development application;

- e) The parts of the site affected by the proposal are not affected by the Foreshore Building Line;
- f) Two Heritage items are identified in the LEP for the Concept Plan area, but both are unaffected by the proposed modification;
- g) The matters in Schedule 6 of the LEP have all been considered and it is particularly noted:
  - The Seashore Precinct is located in Precinct B3, which encourages taller building forms and integration with heritage items (2(b)(vii));
  - The proposal meets the objective of providing a mix of land uses and housing for various ages or people with a disability (2(f)). The removal of split level apartments at the upper levels will improve overall accessibility;
  - The non residential land uses do not exceed 15% (5(1)(a));
  - Business and retail uses do not occupy more than 10,000sqm and the proposal does not alter this aspect (5(1)(c));
  - The maximum number of dwellings does exceed 40 dwellings per hectare (5(2)), although the density proposed is below the maximum FSR; the GFA is not increasing and this standard is being removed in the draft Canada Bay LEP 2011.
  - Traffic impacts have been assessed (5(3)).

### **(c) Draft Canada Bay LEP 2011**

Canada Bay Council has prepared and exhibited a draft comprehensive LEP for its Local Government Area, which incorporates a number of changes at Breakfast Point, including controls applying to the Concept Plan area.

The draft LEP was exhibited between 14 November 2011 and 24 February 2012 and Council received 226 submissions. The draft LEP was reported to the Council on 17 July 2012 and it was resolved to re-exhibit the draft LEP for a further period of 28 days between 20 August 2012 and 17 September 2012. Again further changes to Breakfast Point were proposed following the original exhibition period.

The following summarises the changes in the draft LEP compared to the current LEP:

### **Zoning**

The draft LEP includes a zoning change from the previous Residential R1 to a range of zonings from Medium Density R3, Low Density residential R2, Neighbourhood Centre B1, Public Recreation RE1 and Private Recreation RE2 (note this was altered following consideration of submissions at the Council meeting on 17 July 2012).

These zones generally reflect the existing/approved development, and is shown in the Figure below. The zoning of the Seashores Precinct is Medium Density R3 and apartment buildings are permissible with consent.

Marinas have been prohibited in the Medium Density R3 zone in the re-exhibited draft LEP (not in the originally exhibited draft Plan). This is not relevant to the current application.



**Figure 1** – Zoning draft Canada Bay LEP 2011

### **Heritage**

The draft LEP includes the (local) heritage listing of the former Plumbers Workshop Building, which was not previously a heritage item and was previously approved to be demolished in the originally approved Concept Plan (note the draft map appears to incorrectly locate the building by colouring the whole Seashores Precinct). No specific Heritage Study was undertaken by the Council and it appears to result from recognition that the building has some interest and was proposed to be retained in the previously approved Modification to the approved Concept Plan related to the Seniors Housing proposal. As previously stated, this development is not proceeding and the former Plumber's Workshop Building was integrally linked to the proposal (for use as central communal facilities).

A Heritage Impact Statement has been prepared by Giles Tribe Architects and Urban Planners at **Attachment 3**.

### **Floor Space Ratio (FSR)**

The FSR is unchanged at 0.7:1 in the draft LEP. The proposal complies with the FSR limit and the approved GFA for the Concept Plan area is 0.67:1, below the maximum FSR proposed. The approved GFA is not increasing as a result of the proposed modification.

### **Height Limit and Lot Size and Environmental Protection**

No controls regarding these matters are contained in the draft LEP (no change to the current situation). The height and lot configuration is governed by the Concept Plan approval.

### **Acid Sulphate Soils**

The site is part Class 2, and mostly Class 5 in the draft LEP (no change to the current situation). This can be addressed at the DA stage.

### **Schedule 6 Matters**

As previously stated and addressed, Canada Bay LEP 2008 contains a number of objectives and standards applying to the Breakfast Point site within Schedule 6 of that Plan. The draft LEP removes this Schedule and the associated controls. This was in response to three main reasons:

- (a) State Government objectives relating to the need to simplify controls and reduce site-specific controls;
- (b) Recognition of the existence of the Concept Plan and original Masterplan to govern redevelopment and set development parameters and objectives; and
- (c) That density controls are governed by an FSR control, as occurs elsewhere.

The main standard proposed to be removed of relevance is the 40 dwellings per hectare control. As stated, density is appropriately regulated by the FSR control (noting the approved GFA is not increasing). The total proposed dwellings represents approximately 47.6 dwellings per hectare, but the GFA is less than the permissible 0.7:1. This is a result of the need to incorporate smaller dwellings over time to respond to market demand, noting the total bedrooms has only increased by around 2%.

### **(d) Section 94**

In terms of the Concept approval and background, some elaboration is beneficial for context:

- The Concept approval (approved April 2006, with further detail for an extra 200 apartments approved in August 2006), required a contribution of \$1830 per unit for the first 989 apartments and \$7200 for the additional 200 apartments (to 1189 apartments), the latter being towards a community enhancement fund linked to the additional 200 apartments.
- The \$1830 per unit was \$1166 for roads (64%), \$412 for open space (23%) and \$251 for community facilities (13%) – Condition 8.

- The \$7200 rate in the Concept Plan approval was not broken down into components, and required the establishment of a Trust Fund or the like (and community enhancement fund), linked to the additional 200 apartments.
- The Director General's assessment report on the Concept Plan (pg 22-23) outlined that the 2002 Masterplan provided for a community Centre, child care centre and 15 hectares of open space, and in relation to contributions there was an agreement between the Council and Rosecorp in 2001 (of \$1830 per dwelling, based on a discounted rate for the community facilities in the Masterplan). Subsequently, Council adopted a new s94 Plan with higher rates in for Breakfast Point in 2005.
- The rationale for the levies required in the Concept approval was, in summary:
  - \$1830 per dwelling for the 989 dwellings (on the basis this was the number of dwellings originally envisaged in the 2002 Masterplan and the rate as agreed between the parties at the time); and
  - Establishment of a Trust fund of \$1.4M (which equated to \$7200 per dwelling for the additional 200 apartments above 989 dwellings, or roughly the s94 rate for a 2 bedroom unit at the time) – note the mechanism for the expenditure of this money is subject to an imminent determination of a modification to the Concept Plan approval.

### **Council s94 Plans**

Council has two s94 Plans applying to the site, levying for similar things. One is a "standard" Section 94 Plan, while the other is a s94A Plan, requiring a contribution of 1% of development cost for development over \$200,000. Only one Plan/levy can be imposed under the provisions of the Act, although other than the legal limitation that only one levy can be applied, the Plans are not clear about which levy/Plan is to be used.

These Plans are outlined below:

### **Section 94 Plan**

The S94 Contributions Plan for the Concord Area became effective on 14 March 2005 (prior to the Concept Plan approval). Under the Plan,



contributions are levied for 3 things: Open Space, community facilities and roads. The contribution rates for open space and community facilities are consistent across all suburbs covered by the Plan, while the road contribution varies across areas.

The contribution varies based on the number of bedrooms, which is in turn calculated based on assumed occupancy derived from Census data, as below:

Contribution for	Based on # persons
<u>Other dwellings</u>	
1 bedroom	1.1
1 bedroom, 1 other	1.5
1 bedroom, 2 other	2
2 bedrooms	2
2 bedrooms, 1 other	2.3
2 bedrooms, 2 other	2.6
3 bedrooms	2.6
3 bedrooms, 1 other	2.8
3 bedrooms, 2 other	4
4 bedrooms	4
4 bedrooms, 1 other	4
4 bedrooms, 2 other	4

**Figure 2** – Extract of Council s94 Plan occupancy

The contribution rates for Breakfast Point (2012-2013 rates, extracted from Council's website) are: 1BR = \$5295.69, 2BR = \$9628.51, 3BR = 12,517.06, 4BR = \$19256.97.

### Section 94A Plan

The s94A Plan was originally in force on 14/12/05 (prior to the Concept Plan approval) and has been amended 3 times, the most recent being 19/11/2008. It requires a 1% levy for all development over \$200,000. Such a levy cannot be imposed if a s94 Contribution under the other s94 Plan is applied. It is payable at Construction Certificate stage. A "material public benefit" may be offset against the levy.

The collected levies go towards a long list of works (Schedule 1 in the Plan). These include specific works within the categories of:

- Open Space and recreation (parks, planting, landscaping, furniture etc)
- Civil infrastructure (public toilets)
- Public Buildings (library, childcare, meeting rooms, amenities, lifts in halls)
- Footpaths
- Wharves, jetties and seawalls
- Drainage
- Roads
- Bicycle, traffic, bus shelters, car parking
- Main street upgrades

Many of these matters, as they relate to the population at the Breakfast Point development, have been provided by the developer at no cost to Council.

### Options for Applying s94 Levy

Having regard to all of the above, there would appear to be several options to consider:

Option	Comment
1. Levy at 1%	This would be in line with the Council's current s94A Plan but inconsistent with standard approaches for new dwellings and the Concept Plan approval (and in any event should only apply to increased costs from the modification).
2. Levy based on the current applicable Council Section 94 Plan, although applied based on changes to dwelling types	Overall, there is a change in composition of 1, 2 and 3 bedrooms apartments (compared to the Seniors Housing Development) is as follows: 1 BR: +192 apartments 2 BR: +34 apartments 3 BR: -53 apartments
3. Levy based on \$7200 for each extra dwelling above 1189	This may be consistent with the original Concept Plan approval, but would not account for changes in dwelling sizes and population.

**Table 3 – s94 Contribution Options**

Of the 3 above options, **Option 2 is favoured**, as it is consistent with the principles behind Section 94 of the Act relating to changes in demand for facilities. That is, a “user pays” principle based on demand generated by development. The demand is created by people, so the people generated by a development proposal is most relevant.

### 5.3 Key Issues

#### 5.3.1 Impact on the amenity of existing and approved buildings

No occupied buildings currently exist in the Seashore Precinct, where the changes are proposed. The amenity of those future apartments will be high, and compliance with amenity controls through SEPP 65 will be addressed at the detailed design/DA stage.

The originally approved building envelopes do not alter. The main amenity impacts on existing residents will relate to construction impacts and traffic. In terms of construction impacts, as the GFA and envelopes are not changing (indeed the GFA is decreasing), the timeframe for development will be the same. Changing the proposal to respond to market need will actually speed up development construction, which is an issue of concern for existing residents.

Matters of amenity during construction can and are regulated by conditions of approval at DA stage.

In terms of traffic impacts, this is addressed in the following section. The internal road layout is not intended to be changed and the traffic impacts are not significantly different to the approved Concept Plan.

#### 5.3.2 Traffic generation and proposed resident/visitor parking

A report on the traffic impacts related to the proposed modification is attached as **Attachment 2**. That report has been prepared by Colston Budd Hunt and Kafes Pty Ltd, who have been the traffic and transport consultant through the life of the Masterplan and Concept Plan for Breakfast Point.

The traffic assessment assigns traffic generation to different unit types before and after the proposed modification. The addition of units within the site was

then considered, including likely traffic routes. Traffic counts were taken of likely routes (Tennyson Road, Peninsula Drive and Magnolia Drive), during weekday morning and peak periods (to establish the “worst case” impact). These counts showed Tennyson Road to carry the highest traffic, but with a relatively modest 165-260 vehicle trips per hour (two way).

The report finds that the traffic impacts will be approximately 65-165 extra vehicles per hour (two way) on Tennyson Road (and 65-105 extra vehicles on Peninsula Drive and Magnolia Drive, two way). This was then analysed using SIDRA modelling to estimate the impact of traffic volumes on intersection performance. The resulting impact on the intersections of Tennyson Road with Peninsula Drive and Magnolia Drive would be of delays of less than 15 seconds, or an equivalent level of service of A-B (with A being the best and E the lowest ranking). The report concludes “the surrounding road network will be able to cater for the additional traffic from the proposed development”.

In terms of parking provision, the apartments will be provided parking at the rate provided for the remainder of the development, and consistent with Council’s parking controls within its current DCP. The rate of parking provision is two spaces for 3 bedroom apartments, 1.5 for 2 bedroom apartments and 1 space for 1 bedroom apartments. Visitor parking (on street) is provided at a rate of one space per 5 units.

For the Seashores Precinct, there are 251 more car spaces proposed due to the increase in units. However, as these are within basements, the main issue and impact relates to traffic impacts, which are addressed in the Traffic Impact report.

### **5.3.3 Population forecast comparison**

The Council’s Section 94 Plan indicates different assumed occupancies for different types of dwellings (1.1 people for 1 bedroom apartments, 2 people for 2 bedrooms and 2.6 people for 3 bedrooms).

Using the net changing in units for different bedroom types results in a assumed increase in population of 141 people. This is not significant and represents a change in population of less than 3%.

## **6 Suitability of the Site/Other Matters**

There will be no significant negative impacts from the proposal on the amenity of surrounding land. The site, including its harbour location, is well suited to the proposal.

## 7 Public Interest

Granting consent would be in the public interest, as it allows the approved Concept Plan to be adapted to better respond to market demand, while retaining the integrity of the original approval and complying with the core density control applying to the site. Overall, the proposal seeks to reinstate an approved use generally within previously approved envelopes, with changes to unit mix and car parking. This will allow the remaining portions of Breakfast Point to be completed providing variety and greater choice of housing stock.

## 8 Conclusion

Having considered all issues related to the proposal, and in accordance with the EPA Act 1979, it is considered the proposal is suitable for the site and locality, and should be approved.

In summary, the proposal should be approved because:

- a. The proposal meets the objects of the EPA Act;
- b. The proposed use for the Seashores precinct is the same as originally approved;
- c. The proposal is generally consistent with the built form controls and envelopes already approved in the Concept Plan, and does not increase the overall GFA;
- d. The overall increase in apartments across the Concept Plan area is modest, at an additional 132 bedrooms or around 2%;
- e. The proposal meets the FSR standard within the Canada Bay LEP 2008 and the LEP objectives, and any non-compliances with provisions in a Schedule of the LEP are justified;
- f. The proposal meets the objectives, development standards and key terms of draft Canada Bay LEP 2011;
- g. The former Plumber's Workshop Building was previously approved to be removed and replaced with a residential building (and is not currently listed as a heritage item);
- h. The proposal does not compromise the quality of services for the site or the amenity of existing or future residents;
- i. The amenity of residents within the surrounding area will not be compromised by the proposal;
- j. Infrastructure (civil and social) is available to service the proposal;

- k. The traffic impacts associated with the proposal are acceptable;
- l. Appropriate parking is provided with the proposal to meet demands of future residents;
- m. The proposal will allow a greater mix of dwelling types to meet changing needs of the community; and
- n. Granting consent would be in the public interest.



Jason Perica  
Director

#### ATTACHMENTS

1. Concept Plan 2005 (Amended 2013) – ie Proposed Plans
2. Traffic and Parking Impact Assessment by Colston Budd Hunt Kafes
3. Statement of Heritage Impact by Giles Tribe Architects and Urban Planners
4. Schedule of proposed changes to the Concept Plan approval conditions