



ADDENDUM REPORT:

MOD 3 Breakfast Point Concept Plan 2005

**Modification to Condition No. 9 requiring a
Community Enhancement Plan**

Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

June 2013

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BACKGROUND

This modification application seeks to amend Condition No. 9 of the Breakfast Point Concept Plan to transfer the responsibility for the preparation of the Community Enhancement Plan from the Applicant (Rose Property Group) to Canada Bay City Council.

The application has been assessed by the Department. The draft Director-General's Environmental Assessment Report, dated May 2013 included an assessment of the proposed modification and recommended approval of the modification request.

A copy of the report and recommended instrument of approval, including conditions was placed on the Department's website on 24 May 2013.

On 3 June 2013, Canada Bay City Council forwarded comments noting a drafting error in the proposed amendment to Condition 9 relating to the struckthrough reference to 'Council.'

Council questions their authority to manage the CEP process if there is no specific reference to 'Council' in amended Condition 9.

DEPARTMENT'S CONSIDERATION OF THE ISSUE

- a) The Department notes the draft version of amended Condition 9 included a struckthrough reference to 'Council' which is now deleted.
- b) The Department considers that the proposed arrangement, whereby the responsibility for the CEP is transferred from the Applicant to the Council, can be achieved by deleting the reference to 'Applicant' in Condition 9 without a specific reference to 'Council'.
- c) The Department notes that Council has confirmed acceptance to prepare the CEP by Council resolution. The Department also notes that Council has accepted a monetary payment from the applicant for the cost of the CEP and commenced the CEP process by way of preparation of a consultant brief outlining the scope of the project. It follows that there is no question as to Council's authority to manage the CEP process and the modified proposal remains consistent with the intent of Condition 9.
- d) The Department therefore considers that the requirements of the Concept Plan remain secure. Furthermore, the CEP is still required to be submitted and approved by the Minister to ensure the requirements of the Concept Plan have been satisfied.

CONCLUSION

The Department has considered the comments received from Council and formed the view that modified Condition 9 of the Concept Approval is acceptable.

The Department is of the opinion that no additional comment is required.

An amended modifying instrument is attached.


RECOMMENDATION

It is recommended that the Executive Director of Development Assessment Systems and Approvals, as delegate for the Minister for Planning and Infrastructure:

- **consider** the findings and recommendations of the draft Director-General's Environmental Assessment Report;
- **consider** the findings and recommended of this addendum report;
- **approve** the modification subject to conditions; and
- **sign** the attached updated instrument of modification.

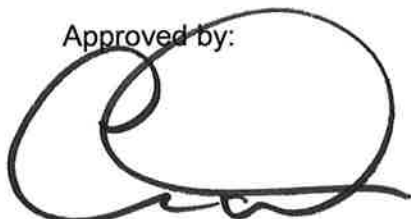
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APPENDIX A RECOMMENDED MODIFYING INSTRUMENT
