

May 2010



S75W Modification Breakfast Point – Seniors Housing and related changes: Supporting Environmental Assessment

1. Summary

This 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 incorporate seniors housing within part of the site yet to be constructed (the Seashores Precinct). These changes are within the envelopes previously approved, with associated redistribution of units formerly within that precinct to surrounding precincts (while not exceeding the FSR control and also remaining within approved envelopes). Other related modifications are sought, including some matters relating to “tidying up” the consent to deal with exempt and complying development, and appropriate provisions to deal with future development on the site.

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

The proposal has been assessed in accordance with the EPA Act and Regulations, and matters required to be addressed by the NSW Department of Planning. The main issues relate to the suitability of the seniors housing on part of the site, traffic impacts and the impacts associated with redistributing units formerly within the Seashores Precinct to other parts of the site (open space, amenity etc). Having considered all issues related to the proposal, and in accordance with the EPA Act, 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. A seniors housing facility is in the public interest, particularly within an ageing population and creating options for ageing-in-place both within the site and the surrounding area;
- c. Seniors housing is suited to the proposed site, particularly noting the adaptive reuse of a central building for communal and supporting facilities, and proximate access to public transport and services within the site;
- d. The proposal is consistent with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;

- e. The proposal is consistent with the built form controls and envelopes already approved in the Concept Plan, and does not increase the overall GFA.
- f. The overall increase in bedrooms across the whole Breakfast Plan area (including the seniors housing) is modest, at an additional 28 beds or around 0.5%;
- g. The proposal meets the development standards with the LEP applying to the site, and the LEP objectives;
- h. The proposal will result in the adaptive reuse of the former Plumbers Workshop, a building which is not required to be retained in the Concept approval, but which has architectural merit and the potential to add to the built form character of the site and area;
- i. The redistribution of units within the site does not compromise the quality of services for the site or the amenity of existing or future residents;
- j. Infrastructure (civil and social) is available to service the proposal;
- k. The traffic impacts associated with the proposal are the same as approved;
- l. The amenity of residents within the surrounding area, both within and outside the site, will not be compromised by the proposal;
- m. Any impacts arising from the proposal are able to be regulated through the terms of the approval to the Concept Plan approval; and
- 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 units.
- **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 (**Note: this Modification increased the number of units in The Point by 30, and increased the number of units in the Plantations Precinct by 18**)
- **21 September 2009** - Project approval for Blacksmiths Workshop
- **23 December 2009** - Modification to Project approval for Plantations Precinct
- **3 March 2010** – Lodgement of Modification application to the project approval for the Plantations Precinct for an additional 33 units. **This application remains undetermined.**
- **23 March 2010** – Letter from DoP outlining matters to be addressed in the s75W application (the subject proposal).

The Project Application approvals have been consistent with the approved Concept Plan, while modifications have been approved to the project approvals for the Point and Plantations Precincts, also consistent with the concept approval (as outlined in bold in the above chronology), and one modification application to the Plantations Precinct remains undetermined. There have been no prior modifications to the approved Concept Plan.

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. The site has been approved for development, and substantially developed, with 1175 occupied dwellings existing on the site and 5839sqm of non residential space (including community facilities, retail/supermarket, child care and the like).



S75W Modification - Breakfast Point – Seniors Living proposal



Site

☆ Seniors Living

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 site affected by the Concept Plan contains two local heritage items (The Blacksmiths Workshop and Powerhouse Building), as identified in Canada Bay LEP 2008. These buildings are not affected by the proposed modification. The former Plumber’s Workshop building is not heritage listed, although has some architectural merit (see **Photo 2** above). The site is not located in a Heritage Conservation Area.

The site of the Seniors Housing proposal is undeveloped, with the exception of the former Plumbers Workshop Building, 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.

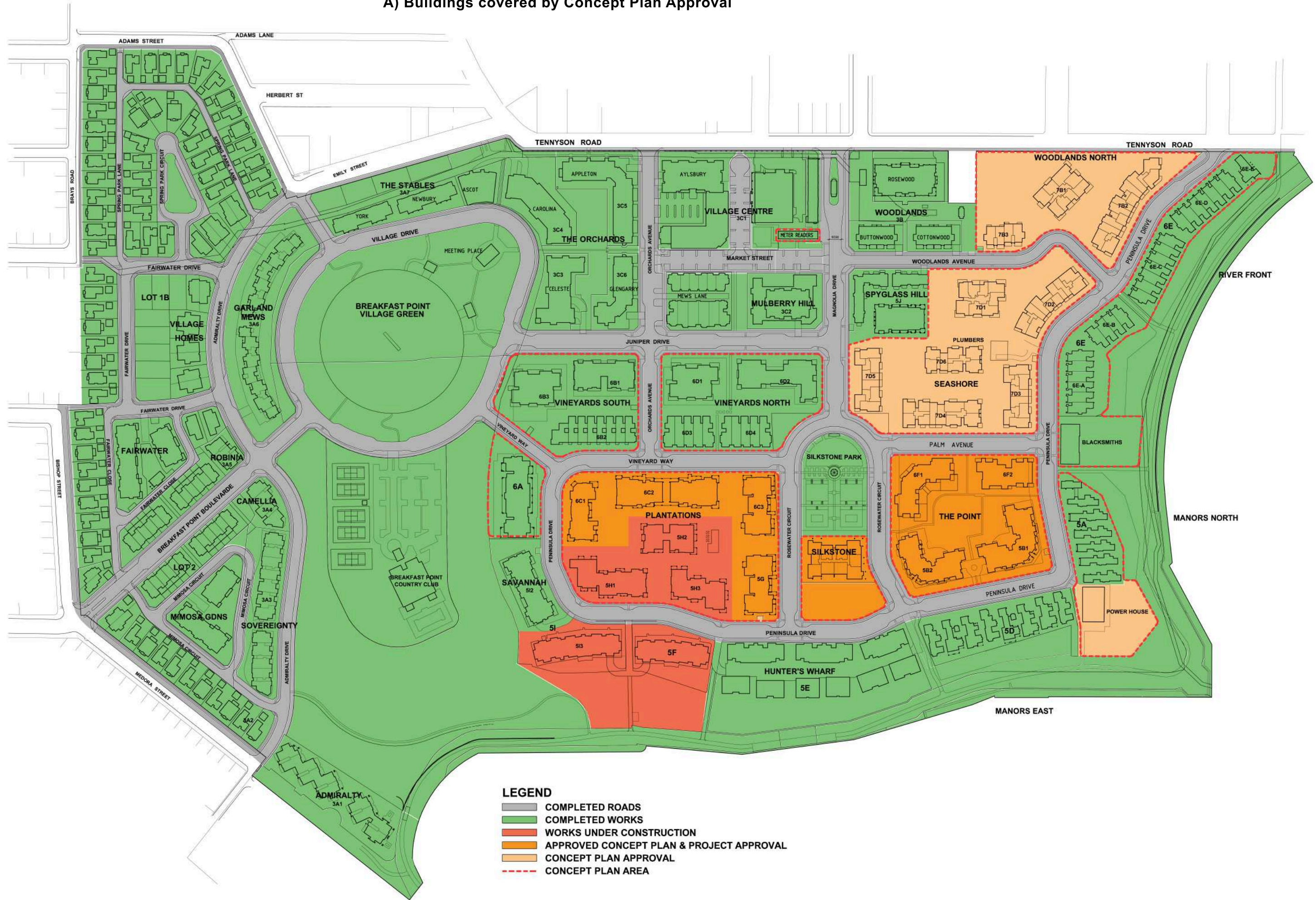
Surrounding development is characterised by low density housing. Industrial and maritime-related uses exist along Tennyson Road to the west. Cabarita Park and Majors Bay Reserve are located within 1km of the site.

4. Proposal

In order to understand the scope of the proposed changes, the following 3 site plans indicate:

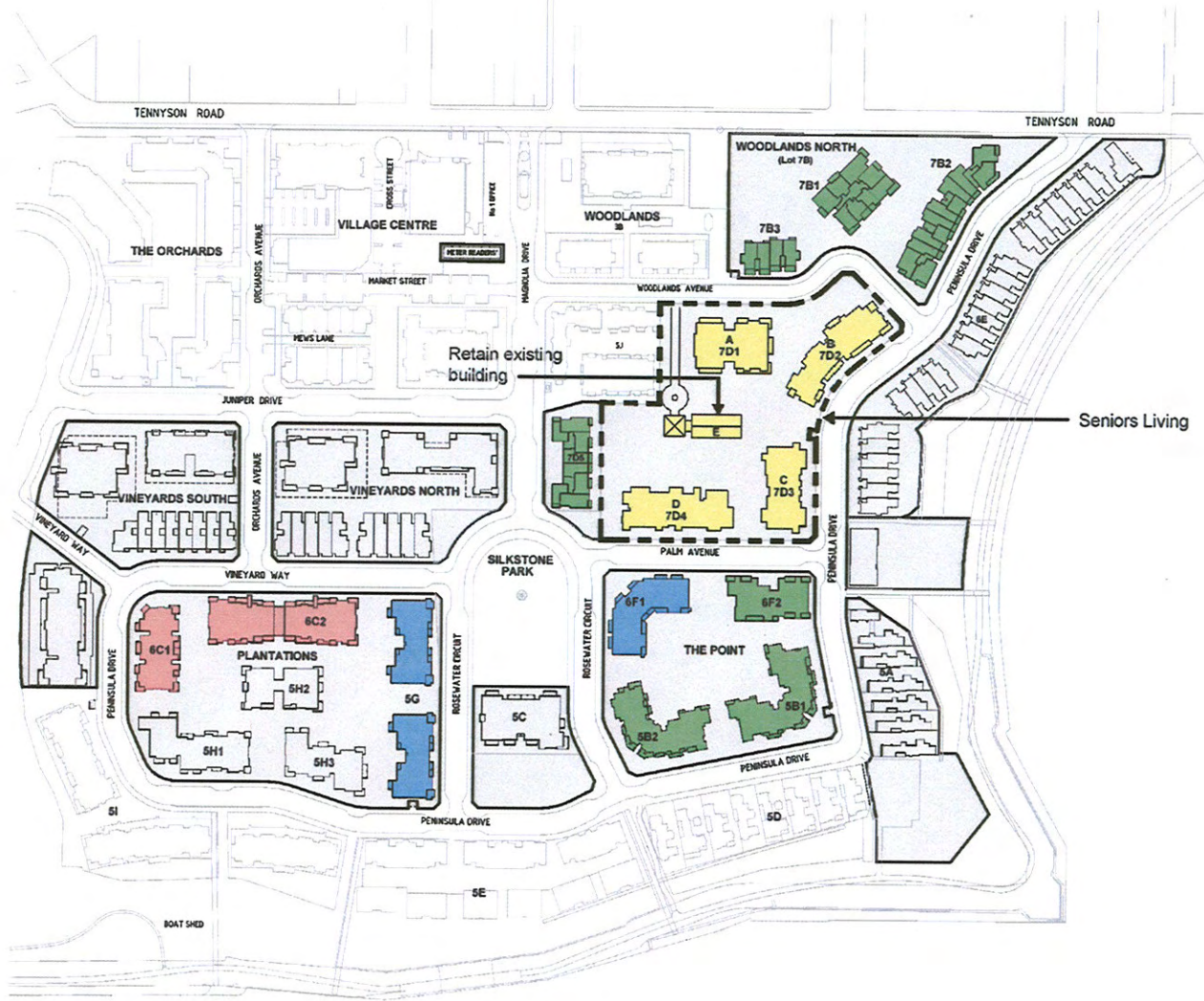
- (a) Those buildings with Concept Plan and Project approval, and those with Concept approval only;
- (b) Buildings affected by the proposed modification, including buildings incorporating the seniors housing; buildings incorporating additional units already approved in Project applications; buildings incorporating additional units in an undetermined modification application and other buildings incorporating additional units;
- (c) Tables against buildings with additional units, showing the total number of units and bedrooms before and after the proposed modification.

A) Buildings covered by Concept Plan Approval



- LEGEND**
- COMPLETED ROADS
 - COMPLETED WORKS
 - WORKS UNDER CONSTRUCTION
 - APPROVED CONCEPT PLAN & PROJECT APPROVAL
 - CONCEPT PLAN APPROVAL
 - - - CONCEPT PLAN AREA

B. Categorisation of Modifications



LEGEND

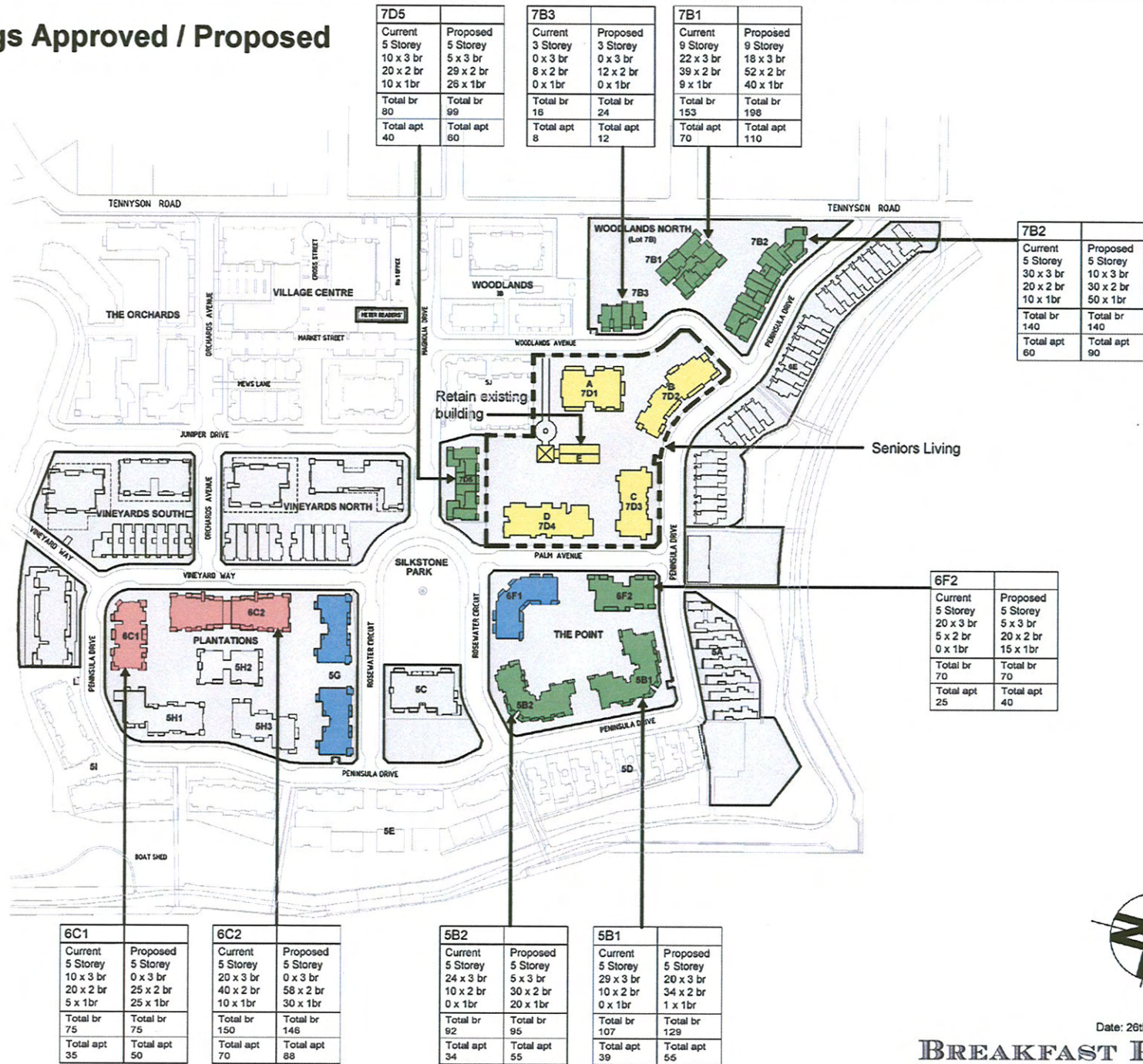
- Seniors Living
- Buildings affected by distribution of GFA from Seniors Living
- Buildings approved by PA which vary in unit composition from approved Concept Plan
- Buildings subject of undetermined S75W application



Date: 26th May 2010

BREAKFAST POINT

C. Tables of Buildings Approved / Proposed



7D5	
Current	Proposed
5 Storey	5 Storey
10 x 3 br	5 x 3 br
20 x 2 br	29 x 2 br
10 x 1br	26 x 1br
Total br	Total br
80	99
Total apt	Total apt
40	60

7B3	
Current	Proposed
3 Storey	3 Storey
0 x 3 br	0 x 3 br
8 x 2 br	12 x 2 br
0 x 1br	0 x 1br
Total br	Total br
16	24
Total apt	Total apt
8	12

7B1	
Current	Proposed
9 Storey	9 Storey
22 x 3 br	18 x 3 br
39 x 2 br	52 x 2 br
0 x 1br	40 x 1br
Total br	Total br
153	198
Total apt	Total apt
70	110

7B2	
Current	Proposed
5 Storey	5 Storey
30 x 3 br	10 x 3 br
20 x 2 br	30 x 2 br
10 x 1br	50 x 1br
Total br	Total br
140	140
Total apt	Total apt
60	90

6F2	
Current	Proposed
5 Storey	5 Storey
20 x 3 br	5 x 3 br
5 x 2 br	20 x 2 br
0 x 1br	15 x 1br
Total br	Total br
70	70
Total apt	Total apt
25	40

6C1	
Current	Proposed
5 Storey	5 Storey
10 x 3 br	0 x 3 br
20 x 2 br	25 x 2 br
5 x 1br	25 x 1br
Total br	Total br
75	75
Total apt	Total apt
35	50

6C2	
Current	Proposed
5 Storey	5 Storey
20 x 3 br	0 x 3 br
40 x 2 br	58 x 2 br
10 x 1br	30 x 1br
Total br	Total br
150	146
Total apt	Total apt
70	88

5B2	
Current	Proposed
5 Storey	5 Storey
24 x 3 br	5 x 3 br
10 x 2 br	30 x 2 br
0 x 1br	20 x 1br
Total br	Total br
92	95
Total apt	Total apt
34	55

5B1	
Current	Proposed
5 Storey	5 Storey
29 x 3 br	20 x 3 br
10 x 2 br	34 x 2 br
0 x 1br	1 x 1br
Total br	Total br
107	129
Total apt	Total apt
39	55



Date: 26th May 2010

BREAKFAST POINT

Essentially, the proposed modification involves 3 components, being: changes to incorporate seniors housing; redistribution of units formerly in the seniors housing precinct; and “tidy up” amendments dealing with previous approvals, an undetermined modification application and provisions to guide future development.

It is important to note that these changes do not increase the overall GFA/FSR, nor the approved envelopes/heights. Rather, the proposal stems from internal reconfiguration of buildings within the approved envelopes to better respond to the market, in terms of much-needed seniors housing and alterations to unit mix.

In more detail, the proposal involves 6 elements, as follows:

(d) Amendment to the Seashores Precinct for Seniors Housing

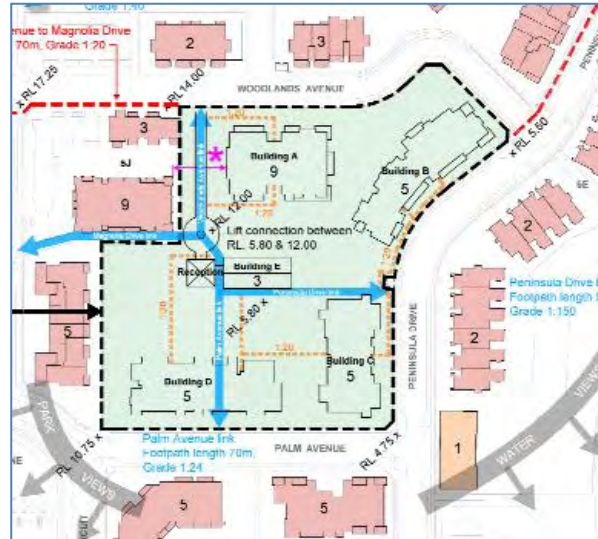
The Seniors Housing development is proposed as a Serviced Self Care Housing, as defined under the *SEPP (Housing for Seniors or People with a Disability) 2004*, with nursing, personal care, cleaning and meals available on demand.

This involves retaining the former Plumbers Workshop in the centre of the precinct, rather than its demolition, and adaptive reuse for communal facilities for the Seniors Housing development, comprising over 2400sqm (meeting rooms, dining, pool, recreation, administration, and ancillary care aspects).

One of the buildings to the south (7D5) is proposed to remain as units, unchanged.

The remaining 4 buildings approved in the Concept Plan are proposed to be “converted” to seniors housing buildings (not strata titled), containing accommodation with a total of 509 bedrooms. This is demonstrated in the excerpt of the site analysis below:

S75W Modification - Breakfast Point – Seniors Living proposal



(e) Redistribution of units formerly within the Seashores Precinct to the Woodlands North, The Point and Plantations Precincts

The units formerly within the approved buildings (A-E above) are proposed to be redistributed to other buildings. Specifically, to 5 other buildings: two located in the Woodlands North Precinct (immediately to the north) and three buildings located in the Point Precinct (immediately to the south). Other units are proposed to be transferred into the Plantations precinct (3 buildings) and the Point (1 building), in accordance with a previously approved modification to the Project approvals, and a currently undetermined modification application.

It is recommended that Conditions 1 and 7 of the Concept Plan approval be amended to delete reference to the FSR/dwelling cap over the whole site, as it may cause practical problems where a condition of a Concept Plan applies a control outside the site to which the Concept Plan applies (eg if Council approves a change to dwelling numbers in the Masterplan area outside the Concept Plan area, as it has done in the Stables Precinct on Emily Street by an additional 4 dwellings). Rather the controls applying in the Concept Plan approval should only relate to the Concept Plan area.

S75W Modification - Breakfast Point – Seniors Living proposal

The changes to the approved Concept Plan are provided on the following page. The table below provides an abridged summary:

Aspect	Approved	Proposed	Change
Residential GFA	181,961sqm	144,957sqm	-37,004sqm
Non-residential GFA ¹	1519sqm	38,523sqm	+37,004sqm
Dwellings	1189	1189	0
Seniors Housing beds	0	509	+509 beds
Bedrooms ²	2722	2789	+67
Population ³	2553	2497	-56
Parking (off street)	2013	2078	+65

¹ Increase wholly attributable to floorspace of community uses in the former Plumbers Workshop Building and Seniors Housing

² Bedrooms include bedrooms in Seniors Housing

³ Population calculations based on the assumed unit occupancy rates within the Council's current s94 Plan before and after proposal, and applying an occupancy of 1.2/seniors housing domicile (Concept Plan area only) – source Colliers International "Market Indicators report – retirement Living Australia" 2009

The table below provides a summary of the development details of the whole, before and after the proposed modification.

DEVELOPMENT DETAILS

MARKETING NAME	Lot No.	Total FSR		Total Residential FSR		Total Non-Residential FSR		Total Dwellings		Total Bedrooms		3 Bedrooms		2 Bedrooms		1 Bedrooms		PARKING (off street)		Population(per dwelling)	
		Approved	Proposed	Approved	Proposed	Approved	Proposed	Approved	Proposed	Approved	Proposed	Approved	Proposed	Approved	Proposed	Approved	Proposed	Approved	Proposed	Approved	Proposed
CONCEPT PLAN AREA																					
Under Construction/Completed		Stage 1																			
Foreshore Townhouses	6E	6735	6735	6735	6735	0	0	25	25	75	75	25	25	0	0	0	0	50	50	65	65
Country Club North	6A	11889	11889	11889	11889	0	0	83	83	190	190	24	24	59	59	0	0	137	137	180	180
Vineyards South	6B	16624	16624	16624	16624	0	0	118	118	268	268	50	50	59	59	9	9	202	202	258	258
Vineyards North	6D	16288	16288	16288	16288	0	0	110	110	247	247	45	45	56	56	9	9	184	184	239	239
Harbourfront homes	5A	2420	2420	2420	2420	0	0	6	6	24	24	6	6	0	0	0	0	12	12	16	16
Blacksmiths	Other	450	450	0	0	450	450	0	0	0	0	0	0	0	0	0	0	11	11	0	0
Meter Readers		230	230	0	0	230	230	0	0	0	0	0	0	0	0	0	0	6	6	0	0
Total Stage 1	Subtotal	54636	54636	53956	53956	680	680	342	342	804	804	150	150	174	174	18	18	602	602	758	758
Future Stages/Under Construction		Stage 2																			
Point Precinct																					
1 Building 5s	Lot 5Bi	7170	7042	7170	7042	0	0	39	55	107	129	29	20	10	34	0	1	78	90	95	121
1 Building 5s	Lot 5Bii	6166	5091	6166	5091	0	0	34	55	92	95	24	5	10	30	0	20	58	75	82	95
1 Building 5s	Lot 6Fi	4388	5552	4388	5552	0	0	30	60	80	90	20	0	10	30	0	30	55	75	72	93
1 Building 5s	Lot 6Fii	3872	4629	3872	4629	0	0	25	40	70	70	20	5	5	20	0	15	48	55	62	70
Total Point Precinct		21596	22314	21596	22314	0	0	128	210	349	384	93	30	35	114	0	66	239	295	312	379
Silkstone Precinct																					
The Silkstone	Lot 5C	6380	6750	6380	6750	0	0	44	45	110	100	22	20	22	15	0	10	77	73	101	93
Total Silkstone Precinct		6380	6750	6380	6750	0	0	44	45	110	100	22	20	22	15	0	10	77	73	101	93
Plantations Precinct																					
Indigo & Magnolia	Lot 5G/6C3	10740	8791	10740	8791	0	0	80	98	170	140	20	0	50	42	10	56	126	119	163	146
Cypress	Lot 5H1	4559	3946	4559	3946	0	0	30	33	60	66	6	9	18	15	6	9	45	50	58	63
Maple	Lot 5H2	3360	2736	3360	2736	0	0	24	21	48	42	6	3	12	15	6	3	39	32	46	41
Jacaranda	Lot 5H3	4400	3816	4400	3816	0	0	30	30	62	62	8	8	16	16	6	6	48	46	59	59
1 Building 5s	Lot 6C1	4955	4577	4955	4577	0	0	35	50	75	75	10	0	20	25	5	25	55	63	72	78
1 Building 5s	Lot 6C2	10335	8966	10335	8966	0	0	70	88	150	146	20	0	40	58	10	30	110	117	143	149
Total Plantations Precinct		38349	32832	38349	32832	0	0	269	320	565	531	70	20	156	171	43	129	423	427	541	536
Woodlands North Precinct																					
1 Building 9s	Lot 7Bi	10260	11800	10260	11800	0	0	70	110	153	198	22	18	39	52	9	40	112	154	145	195
1 Building 5s	Lot 7Bii	9800	9800	9800	9800	0	0	60	90	140	140	30	10	20	30	10	50	100	115	129	141
1 Buildings 3s	Lot 7Biii	1150	1005	1150	1005	0	0	8	12	16	24	0	0	8	12	0	0	12	18	16	24
Total Woodlands Precinct North		21210	22605	21210	22605	0	0	138	212	309	362	52	28	67	94	19	90	224	287	290	360
Seashore Precinct																					
Building 7D5	Lot 7Dv	5900	6500	5900	6500	0	0	40	60	80	99	10	5	20	29	10	26	60	80	77	100
Total Seashore Precinct		5900	6500	5900	6500	0	0	40	60	80	99	10	5	20	29	10	26	60	80	77	100
Commercial Building																					
Powerhouse	Other	839	839	0	0	839	839	0	0	0	0	0	0	0	0	0	0	21	10	0	0
Total Powerhouse		839	839	0	0	839	839	0	0	0	0	0	0	0	0	0	0	21	10	0	0
Total Stage 2	Subtotal	94274	91840	93435	91001	839	839	619	847	1413	1476	247	103	300	423	72	321	1044	1172	1321	1467
Seniors Housing		Stage 3																			
1 Building 9s	Lot 7D1	10260	11800	10260	0	0	11800	70	81	153	180	22	27	39	45	9	9	112	108	145	97
1 Building 5s	Lot 7D2	7700	7800	7700	0	0	7800	50	50	110	115	20	20	20	25	10	5	80	70	103	60
1 Building 5s	Lot 7D3	6100	6800	6100	0	0	6800	40	44	90	98	20	14	10	26	10	4	65	58	83	53
1 Building 5s	Lot 7D4	7850	8200	7850	0	0	8200	50	52	110	116	20	16	20	32	10	4	80	68	103	62
Plumbers Workshop	Lot 7D6	2660	2404	2660	0	0	2404	18	0	42	0	6	0	12	0	0	0	30	0	40	0
Total Seniors Housing - Stage 3	Subtotal	34570	37004	34570	0	0	37004	228	227	505	509	88	77	101	128	39	22	367	304	474	272
TOTAL ALL STAGES	TOTAL	183480	183480	181961	144957	1519	38523	1189	1416	2722	2789	485	330	575	725	129	361	2013	2078	2553	2497
Masterplan 2002		157350	157350	152191	152191	5159	5159	880	880	2315	2315	555	555	317	317	8	8	1603	1603	2086	2086
BREAKFAST POINT TOTAL		340830	340830	334152	297148	6678	43682	2069	2296	5037	5104	1040	885	892	1042	137	369	3616	3681	4639	4583

(f) Incorporation of changes to building composition in the Plantations Precinct, in a current undetermined s75W application

This involves two buildings (6C1 and 6C2) and 33 additional units, although 2 less bedrooms overall, within approved envelopes. The reconfiguration of units within approved envelopes is included in the table on the previous page.

(g) Incorporation of changes to the unit numbers in a building in the Point Precinct and Plantations Precincts, already approved in previous Project applications

This involves a total of additional 48 units within approved envelopes for a building in The Point (6F1 – 30 units) and Plantations Precincts (5G/6C3 – 18 units). The reconfiguration of units within approved envelopes is included in the table on the previous page.

(h) A request for the Minister’s determination to be amended to include exempt and complying development for future development

A Modification under s75W of the Act may include a change to the terms of the Minister’s approval. This may include the declaration relating to what provisions of the Act shall apply to future development. In the case of the subject Concept Plan approval, there were no directions made regarding the framework or provisions of the Act to apply to future development. Legally, this means that all development in the Concept Plan area is subject to part 3A of the Act, no matter how small. It also means there are no provisions for exempt or complying development on the site.

The last two aspects of the proposed modification seek to address this, to better facilitate the rational and orderly development of land.

An amendment to the Concept Plan approval is sought as part of this modification to stipulate that development identified as Exempt or Complying in State Environmental Planning Policy (Exempt and Complying development Codes) 2008, shall be Exempt and Complying development within the meaning of the EPA Act 1979.

(i) A suggested modification to the Minister’s determination, to outline the assessment and approval regime for future development

Presently, all future development within the Concept Plan area is subject to the provisions of Part 3A, due to the original declaration, and the Minister’s approval not nominating an alternative pathway within the EPA Act.

If the Department of Planning or Minister is minded to alter this, it would be reasonable to make development subject to part 3A only if it either:

- (a) Meets the thresholds within the SEPP (Major Development) 2005) – ie as for other development, or
- (b) Is a modification to an approved Project application or concept plan.

All other development could be subject to the relevant parts of the Act (Part 4 or Part 5, JRPP the consent authority etc), as for all other development. This same rationale applies to incorporating provisions relating to exempt and complying development.

The proposed modification does not involve any amendments to the Statement of Commitments, nor are any necessary.

For clarity, the attachments to this report provide detail of the changes sought. Specifically, **Attachment 1** contains the plans sought to be approved, **Attachment 2** indicates those parts of the existing approved plans sought to be changed (relevant parts changed are underlined) and **Attachment 3** indicates the changes sought to the approved conditions of the consent.

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 rational 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 four 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 and State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

As no physical works 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. 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 does not alter the approved envelopes in the Concept Plan. So the separation of buildings, length/depth 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
1 Context	The context of high quality buildings set in a landscaped waterfront site will be retained.
2 Scale	The scale remains unchanged from the approved concept plan.
3 Built Form	The built form remains unchanged from the approved concept plan. The retention of the Plumbers Workshop building is a positive outcome in terms of building scale, form and typology across the site, and assists in

	varying scale and form in that precinct.
4 Density	The density is below the maximum FSR for the site and within the maximum GFA approved in the Concept Plan. There is change to the unit composition, although the overall changes are not significant in the context of the approved concept plan. Including the Seniors Housing, there is only an increase in 67 bedrooms across the site (1%), while the population actually decreases by 56 people (-1%) due to smaller units and the incorporation of Seniors Housing.
5 Resource, Energy and Water Efficiency	The proposal does not change this aspect, although the adaptive reuse of the former Plumbers Workshop Building is positive in terms of resource reuse. The future residential buildings will comply with BASIX. The Seniors Housing component is likely to lead to less comparative use of resources compared to residential use, and less carbon footprint, particularly noting low car use by seniors.
6 Landscape	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.
7 Amenity	The buildings will have high amenity. There is negligible impact on the amenity of existing or surrounding residents from the proposed modifications.
8 Safety and Security	These are matters for detailing at the Project application/DA stage. The proposed modifications do not alter approved envelopes and do not lead to any adverse impacts in this regard.
9 Social Dimensions	The social dimensions of the site are richer for the proposed changes, in two regards. Firstly, the change in unit composition

	allows a greater unit mix, and therefore likely greater mix of household types. Secondly, the seniors housing component is a social benefit in terms of housing choice for an ageing population, and also for the diversity of population on the site. These changes should also enrich the retailing/service uses on the site and sense of community.
10 Aesthetics	The aesthetic quality of future buildings will remain high. The proposal does not alter the approved building envelopes.

State Environmental Planning Policy (Infrastructure) 2007

The proposed seniors housing precinct has 304 car spaces proposed, above the 200 car space threshold for referral to the RTA in Schedule 3 of the SEPP. However, this is 63 spaces less than approved. There are also proposed increases in parking in the Point, Plantations and Woodlands North Precincts (all already approved at above 200 spaces), to meet the parking demand of the redistributed units. A Traffic Impact Assessment is included as **Attachment 4**.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

This SEPP includes detailed provisions relating to Seniors Housing proposals. In this case the development is a serviced self care housing facility, defined as:

***serviced self-care housing** is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.*

The compliance of the proposal with the SEPP is contained in **Attachment 5**.

A serviced self care housing facility is an asset for the site and area, while the site characteristics are well suited to the proposal, in terms of the comprehensive matters for consideration in the SEPP.

(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;
- (c) No trees are required to be removed as a consequence of the proposal;
- (d) The Point Precinct and part of the Seniors Living proposed Precinct are identified as Class 2 in the Acid Sulphate Soil map. This matter can be appropriately addressed at the time of the relevant development or project 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:
 - i. The seniors housing component is located in Precinct B3, which encourages taller building forms and integration with heritage items (2(b)(vii));
 - ii. The proposal meets the objective of providing a mix of land uses and housing for the ages or people with a disability (2(f));
 - iii. The non residential land uses do not exceed 15% (seniors housing is included in this proportion) (5(1)(a));
 - iv. Business and retail uses do not occupy more than 10,000sqm (the proposal does not alter this) (5(1)(c));
 - v. The maximum number of dwellings does not exceed 40 dwellings per hectare (5(2))
 - vi. Traffic impacts have been assessed (5(3)).

5.3 Matters Outlined by the Department of Planning

While no “Director General’s Requirements” have been issued for the modification application, the NSW Department of Planning issued a

letter on 25 March 2005, outlining a comprehensive list of issues to address in the application. These issues, and a response to each, is provided below, grouped in terms of general matters, and those related to the Seniors Housing Component:

5.3.1 Issues relating to redistributed floorspace

In essence, there are very limited impacts arising from the redistributed floorspace. Indeed, there is no increase in floorspace, but rather retention of the overall gross floor area, and internal reconfiguration within the approved envelopes of buildings yet to be constructed.

5.3.1.1 Impact of redistributed floorspace on Open Space

The site has over 15 hectares (150,000sqm) of open space in the form of foreshore land, landscaped open space and on-site recreation areas. This was a key aspect of the original 2002 Masterplan, and part of the Concept approval.

The total estimated population for the site (Masterplan area and Concept Plan area), as approved prior to the proposed modification was 4613, while after the modification it is 4583 (an decrease of less than 1%). This represents over 32sqm of open space per person on site, and well above the “standard” of 28.3sqm per person used in open space planning.

The provision of community facilities on site also enhances the recreational opportunities for residents on the site, while proposed facilities in the former Plumbers Workshop Building will benefit the occupants in the proposed Seniors Living Precinct.

5.3.1.2 Impact on the amenity of existing and approved buildings

No buildings exist in the Seashore, Woodlands North or The Point Precincts, which is where the significant majority of changes are proposed. Similarly, the other minor modifications within the Plantations Precinct are for buildings that have not been built yet. The amenity of those future units will be high, and compliance with amenity controls through SEPP 65 will be addressed at the detailed design stage.

The 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, the timeframe for development will be the same. Matters of amenity during construction can and are regulated by conditions of approval at Project/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 no different to the approved Concept Plan.

5.3.1.3 Traffic generation and proposed resident/visitor parking

A report on the traffic impacts related to the proposed modification is attached as **Attachment 4**. 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 report finds that the traffic impacts will be the same as the approved development (around 1130-1140 afternoon peak hour movements, 2 way), and below the maximum allowed in the LEP controls.

In terms of parking provision, there are 65 more off street parking spaces proposed than approved (around 3%). This is in accordance with relevant guidelines, in response to reconfiguration of units and the introduction of seniors housing. The reconciliation of these parking spaces is provided in the previous summary table.

5.3.1.4 BASIX

The future buildings must comply with BASIX and the proposed modifications do not compromise the ability of buildings to comply with BASIX.

As BASIX is essentially driven by the fitout and fixtures to be used, even if floor plan layouts were proposed, they would not be conclusive.

5.3.1.5 Compliance with SEPP 65 – Design Quality of Residential Flat Development

This is addressed in the earlier section on SEPPs.

5.3.1.6 Section 94 Contributions

The former Minister for Planning issued a s94E Direction that s94 contributions not be collected for seniors housing proposals where the proponent is a social housing provider (attached). While not applicable to the proposal, the Direction does indicate that seniors housing proposals involve an aspect of community benefit, hence the s94 dispensation, similar to the principles behind Departmental Circular B6 dealing with Crown proposals and s94 contributions.

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 units approved in August 2006), required a contribution of \$1830 per unit for the first 989 units and \$7200 for the additional 200 units (to 1189 units), the latter being towards a community enhancement fund linked to the additional 200 units.
- 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 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 units.
- 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);
- Establishment of a Trust fund of \$1.4M (which equated to \$7200 per dwelling for the additional 200 units above 989 dwellings, or roughly the s94 rate for a 2 bedroom unit at the time);
- Dedication of the foreshore open space to Council (which has occurred), and dedication of 240sqm of the Power House’s GFA and appropriate cartilage to Council (if it accepted it, otherwise remaining with the owner – the latter is the case as Council did not accept dedication within 12 months as required by the consent).

Council s94 Plans

Unusually, the 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.

S75W Modification - Breakfast Point – Seniors Living proposal

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

The Plan does not address seniors housing, as either being exempt from the Plan or being applicable. The list of “other dwellings” does not include seniors housing, only villas, townhouses and units (separate rates apply for detached housing). Seniors housing is not legally a dwelling.

The contribution rates for Breakfast Point are outlined below (roughly 1BR = \$5000, 2BR = \$9000, 3BR = 12,000, 4BR = \$18000), extracted from Council’s website, May 2010:

S75W Modification - Breakfast Point – Seniors Living proposal

		Breakfast Point
		7
1 BEDROOM	community facilities	\$1,382.61
	open space	\$2,924.09
	roads	\$642.57
	TOTAL	\$4,949.27
2 BEDROOM	community facilities	\$2,513.81
	open space	\$5,316.51
	roads	\$1,168.33
	TOTAL	\$8,998.65
3 BEDROOM	community facilities	\$3,267.96
	open space	\$6,911.46
	roads	\$1,518.83
	TOTAL	\$11,698.25
4 BEDROOM	community facilities	\$5,027.60
	open space	\$10,633.01
	roads	\$2,336.64
	TOTAL	\$17,997.26

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. Seniors housing development is not listed, but the list is not exclusive, as the Plan applies to all development.

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 Seniors Housing

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.
2. Levy at 1%, allowing a reduction for the works in kind for the Seniors Living facilities (former Plumbers Workshop)	This would be a reasonable approach, noting the former Plumbers Workshop building is being retained and its uses are communal in nature, reflecting the "public benefit" aspect of the Seniors Housing.
3. Levy based on increased overall bedrooms, "converted" into dwellings allowing a reduction for the works in kind for the Seniors Living facilities (former Plumbers Workshop)	There is a net increase of 67 bedrooms (including Seniors Living). This would equate to 34x2 bedroom units, and a levy equivalent to that under the current s94 Plan could be applied and would be reasonable.
4. Levy based on expected population increase	This approach is most consistent with the principles of Section 94, which is based on population/user pays principles. Using the occupancy rates in the Council's Section 94 Plan (1BR = 1.1, 2BR = 2, 3BR = 2.6), before and after the modifications, and an occupancy rate of 1.2 for the seniors living component, an overall population decrease of 56 people would result from the proposal. This approach would result in no contribution under the Council's current Plan.

Of the 4 above options, **Option 4 is favoured**, as it is consistent with the principles behind Section 94 of the Act. 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. Despite this, the proponent is willing to discuss a fair and reasonable contribution, with due recognition of the change in population and costs associated with the provision of the communal facilities in the former Plumbers Workshop building.

5.3.1.7 Condition 9 of the consent/Community Enhancement Plan Condition 9 states (emphasis added):

*In the event that the Applicant obtains approval from the Director General to increase the gross floor area (pursuant to Condition No. 7 – Additional Floor Space of this approval), a further monetary contribution for community enhancement will be levied for all **additional dwellings** resulting from that increase. This Contribution will be levied at a rate of \$7,200.00 per dwelling regardless of size (equating to \$1.44 million **if the maximum of 200 dwellings is achieved**).*

*The Contributions shall be **administered by the Applicant** through the establishment of a Trust Fund or other appropriate mechanism.*

The Applicant shall prepare and submit a Community Enhancement Plan for the approval of the Minister. The Community Enhancement Plan shall be prepared in consultation with Council, and the local community and nominate funding for community projects and infrastructure within the suburbs of Concord, Mortlake, Breakfast Point, and Cabarita. The Community Enhancement Plan shall also determine a works program, timing and means through which the Contribution delivered through this condition is accessed.

It is clear from the terms of Condition 9 that it only relates to contributions for the last 200 dwellings. As the timing of these contributions is at Construction Certificate stage, the contributions, and therefore the fund, is not required for several years.

The applicant is aware of the obligations of the consent and fully intends to meet such obligations at the appropriate time.

5.3.1.8 Population forecast comparison/table showing redistributed floorspace

This has been provided earlier. As previously mentioned, the population will decrease very slightly, in the order of 1% or 56 people,

while the redistribution of floorspace will occur within the approved maximum GFA and within approved building envelopes.

5.3.1.9 Clarification of the proposed use of Seashores Precinct Building 7D5

This will remain as residential units, in the same configuration and composition as approved in the Concept Plan. No changes are sought as part of this proposal. For administrative purposes, this building is shown as part of the Vineyards North Precinct and the plans sought to be approved.

5.3.2 Seniors Housing related issues

5.3.2.1 Assessment against SEPP (Housing for Seniors or People with a Disability) 2004

This has been addressed in the previous section dealing with State Environmental Planning Policies and within **Attachment 5**.

5.3.2.2 Proposed works to the former Plumbers Workshop Building

This building will be adaptively reused to include the following facilities:

- ancillary care aspects in accordance with the definition applicable to serviced self care housing (nursing, personal care, cleaning);
- meeting rooms;
- dining;
- swimming pool;
- recreation area;
- administration.

Detailed layout plans have not been finalised. Both the uses, and the retention of a building with some merit and not otherwise required to be retained, are in the public interest.

5.3.2.3 Modifications required to the Concept Plan approval

This is included in **Attachments 2 and 3** of this report, where all changes in Attachment 2 are underlined while in Attachment 3 deletions are shown ~~striketrough~~ and new provisions shown in ***bold and italics***. A

“fresh” set of plans is provided at **Attachment 1**, for which approval is sought.

5.4 Suitability of the Site/Other Matters

There will be no negative impacts from the proposal on the amenity of surrounding land. The site, including its harbour location, is well suited to the proposal. The site for the proposed Seniors Housing facility is well located in terms of access to services and public transport, and the matters for consideration within SEPP (Housing for Seniors or People with a Disability) 2004.

5.5 Public Interest

Granting consent would be in the public interest, as it does not alter the essential built form parameters of the concept approval, and, overall involves very little change in terms of other aspects of the approval. The Seniors Living serviced self care housing facility is a public benefit in terms of providing variety and choice of housing stock, particularly for an ageing population, and will be an asset to the site and area.

6. Conclusion

After considering the proposed modification in accordance with the objects of the EPA Act 1979, Part 3A of the EPA Act 1979, relevant legislation, the history of the site, the approved concept plan and the circumstances of the site, it is concluded the proposed modification should be approved because:

- a) The proposal meets the objects of the EPA Act;
- b) A seniors housing facility is in the public interest, particularly within an ageing population and creating options for ageing-in-place both within the site and the surrounding area;
- c) Seniors housing is suited to the proposed site, particularly noting the adaptive reuse of a central building for communal and supporting facilities, and proximate access to public transport and services within the site;
- d) The proposal is consistent with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;

- e) The proposal is consistent with the built form controls and envelopes already approved in the Concept Plan, and does not increase the overall GFA;
- f) The overall increase in bedrooms across the whole Breakfast Plan area (including the seniors housing) is modest, at an additional 67 beds or around 1%;
- g) The proposal meets the development standards with the LEP applying to the site, and the LEP objectives;
- h) The proposal will result in the adaptive reuse of the former Plumbers Workshop, a building which is not required to be retained in the Concept approval, but which has architectural merit and the potential to add to the built form character of the site and area;
- i) The redistribution of units within the site does not compromise the quality of services for the site or the amenity of existing or future residents;
- j) Infrastructure (civil and social) is available to service the proposal;
- k) The traffic impacts associated with the proposal are the same as approved;
- l) The amenity of residents within the surrounding area, both within and outside the site, will not be compromised by the proposal;
- m) Any impacts arising from the proposal are able to be regulated through the terms of the approval to the Concept Plan approval; and
- n) Granting consent would be in the public interest.

ATTACHMENTS

- 1. Proposed Plans for approval**
- 2. Proposed Plans indicating amendments against approved plans**
- 3. Schedule of proposed changes to the Concept Plan approval**
- 4. Traffic Impact Assessment**
- 5. Assessment against SEPP (Housing for Seniors or People with a Disability) 2004**



Jason Perica
Director