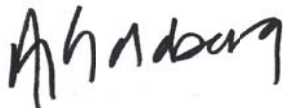


Modification of Minister's Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation dated 14 September 2011, the Planning Assessment Commission of NSW approves the modification of the Concept Plan referred to in schedule 1, subject to the conditions in schedule 2.



Member of the Commission



Member of the Commission

Sydney

1 April 2014

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 and 19 September 2012 and 5 July 2013.
- For the following:** Concept approval for development solely within the concept plan area including:
- (1) 183,480m² maximum gross floor area;
 - (2) 1,519m² maximum commercial and non-residential uses (within the 183,480m² maximum gross floor area specified above);
 - (2a) 37,004m² 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 183,480m² 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 4 for:
- replacement of the approved Seniors Housing (227 dwellings equating to 509 beds) (not developed yet) within 4 approved building envelopes equating to 400 residential dwellings;
 - retention of existing approved envelopes with external design changes including introduction of flat roof form for Buildings 7D2, 7D3 and 7D4 resulting in an additional storey to these buildings;
 - adaptive reuse of the Plumber's Workshop for residential apartments;
 - increase the dwelling cap from 1189 dwellings to 1589 dwellings; and
 - increase the number of car spaces within the Seashores Precinct from 304 to 510 car spaces.

SCHEDULE 2 CONDITIONS

The above approval is modified as follows:

- a) Condition 1 is amended by 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 and **by Giles Tribe Architects & Urban Planners dated 22 November 2013 – Issue 8** including:

- (1) 183,480m² maximum gross floor area;
- (2) 1,519m² maximum commercial and non-residential uses (within the 183,480m² maximum gross floor area specified above);
- ~~(2a) 37,004m² 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 183,480m² maximum gross floor area specified above);~~
- (3) **989 maximum of 1,589** 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 ~~4,189~~ **1,589** 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 **and by Giles Tribe Architects & Urban Planners dated 22 November 2013 – Issue 8.**
- (2) **Revised** Statement of Commitment for the Concept Plan prepared by Rosecorp (24 March 2006) **at Schedule 4**
- (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) The following condition is inserted as **bold and underlined** as follows:

9A Additional Monetary Contributions – Section 94 Contributions

Future applications for dwellings 1189 to 1589 shall pay Section 94 Contributions in accordance with the applicable relevant Canada Bay Council Section 94 Contributions Plan at the time of approval.

d) The following condition is inserted as **bold and underlined** as follows:

16A Seashores Precinct

Future applications within the Seashores Precinct shall demonstrate consistency with all relevant conditions of this approval and the following additional requirements:

- (1) **Future applications for residential buildings shall include a Travel Access Guide (TAG) / Green Travel Plan, to encourage public and active transport use for future occupants and visitors.**
- (2) **Future applications in the Seashores Precinct shall provide an additional 20 dedicated visitor spaces on site (not on street) in addition to the provision of on street visitor car parking in accordance with the rates outlined in the Breakfast Point Concept Plan 2005.**
- (3) **Future applications for buildings within the Seashores Precinct shall provide roof forms including potential flat roof forms that complement the character and design aesthetic of the Breakfast Point locality and that enhance the scenic quality of the foreshore.**
- (4) **Future applications for buildings in the Seashore Precinct are to include evidence of the satisfaction of Commitment B15 of the proponent's Statement of Commitments (refer Schedule 4) which provides that Breakfast Point Pty Ltd will establish a fund (the Seashores Precinct Works Fund), within twelve (12) months of the date of the approval of Modification Application No. 4, in the amount of \$1.78 million (ex. GST) for the Seashores Precinct Works as outlined therein. The Seashores Precinct Fund will be used to pay the Breakfast Point Community Association's costs of undertaking the Seashores Precinct Works which include Country Club upgrade / expansion and provision of CCTV and parking road signage.**

e) Condition 18 is amended by insertion of the **bold and underlined** words and deletion of ~~struck out~~ words as follows:

18 Strata Subdivision

Approval is granted to strata subdivision solely within the concept plan area for the creation of 4,489 **1,589** strata lots (for residential dwellings) and a reasonable number of ancillary strata lots required for common areas (such as foyers, corridors plant rooms and the like). The indicative number of strata lots shall be submitted to the Department at the time of the relevant project application and the Director General shall determine what constitutes a reasonable number of common area strata lots for any individual project application.

The total number of common area lots within the concept plan area shall not exceed 15% of the 4,489 **1,589** strata lots approved.

f) The following Schedule is to be inserted as follows:

SCHEDULE 4

BREAKFAST POINT CONCEPT PLAN
REVISED STATEMENT OF COMMITMENTS

DEFINITIONS

In this approval the following definitions apply:

Act means the Environmental Planning and Assessment Act, 1979 (as amended).

BCA means the Building Code of Australia.

Breakfast Point Concept Plan 2005 means the project described in Schedule 2, Part A, Condition A1 and the accompanying plans and documentation described in Schedule 2, Part A, and Condition A2.

Concept Plan Area means the land coloured pink in Figure 1.02 of the Breakfast Point Concept Plan 2005.

Council means City of Canada Bay Council.

Department means the Department of Planning or its successors.

Director General means the Director General of the Department of Planning

Minister means the Minister for Planning.

Project means development that is declared under Section 75B of the Act to be a project to which Part 3A of the Act applies.

Proponent means the person proposing the carry out of development comprising all or any part of the project, and includes persons certified by the Minister to be the proponent.

Regulations mean the Environmental Planning and Assessment Regulations, 2000 (as amended).

RTA means the Roads and Traffic Authority.

Subject Site has the same meaning as the land identified in Part A of this schedule.

BREAKFAST POINT CONCEPT PLAN

ADMINISTRATIVE CONDITIONS

A1. *Development Description*

Concept approval is granted only to carrying out the development described in detail below:

- (1) Development of all items within the Concept Plan Area as described by the Breakfast Point Concept Plan 2005.

A2. *Development in Accordance with Plans and Documentation*

The development shall be in accordance with the following plans and documentation: (1)

Breakfast Point Concept Plan prepared by Giles Tribe Architects and Urban Planners (2005);

- (2) Preferred Project Report and Statement of Commitments.

Except for otherwise provided by the Department's conditions of approval as set out in Schedule 2, Part B and the proponent's statement of commitments as set out in Schedule 2, Part C.

A3. *Inconsistency Between Documentation*

The proponent will rectify all inconsistencies between the plans and documentation set out at Condition A2, within three months of the determination date of the Breakfast Point Concept Plan to the satisfaction of the Department.

In the event of any outstanding inconsistency between conditions of this concept approval and the plans and documentation referred to above, the conditions of this concept approval prevail.

A4. *Determination of Subsequent Project Applications*

The determination of subsequent applications for project approval is to be generally consistent with the terms of approval of the Breakfast Point Concept Plan and subject to the conditions of approval set out herewith.

GENERAL***B1. Development Control***

Any departure from the terms of approval of Breakfast Point Concept Plan as described in Schedule 1 – Part A will require lodgement of further detailed plans and documentation to the Department addressing, and where required revising, development envelopes, the internal circulation network (within the Concept Plan area), and any other aspect of the proposal that requires amending.

Any revised plans and documentation will provide (but not be limited to):

- (1) An urban design strategy including detailed analysis of the physical, environment, social, cultural and economic aspects of the site informing opportunities and constraints resulting in an agreed urban design option.
- (2) An analysis of existing buildings, existing building heights and footprints, surrounding street and block pattern, existing delineation of public and private open space, topography and view corridors.
- (3) An appropriate built form, building height, open space, view corridors, density, vegetation strategy, entry points, car parking and traffic management and road hierarchy.

The timing, format and content of further detailed plans and documentation to be lodged in respect of Condition B1 will be agreed by the Department.

B2. Land Contamination Investigation

Future applications for project approval will be consistent with the appropriate Site Audit Statements and carried out in accordance with the Breakfast Point Site Management Plan Revision E.

B3. Construction Management

Prior to commencement of works on the site the proponent will submit a Construction Management Plan, to the satisfaction of the Department. The Construction Management Plan shall address the following (at a minimum):

- Traffic management
- Noise and vibration management
- Dust control
- Construction waste management
- Erosion and sediment control
- Archival recording of heritage
- Hazardous materials removal

B4. Waste Management Plan

Prior to commencement of works on the site the proponent will submit a waste management plan, to the satisfaction of the department.

B5. Landscape and Public Domain Management

Future applications for project approval will be consistent with the Breakfast Point Landscape principles detailed in the Concept Plan. Detailed landscape plans are to be submitted with Project Applications.

B6. Community Consultation

A detailed programme for future community consultation will be formalised by the proponent and agreed by the Department, within three months after the determination date of the Breakfast Point Concept Plan to the satisfaction of the Department.

B7. Urban Design

The proponent will accord with the maximum heights, maximum number of dwellings, maximum floor space and minimum setbacks in the development parcels in the plans and documentation described Condition A2.

The proponent will submit subsequent project applications in accordance with the maximum development parameters in the plans and documentation described in Condition A2 and generally in accordance with the urban design principles set down in State Environmental Planning Policy 65- Design Quality of Residential Flat Development, Residential Flat Design Code (DIPNR) and the Residential Flat Design Pattern Book (DIPNR).

B8. Measurement of Storey Height

Each Project Application will refer to a map or diagram specifying existing ground level.

B9. Details of Vehicular Access

Off street car parking associated with the proposed development (such as driveway, ramp grades, aisle widths, aisle lengths, parking bay dimensions, sight distances and loading bays) should be designed in accordance with AS 2890.1 - 2004 and AS 2890.2- 2002. Details are to be submitted prior to a Construction Certificate being issued.

B10. Heritage

In the event of that future project approval is granted to demolish buildings on the subject site, the impacts will be mitigated by the following procedures:

- The important historic, social and cultural significance of on-site heritage items to be commemorated through a professionally written history of the subject site;
- Archival photographic recordings to be made of the significant buildings, the Breakfast Point site and the landscape elements on the Breakfast Point site, in accordance with NSW Heritage Council's guidelines.

B11. State Environmental Planning Policy Building Sustainability Index (BASIX)

The proponent will comply with the NSW Government Building Sustainability Index targeting 40% reduction for potable water consumption, 25% reduction for greenhouse gas emissions and improvement in the thermal performance of all new residential buildings.

B12. Submission of Subsequent Applications

The proponent will submit subsequent project applications for the development of the subject site in accordance with the conditions of approval to the Breakfast Point Concept Plan.

The proponent will submit further documentation for the subsequent Project Applications which will include (but not be limited to):

- Detailed landscape survey and design
- Heritage interpretive elements in the public domain
- BASIX compliance

- Waste Management Plan
- Car parking provision, loading and subject site access in accordance with the relevant codes.
- Construction Management Plans
- Compliance with the utility authorities' standards and reticulation requirements, and approval/permit processes.

B13. Dwelling Numbers and Mix

The developer/applicant shall provide to the Department an updated tally of "development statistics" applying to the site detailing the figures as follows:

- Total number of dwellings
- Total gross floor areas of all approved buildings
- Total number of 1 bedroom units
- Total number of off street carparking provided
- Total number of bedrooms of all approved buildings

The statistics shall be submitted to the Department with the application for a Project Application. The statistics shall indicate that the development approved herein would not increase the statistics approved under the Concept Plan.

B14. Section 94 Contributions

The following Section 94 contributions are required towards the provision of public amenities and services:

\$1,830 for the first 989 dwellings.

\$7,200 for the following 200 dwellings

Council's S94 Plan at the time for the 400 dwellings within the Seashore Precinct.

The S94 Contribution amount for the first 989 dwellings is in addition to the works in kind already completed as follows:

- Provision of about 16ha of open space namely Silkstone Park, The Waterfront Park, The Village Green, Spring Park, various through site links and the waterfront walkway/bicycle path and associated landscaped areas.
- A Neighbourhood Community Centre
- A Children's Centre.

B15 Seashores Precinct Works

Breakfast Point Pty Ltd further commits to establish a fund (the **Seashores Precinct Works Fund**), within twelve(12) months from the date of the approval of our modification application no.4, in the amount of \$1.78 million for the Seashores Precinct Works outlined below:

- Extensions to existing Country Club including design and construction to the maximum amount of \$1,500,000 (exclusive of GST), which cater for the increase of amenities and facilities;
- Installation of CCTV cameras to the Foreshore Walk to the maximum amount of \$180,000 (exclusive of GST); and
- Road signage for time restrictions to the maximum amount of \$100,000 (exclusive of GST)

(collectively, the **Seashores Precinct Works**).

The Seashores Precinct Fund will be used to pay the Breakfast Point Community Association's **(Association)** costs of undertaking the Seashores Precinct Works.

We suggest that "costs" be defined to include invoices for design costs, assessment fees, inspection fees, approval fees, certification fees, consultant fees, contractor fees, cost of materials and construction costs along with progress payment claims and all other expenses incurred by the Association in direct connection with the undertaking of the works.

Breakfast Point Pty Ltd further commits to draw down on the Seashores Precinct Works Fund to pay, within 7 business days of receipt, all invoices and progress payment claims submitted by the Association on a monthly basis for each of the items comprising the Seashores Precinct Works up to the maximum amounts specified above for each of these items of works.

All net interest accrued on the Seashores Precinct Works Fund account be to be credited to the Fund in lieu of any CPI increase to the contribution.