

**MODIFICATION REQUEST:**  
***Breakfast Point Concept Plan 2005***  
***MOD 1 - Conversion of 4 Residential***  
***Apartment Buildings within the***  
***Seashores Precinct for Seniors***  
***Housing, redistribution of remaining***  
***dwelling numbers to other buildings***  
***and adaptive reuse of the former***  
***Plumbers' Workshop building.***

***Breakfast Point, Canada Bay***



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

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## EXECUTIVE SUMMARY

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The City of Canada Bay Council (Council) adopted the Breakfast Point Master Plan in 1999 which proposed 1650 residential dwellings and 18,800m<sup>2</sup> of commercial uses. The Master Plan was amended by Council in 2002 to allow for 1,865 dwellings and 12,300m<sup>2</sup> of commercial uses on the site. Until 2005, the Council was the consent authority for the Breakfast Point site, and granted a number of consents under Part 4 of the Environmental Planning and Assessment Act, 1979 (EP & A Act), approving 876 dwellings.

On 31 August 2005, the former Minister for Planning assumed the role of approval authority for outstanding development at Breakfast Point under the former provisions of State Environmental Planning Policy (Major Projects) 2005.

On 7 April 2006, the former Minister of Planning approved the *Breakfast Point Concept Plan 2005* for the residential redevelopment of a portion of the Breakfast Point site including mixed use residential/commercial/retail development comprising:

- 176,222 sq.m of GFA including 1,519 sq.m of non-residential GFA;
- 989 dwellings; and,
- Subdivision into Torrens Title and Strata Lots.

On 4 August 2006, the Director General granted an additional bonus of 200 dwellings for the Breakfast Point site allowing a maximum of 2065 dwellings to be built.

Subsequently, several approvals have been granted for all precincts except the Seashores, Woodlands North and Powerhouse Precincts (the last precincts to be developed). Further, a number of s.75W modifications have been approved allowing increased dwelling numbers in the Plantations and Point Precincts.

To date, 1734 dwellings have been approved for construction at Breakfast Point. This figure takes into account those dwellings approved by the Breakfast Point Master Plan 2002.

The proposed modification seeks to modify the *Breakfast Point Concept Plan 2005* as follows:

- Redistribution of dwellings originally approved (under the Concept Plan) in Buildings 7D1 - 7D4 and 7D6 of the Seashores Precinct to Building 7D5 of the Seashores Precinct, Buildings 6F2, 5B1 and 5B2 of The Point Precinct and all buildings within the Woodlands North Precinct, whilst maintaining the approved dwelling cap of 2065 dwellings;
- Amendment to Buildings 7D1 - 7D4 of the Seashores Precinct for use as Seniors Housing comprising 509 additional bedrooms (227 dwellings) and the retention and adaptive reuse of the former 'Plumber's Workshop' building for communal facilities;

- Variation to the dwelling mix of buildings 5B1, 5B2 and 6F2 of the Point Precinct resulting in an additional 52 dwellings within the approved building envelope;
- Variation of dwelling numbers and mix allocated within building 7D5 of the Seashores Precinct and buildings 7B1, 7B2, 7B3 of the Woodlands North Precinct;
- Incorporation of changes to dwelling numbers already approved by previous s.75W modification applications;
- Amendments to the Concept Plan Modification 1 and 7 (Conditions 1 and 7) to delete the references to the FSR/dwelling cap applying to the entire Breakfast Point site;
- Inclusion of 'Exempt and Complying' development;
- Provision of a framework to ensure all future applications are dealt with under Part 3A of the Act only if they meet the provisions of State Environmental Planning Policy (Major Development) 2005, or if the application involves the modification of a Minister's approval; and,
- Provision of a S.94 Contributions regime for Seniors Housing.

The proposal was placed on public exhibition for a period of 31 days. A total of 11 submissions were received, including submissions from Sydney Buses, Transport NSW, the Roads and Traffic Authority (RTA), and City of Canada Bay Council. 8 submissions were received from the general public.

Issues raised include traffic and carparking impacts, proximity/frequency of existing public transport, changes to demographics, false marketing, impact on amenity and inconsistencies in the Environmental Assessment relating to beds/bedrooms.

Canada Bay Council raises no objection to the proposal, subject to the levying of Section 94A Contributions for any additional dwellings.

On balance, the proposal is considered appropriate for approval and will provide the following public benefits:

- Additional housing in the form of Seniors living, increasing the supply and diversity of residences that meet the needs of seniors, whilst making efficient use of existing infrastructure and services.
- Smaller dwelling types to address the current market demand for smaller dwellings.
- Contribution to the establishment of a higher density living environment in close proximity to commercial, recreation and public transport facilities.
- Retention and adaptive re-use of the former Plumbers' Workshop building.

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# 1. BACKGROUND

## 1.1 The Site in Context

Breakfast Point has an area of 51.82 hectares (ha) and is located on the Mortlake Peninsula, approximately 9km west of the Sydney CBD. The site is within the Canada Bay LGA and is shown in Figures 1 and 2 below.

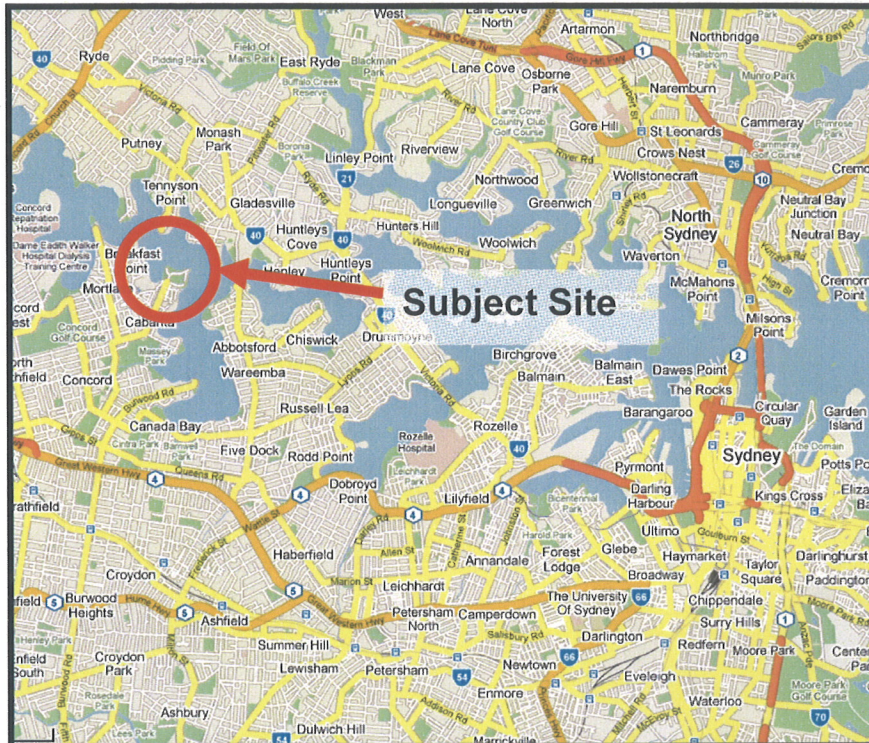


Figure 1: Location in Context with Sydney CBD



Figure 2: Location Plan

## 1.2 The Site

The redevelopment of Breakfast Point follows its former use as a gasworks by the Australian Gaslight Company (AGL). The site was rezoned by the former Concord Council from "4(a) Industrial General" to "Residential 2(e)" in 1998 and also identified as a site of "strategic significance" pursuant to the provisions of State Environmental Planning Policy No. 56 – Sydney Harbour Foreshores and Tributaries (SEPP 56).

In accordance with SEPP 56, the City of Canada Bay Council (Council) adopted the Breakfast Point Master Plan in 1999 which proposed 1650 residential dwellings and 18,800m<sup>2</sup> of commercial uses. The Master Plan was amended by Council in 2002 to allow for 1,865 dwellings and 12,300m<sup>2</sup> of commercial uses on the site. Until 2005, the Council was the consent authority for the Breakfast Point site, and granted a number of consents under Part 4 of the Environmental Planning and Assessment Act, 1979 (EP & A Act), approving 876 dwellings.

On 31 August 2005, the former Minister for Planning assumed the role of approval authority for outstanding development at Breakfast Point under the former provisions of State Environmental Planning Policy (Major Projects) 2005.

On 7 April 2006, the Breakfast Point Concept Plan 2005 was approved by the former Minister for a mixed use residential/commercial/retail development comprising the following (in addition to the approvals granted by Council):

- 176,222 sq.m of GFA including 1,519 sq.m of non-residential GFA;
- 989 dwellings; and,
- Subdivision into Torrens Title and Strata Lots.

On 4 August 2006, the Director General granted an additional bonus of 200 dwellings for the Breakfast Point site allowing a maximum of 2065 dwellings to be built. As a result, the total GFA was increased to 183,480sq.m.

Subsequently, several Part 3A approvals have been granted for various precincts including the Vineyards, Plantations, Silkstone, The Point, Manors North and Blacksmiths precincts. **Figure 3** below outlines the Breakfast Point Approvals and works to date.

In addition, a number of S.75W modification applications have been approved, which have included changes to the approved dwelling mix/dwelling numbers for the Plantations and Point Precincts.

A) Buildings covered by Concept Plan Approval



Figure 3: Breakfast Point

## 2. PROPOSED MODIFICATION

### 2.1 Modification Description

The modification application seeks approval for the following:

**Table 1: Summary of Proposed Modifications**

Proposed Amendment	Supported
Redistribution of dwellings originally approved (under the Concept Plan) in Buildings 7D1 - 7D4 and 7D6 of the Seashores Precinct to Building 7D5 of the Seashores Precinct, Buildings 6F2, 5B1 and 5B2 of The Point Precinct and all buildings within the Woodlands North Precinct, whilst maintaining the existing approved dwelling cap of 2065 dwellings.	Yes
Amendment to Buildings 7D1, 7D2, 7D3, 7D4 of the Seashores Precinct for use as Seniors Housing comprising 509 additional bedrooms (227 dwellings) and the retention and adaptive reuse of the former Plumbers' Workshop building for communal facilities.	Yes
Variation to the dwelling mix of buildings 5B1, 5B2 and 6F2 of the Point Precinct resulting in an additional 52 dwellings within the approved building envelope.	Yes
Variation of dwelling numbers and mix allocated within building 7D5 of the Seashores Precinct and buildings 7B1, 7B2, 7B3 of the Woodlands North Precinct.	Yes
Incorporation of changes to dwelling numbers already approved by previous s.75W modification applications.	Yes
Amendments to the Concept Plan Modification 1 and 7 (Conditions 1 and 7) to delete the references to the FSR/dwelling cap applying to the entire Breakfast Point site.	Yes
Inclusion of 'Exempt and Complying' development.	Yes (in principle)
Provision of a framework to ensure all future applications are dealt with under Part 3A of the Act only if they meet the provisions of State Environmental Planning Policy (Major Development) 2005, or if the application involves the modification of a Minister's approval.	Yes (in principle)
Provision of a S.94 Contributions regime for Seniors Housing	Yes (in principle)

The proposed changes and comparison of the modifications to the original approval of **The Point Precinct (MP08\_0025)** are outlined in **Table 2** and **Table 3** below.

**Table 2: Development summary of Buildings 5B1, 5B2 & 6F2 in the Point Precinct (as approved including as previously modified)**

Building	Storeys	Dwelling numbers	Dwelling mix (3/2/1 bedrooms)
5B1	5	39	29/10/0
5B2	5	34	24/10/0
6F1	5	60	0/30/30
6F2	5	25	20/5/0
<b>The Point Precinct Total</b>	-	<b>158</b>	<b>73/55/30</b>

**Table 3: Development summary of Buildings 5B1, 5B2 & 6F2 in the Point Precinct (proposed modifications)**

Building	Storeys	Dwelling numbers	Dwelling mix (3/2/1 bedrooms)
5B1	5	55 (+16)	20/34/1 (-9/+24/+1)
5B2	5	55 (+21)	5/30/20 (-19/+20/+20)
6F1	5	60	0/30/30
6F2	5	40 (+15)	5/20/15 (-15/+15/+15)
<b>The Point Precinct Total</b>	-	<b>210</b> <b>(+52)</b>	<b>30/114/66</b> <b>(-43/+59/+36)</b>

It is noted that currently no Project Application approval has been granted for the Woodlands North Precinct or Building 7D5 of the Seashores Precinct, and therefore no comparison can be made with regards to the dwelling mix. **Figure 4** below outlines the proposed Seniors Housing development and Precincts/buildings affected by the redistribution of dwellings.

A comparison between the proposed modifications and original approvals are outlined in **Table 4**.

**Table 4:** Development summary of existing Master Plan 2002 and Breakfast Point Concept Plan 2005 approvals and proposed modifications.

	Approved	Proposed	Change
<b>Residential GFA (including bonus GFA)</b>	340,830m <sup>2</sup>	340,830m <sup>2</sup>	0m <sup>2</sup>
<b>Non-Residential GFA</b>	1519m <sup>2</sup>	1519m <sup>2</sup>	0m <sup>2</sup>
<b>FSR</b>	0.67:1	0.66:1	-0.01:1
<b>Dwellings (excl. Seniors Housing)</b>	2065*	2065	0
<b>Seniors Housing Bedrooms**</b>	0	509	+509 (+227 dwellings)
<b>Bedrooms (incl. Seniors Housing)</b>	5,037	5,104	+67
<b>Population</b>	4,639	4,583	-56
<b>Parking (Off-street)</b>	3,616	3,681	+65

\* Maximum dwelling cap under current approval

\*\* 509 Bedrooms equates to 227 dwellings. (Source: Proponent's EA)

The former Plumbers' Workshop building in the Seashores Precinct is proposed to be retained for adaptive reuse as a communal facility for seniors housing with 2,404m<sup>2</sup> of meeting rooms, dining halls, pool, recreation facilities and administration and other ancillary care facilities. This building is not listed as a heritage item on State or local registers.

There are no proposed changes to the approved retail and community uses or GFA. The full details of each precinct and key aspects of the proposed modification are contained in **Appendix C**.

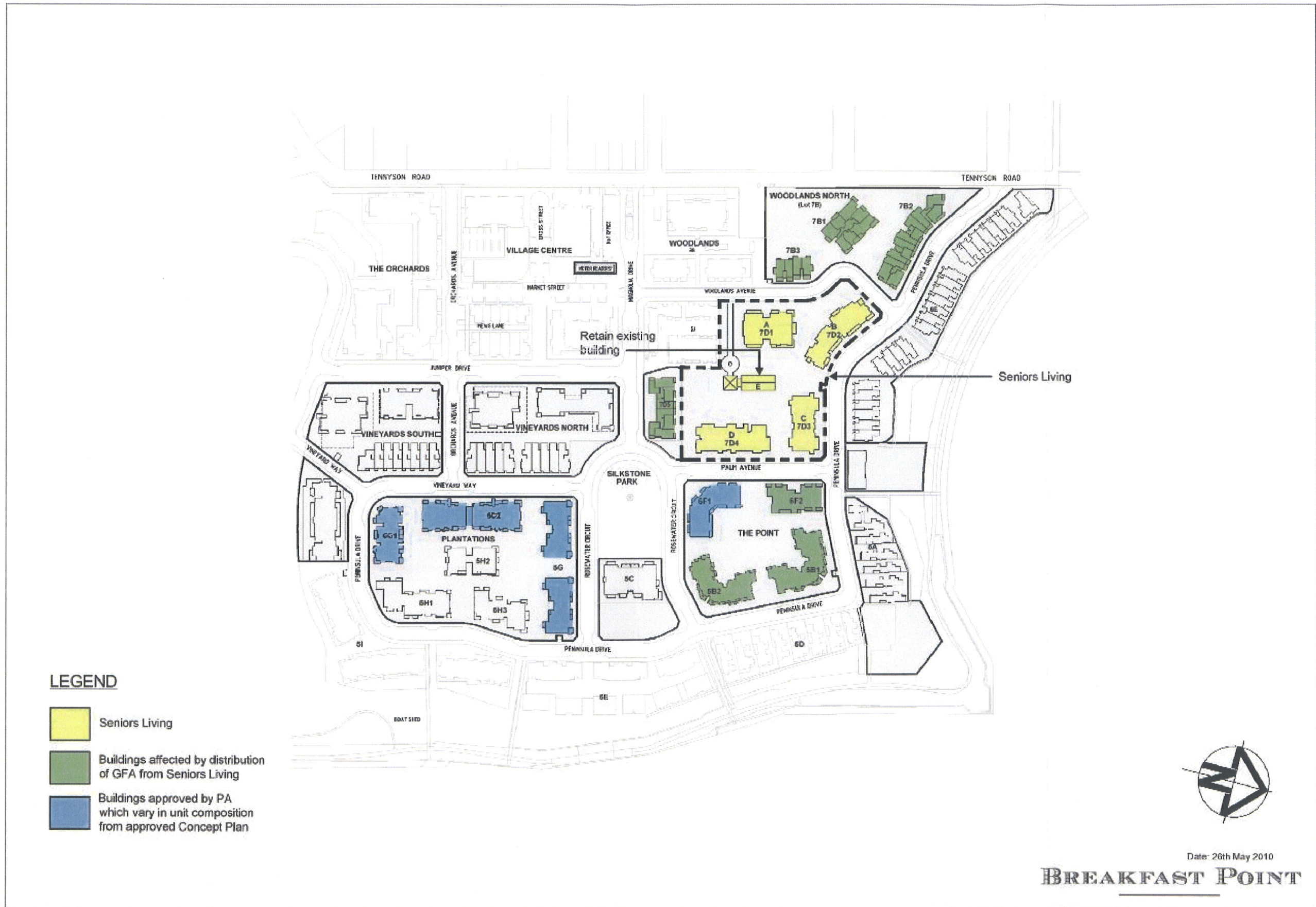


Figure 4: Breakfast Point Concept Plan 2005 Modifications

### **3. STATUTORY CONTEXT**

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#### **3.1 Modification of the Minister's Approval**

The modification application has been lodged with the Director-General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval if the project as modified would be consistent with the existing approval under Part 3A.

In this regard, the proposed modifications are consistent with the existing Concept Plan approval granted under Part 3A as the proposed modifications seek to introduce seniors housing to the site and vary the dwelling mix, which will not result in any changes to the approved building envelopes, or significant changes to the approved landuses on site.

#### **3.2 Environmental Assessment Requirements**

In this instance, it was not considered necessary to notify the Proponent of environmental assessment requirements pursuant to Section 75W(3) as sufficient information was provided to assess the application.

#### **3.3 Delegated Authority**

On 25 January 2010, the Minister delegated his powers and functions under Section 75W of the EP&A Act to the Executive Director, Major Projects Assessment in cases where there are less than 25 public submissions (not including submissions from public authorities) in the nature of objections in respect of the modification request.

As 8 public submissions were received, the Executive Director may determine the modification request under delegation.

### **4. CONSULTATION AND SUBMISSIONS**

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#### **4.1 Exhibition**

Under Section 75W of the Act, a request for a modification of an approval does not require public exhibition, however in this case, it was considered appropriate to exhibit the modification proposal for a minimum of 30 days, due to an additional landuse (Seniors Living) being proposed.

In addition, under Section 75X(2)(f) of the Act, the Director-General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the Modification Application was publicly exhibited for a period of 31 days from 7 July 2010 to 6 August 2010 including:

- The modification application being placed on the Department's website;
- The EA was exhibited in the Department's Information Centre and at the Canada Bay Council office and Concord Library and Five Dock Library;
- Notification of the public exhibition was published in the Sydney Morning Herald, Daily Telegraph and Inner West Courier; and,
- Notification letters were sent to City of Canada Bay Council, the Roads and Traffic Authority (RTA), State Transit Authority (STA), Transport NSW and 1290 surrounding residents.

The Department received 12 submissions during the exhibition period including submissions from Sydney Buses, Transport NSW, the Roads and Traffic Authority (RTA), and City of Canada Bay Council. 8 submissions were received from the general public including 1 submission from the Mulberry Hill Owners Corporation.

A summary of the issues raised in submissions is provided below. A copy of all responses and submissions have been placed on the Department's website.

## 4.2 Public Authority Submissions

4 submissions were received from public authorities.

### Roads and Traffic Authority (RTA)

The RTA raised concern regarding the traffic and car parking impact. Specifically, the need for non-car travel modes of transport and the provision of facilities to increase the non-car mode share for travel to and from the site. In this regard, specific consideration should also be given to the elderly.

The RTA suggested that the State Transit Authority (STA) be consulted regarding the potential for expanding bus services to within the site.

### State Transit Authority (STA)

STA raised concern regarding the lack of direct access to a bus service from the site. Currently, bus services available to Breakfast Point residents travel along Tennyson Road (which forms part of the site's western boundary) (**Refer Figure 3** above). The proposed modification to include Seniors Living housing is likely to raise the demand for additional bus services as seniors are generally heavily reliant on this as a form of transportation. Access to public transport is also a key assessment consideration under the Seniors Living SEPP.

Further, the STA does not believe current bus services to the site have sufficient capacity and suitable frequency to service current demands, therefore any increase to dwellings numbers, particularly seniors housing, would exacerbate this issue. It was requested that the Proponent and Department liaise with the STA to develop and implement a bus service through the site, which would contribute to the state target of 28% for journey to work on Public Transport.

### Transport NSW

Transport NSW raised concern over the need for additional car parking on site, which has not been justified in terms of transport and access benefits.

### *Department's Response to Public Authority Submissions:*

The original approval of the Breakfast Point Concept Plan 2005 identified a bus route through the site with a number of bus stops. Suitable infrastructure has been provided to allow for buses to operate within the site, such as increased roadway widths and roads built for heavy vehicles (ie buses). As Breakfast Point is currently community titled, the STA cannot access the site without Landowners Consent. The Proponent and STA have both advised that extensive public consultation with regards to the provision of bus services entering Breakfast Point was undertaken in 2009 and 2010. This process concluded that residents'

preference was to exclude any bus services from being provided within the site. Subsequently STA withdrew the proposed bus service extensions from the site.

The Department acknowledges that a bus service being extended to within the site would be a desirable outcome in assisting the state achieve the 28% journey to work on Public Transport. However, this is a private matter between STA and residents of Breakfast Point.

The Department also acknowledges that current bus services on Tennyson Road, whilst not directly available on site, are within the 400m distance required under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

STA will continue to monitor service capacity and frequency to Breakfast Point and the surrounding area to ensure optimum provision of services. A recommended addition to Modification (Condition) 17 requires the Proponent to provide documentary evidence that consultation has taken place with the STA regarding additional services to the site, with the submission of any application for Seniors Living.

With regard to non-car travel modes, the site is located approximately 180m from the nearest bus stop for services to Cabarita, Concord and the City. The site has direct access to the foreshore walking/cycling network and is in close proximity to the RTA's Metropolitan cycleway network.

The Department has addressed carparking in **Section 5.1** of this report.

#### City of Canada Bay Council

Council has not provided a formal submission, however they have advised that the arguments put forward by the Proponent in regards to Section 94 Contributions are not supported and state that Section 94 Contributions should be levied in accordance with Councils Section 94A Contributions Plan (ie a 1% Levy).

#### *Department's Response:*

The Proponent has provided a number of options with regard to S94 Contributions associated with the proposal. A detailed consideration of S94 Contributions is provided in **Section 5.5** below.

#### **Proponent's Response to Submissions**

A copy of all submissions was forwarded to the Proponent following the conclusion of the public exhibition period. The Proponent responded to these submissions on 31 August 2010 and again on 6 September 2010.

This response has not resulted in any changes to the proposed modification, however did clarify matters such as beds versus bedrooms.

The Proponent later agreed, via email received by the Department on 5 September 2010, to a 1% Section 94A Levy for the inclusion of the Seniors Living component in the Seashores Precinct. Refer to **Section 5.5** below for further discussion.

### 4.3 Public Submissions

8 submissions were received from the public objecting to the proposed modification application during public exhibition. The key issues raised in public submissions are addressed below in **Table 5**:

**Table 5: Summary of Issues Raised in Public Submissions**

Issue	Times mentioned	Proportion of submissions (%)
Traffic and car parking impacts <ul style="list-style-type: none"> <li>- Future staff carparking not accounted for in application</li> <li>- Bus stops approved within Breakfast Point will take away additional on-street car parking</li> <li>- Woodlands Avenue is too narrow and congested and new roads are required</li> </ul>	4	50%
Modification changes demographics of Breakfast Point	4	50%
False marketing	3	37.5%
Impact on amenity due to density increase	3	37.5%
Unclear whether proposal is for 509 beds or 509 bedrooms	2	25.0%
Modification lowers property values	1	12.5%
Full seniors care should be provided over self-care housing	1	12.5%
Political Donations are a conflict of interest and bias	1	12.5%
Seniors living prevents access to landscaped open spaces in Breakfast Point	1	12.5%

Matters such as false marketing and property values are not material planning considerations. The type of Seniors accommodation to be provided is a matter for the Proponent. The Department considers the proposed Self Care Housing to be an appropriate additional landuse for the site. The proposal will not result in any restrictions upon landscaped open spaces. Whilst reportable Political Donations have been made by the Proponent, no delegation currently exists for the Planning Assessment Commission to assess and determine S.75W modification applications. Refer to **Section 8** for delegations.

The Department has considered the issues raised in submissions in its assessment of the proposed modification (**Section 5**).

## 5. ASSESSMENT

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The Department considers the key issues for the proposed modification to be:

- Traffic and Carparking
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- Design
- Amenity
- Section 94 Contributions
- Future applications

### 5.1 Traffic and Carparking

#### 5.1.1 Traffic

A revised Traffic and Carparking Impact Assessment report prepared by Colston Budd Hunt & Kafes Pty Ltd was submitted with the proposal. This report stated that the original approval of the *Breakfast Point Concept Plan 2005* based carparking rates on the maximum of 40 dwellings per hectare permitted for the site, equating to a peak traffic generation rate of 1,140 vehicles per hour.

It is noted that the proposal comprises an increase of the number of 1 and 2 bedroom dwellings through the redistribution of dwellings from the Seashores Precinct to other Precincts and subsequent changes to the approved dwelling mix. It is also acknowledged that the proposal comprises an additional 227 dwellings in the form of Seniors Living housing. As a result, the proposal will result in a net increase of 67 bedrooms across the site.

The total number of carparking spaces on site (subject of the Concept Plan 2005 approval) will increase by only 3.2% as part of this proposal, from 2013 to 2078 (+65) spaces.

The Traffic and Carparking Impact Assessment report assesses that the amended proposal would generate approximately 1,130 to 1,140 vehicles per hour on two-way traffic during maximum afternoon peak hour. This figure is consistent with the Canada Bay LEP 2008 and has the same forecast traffic rate as the approved Concept Plan.

It is considered, that given the proposal has a maximum traffic generation equivalent to the approved Concept Plan, the amended proposal is considered acceptable.

#### 5.1.2 Off-Street Carparking

The original Concept Plan approval for Breakfast Plan approved a total of 2013 off-street car parking spaces for the site with additional on-street visitor car spaces (see **Section 5.1.3**). The proposed amendment seeks to increase off street car parking by an additional 65 spaces, resulting in a total of 2078 off street carparking spaces. The additional spaces will be distributed among the various precincts to address the demand generated from the redistribution of dwelling numbers as outlined in **Figure 4** above and includes a reduction in allocated spaces for the Seashores Precinct (from 367 to 304 spaces).

The Proponent estimates that the additional 509 bedrooms in the Seniors Living component in the Seashores precinct would equate to an additional 227 dwellings. Seniors Living car parking is required to be provided at a **minimum** rate of 0.5 car spaces per bedroom in accordance with Clause 50(h)(i) of the Seniors SEPP. This equates to 255 car spaces. In addition, it is anticipated that additional car parking will be required to be provided to service the car parking demand generated by future employees/servicing of the Seniors Living component.

304 off-street car parking spaces are proposed for the future Seniors Housing component, which meets the required minimum 255 car spaces for seniors housing and allows an additional 49 car spaces for future employees and visitors. As details have not been provided for the future operation of the communal facility, a more detailed assessment of the overall off-street car parking demand will be undertaken at future application stage. However, the Department is satisfied that an appropriate level of off-street car parking is available to service the additional demand generated by the increased residential dwelling numbers and changed dwelling mix, and the proposed Seniors Living component.

### 5.1.3 On-Street Visitor Car Parking

**Table 6** below provides a breakdown of required on-street visitor car parking based on a rate of 1 space per 5 dwellings/units as originally approved under the Breakfast Point Concept Plan.

*Table 6: Visitor Parking*

Dwellings	Visitor Parking at a rate of 1 per 5 dwellings/units
Breakfast Point Maximum No. of Dwellings 2065	414
509 Seniors Housing bedrooms	46
Total Visitor Car Parking Required	460
Total Visitor Car Parking Provided	627

The proposed modification provides 46 on-street car parking spaces specifically for the proposed Seniors Housing in the Seashores Precinct which is considered to be sufficient to meet the future demand of that proposed.

In addition, the total number of visitor car parking serving the remainder of Breakfast Point is 167 spaces **above** the required rate.

It is considered there is ample visitor car parking to service the needs of the Breakfast Point community.

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

The aim of the Seniors SEPP is to increase the supply and diversity of residences that meet the needs of seniors or people with a disability, whilst making efficient use of existing infrastructure and services and at the same time be of good design.

The proposed amendment is for seniors housing consisting of 509 bedrooms, equating to 227 dwellings. The site is zoned "R1 General Residential" under the Canada Bay LEP 2008 and "Seniors Housing" is permissible within this zone.

Details submitted with the application do not indicate specifically the type of seniors housing to be provided within the 4 buildings in the Seashores Precinct. However, details suggest that the proposed Seniors Living component will operate in accordance with Clause 13(3) of the Seniors SEPP being "serviced-self-care housing" which is defined as "seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care."

It is considered that these details are not essential for Concept Plan approval and full details of the type of seniors housing care to be provided can to be clarified at future application stage.

The Proponent has demonstrated general compliance with the Seniors SEPP, a summary of compliance under the "Site-related requirements" (Part 2) is provided below:

- Facilities and services to be located within 400m of the subject site (Clause 26). Breakfast Point has its own Village Centre which includes services such as dental, optical, pharmacy, spa, IGA and cafes which are located approximately 180m from the site. Elsewhere on the site is a Community Hall and Country Club which are both accessible to residents. For services and facilities not provided on site, the nearest bus stop for services to the City/Cabarita/Concord is approximately 260m from the site on Tennyson Road, which serves as the western boundary of the Breakfast Point Site. The nearest bus stop for services from the City/Cabarita/Concord is located approximately 180m from the site. Access to and from shops and bus stops is along sealed footpaths on gentle gradients;
- The site is not Bushfire Prone (Clause 27);
- Reticulated water and sewerage system is available to site (Clause 28); and,
- Appropriate services and infrastructure are available to the site and further S.94 contributions to support the additional demand generated by the Seniors Living are discussed under **Section 5.6** of this report (Clause 29)

The Seniors Living proposal is to be accommodated within the building envelopes as originally approved under the Breakfast Point Concept Plan 2005. These envelopes generally comply with the "Design requirements" under Part 3 with appropriate amenity, visual and acoustic privacy, solar access, and accessibility being available for seniors housing care. A full detailed assessment under Part 4 "Development standards" of the SEPP will be undertaken at the future application stage.

Overall, the Department is generally satisfied that the proposed modification complies with the Seniors SEPP.

### 5.3 Design

The proposed modification will not result in any changes to the building envelopes as originally approved under the *Breakfast Point Concept Plan 2005*. All changes will be via internal reconfigurations of buildings within the Seashores, Point, Plantations and Woodlands North Precincts.

It is considered that the former Plumbers' Workshop building, whilst not a heritage item, holds significant architectural merit to warrant its adaptive reuse as a communal facility for the proposed seniors housing. The overall architectural language of the building is similar in nature to the Blacksmiths Workshop and Powerhouse Building on site, both being heritage items, and its adaptive reuse is considered to be a positive contribution to Breakfast Point.

With regards to SEPP 65, the proposed modification will not alter the approved building envelopes approved under the Concept Plan. In this regard, it is considered that the proposal will not significantly impact upon the application of SEPP 65 design principles or 'rules of thumb.' A further detailed assessment of SEPP 65 will be undertaken during future application stages.

It is noted that previous approved modifications (to the dwelling mix) of the Plantations and Point Precincts have resulted in acceptable outcomes in terms of SEPP 65, particularly regarding access to light and ventilation, provision of private open space (balconies), building separation and privacy, and internal amenity.

In light of the above, the proposed modification will result in minor changes to the design of Breakfast Point with minimal impact on the design and architectural character of the original approval.

#### **5.4 Amenity**

The proposed reconfiguration of residential dwelling numbers and additional 509 bedrooms (Seniors Living housing) will be generally contained within the building envelopes approved under the *Breakfast Point Concept Plan 2005*. In this regard, it is considered that any adverse impacts on the amenity of occupants in neighbouring properties will generally be negligible.

The proposed modification will not result in any increase in overshadowing of adjoining properties. Any additional noise impacts as a result of additional dwelling numbers and bedrooms are not considered to be substantial as the approved building envelopes remain unchanged. Further, the proposal is not considered to detrimentally impact upon the provision of open space within Breakfast Point, given the site comprises over 15ha of open space which is located on the foreshore of the Parramatta River. In addition, the expected population is expected to decrease (by less than 1%) due to the resultant smaller dwelling sizes.

The retention of the former Plumbers' Workshop building as a communal facility for seniors is unlikely to produce any adverse impacts on the amenity of residents subject to appropriate management. The facility is necessary to service the needs of future senior residents. A more detailed assessment will be undertaken at future application stage.

#### **5.5 Section 94 Contributions (Seniors Living Housing)**

The approved *Breakfast Point Concept Plan 2005* provides for incremental payment of Section 94 Contributions at the time of approval of each Project Application.

Modification 8 of The *Breakfast Point Concept Plan 2005* approval prescribes that contributions of **\$1,830** per dwelling up to 989 dwellings (1865 dwellings including Masterplan 2002 approved dwellings) are payable to Council.

Modification 9 prescribes that contributions of **\$7,200** per dwelling for each of the 200 additional dwellings approved by Modification 7 (up to 2065 dwellings including Masterplan 2002 approved dwellings) are payable to Council.

The contributions regime detailed above has been applied to all Project Application approvals and modification approvals to date. However, in respect of the current proposal, the Proponent is seeking to introduce a different mechanism for the Seniors Living component.

#### *Proponent's Assessment*

The Proponent has provided the following 4 options for payment of future S.94 Contributions.

1. Levy at 1% in accordance with Council's Section 94A Plan; or
2. Levy at 1% in accordance with Council's Section 94A Plan taking into account works-in-kind for the retention and adaptive re-use of the former Plumbers' Workshop; or
3. Levy based on increase in number of bedrooms 'converted' into dwellings (ie. levy for 32x2 bed units); or
4. Levy based on expected population increase (no levy payable due to 1% reduction in expected population).

The Proponent later agreed, via email received by the Department on 5 September 2010, to a 1% Section 94A Levy for the inclusion of the Seniors Living component in the Seashores Precinct (Option 1 above)

#### *Council's Comment*

The Council has advised that they do not support the alternative arguments (Options 2 - 4 above) put forward by the Proponent in regards to Section 94 Contributions and state that Section 94 Contributions should be levied in accordance with Council's Section 94A Contributions Plan (Option 1 above), being a 1% Levy.

#### *Department's Comment*

The Department has considered the Proponent's options for levying Section 94 Contributions for the Seniors Living component and acknowledges that the Proposal will provide significant public benefits to the broader community through the provision of seniors housing and the adaptive re-use of the former Plumbers' Workshop building.

The Department considers the most appropriate method for calculating S94 Contributions for future applications is to consider Council's Section 94A Contributions Plan, taking into account any works-in-kind proposed at the time of the application. This approach is consistent with the approved Concept Plan, which considered Council's relevant Contributions Plan at the time of each assessment.

A detailed consideration of possible offsets cannot be provided until an application is received which details the scope of works proposed to be offset against S94 Contributions payable.

Section 94 Contributions will be addressed in detail in future applications by Canada Bay Council.

## **5.6 Future Applications**

The Proponent has requested, as part of this modification, the inclusion of exempt and complying development, and framework to ensure future applications are considered under Part 3A of the Act only if they meet the relevant criteria of the Major Development SEPP.

The *Breakfast Point Concept Plan 2005* approval did not include any provisions, as part of the Instrument of Approval, allowing future stages to be subject of other provisions of the Act (75P(1)(b)). As a result, all future applications regardless of nature or value are subject to Part 3A of the Act and are considered Major Projects. The Breakfast Point Concept Plan area is also excluded from any "Exempt and Complying" provisions.

The Department supports the Proponent's request that Canada Bay Council be the consent authority for all future applications within Breakfast Point that do not trigger Part 3A of the Act. The Department is presently investigating appropriate mechanisms which will address this issue.

## **7. CONCLUSION AND RECOMMENDATIONS**

The proposed modifications comply with the approved Gross Floor Area (GFA) / Floor Space Ratio (FSR) and will utilise existing approved building envelopes thereby minimising amenity impacts. Whilst additional off street carparking spaces are proposed, additional traffic impact is considered to be within the acceptable peak traffic generation rate range as originally anticipated for the site.

Further, the proposed Seniors Living component on the Seashores Precinct is considered to meet the provisions of the Seniors SEPP, is located in close proximity to public bus services and is considered to be an appropriate additional landuse for the site.

The Department considers that all potential adverse impacts have been satisfactorily addressed by the Proponent. Furthermore, the proposed modifications to the Concept Plan remain generally consistent with the original *Breakfast Point Concept Plan 2005* approval.

The proposed modifications do not alter the overall nature, needs or justification of the approved *Breakfast Point Concept Plan 2005*. The introduction of the Seniors Living component introduces a new type of housing to Breakfast Point and the redistribution of dwellings/change to dwelling mix of some precincts responds to current market demands for smaller dwelling types.

On balance, the proposal is considered to provide the following public benefits:

- Additional housing in the form of Seniors living, increasing the supply and diversity of residences that meet the needs of seniors, whilst making efficient use of existing infrastructure and services;
- Appropriate dwelling types to address the current market demand for smaller dwellings;
- Contribution to the establishment of a higher density living environment in close proximity to commercial, recreation and public transport facilities; and,
- Retention and adaptive re-use of the former Plumbers' Workshop building.

## 8. DELEGATION

The Minister, on 25 January 2010, delegated his powers and functions under Section 75W of the EP&A Act to the Department where less than 25 public submissions are received in the nature of objections in respect of a modification request.

A total of 8 public submissions were received in the nature of objections in respect of the modification request, therefore the Executive Director is the Determining Authority for the subject modification request.

## 9. RECOMMENDATION

It is recommended that the Executive Director, Major Projects Assessment:

- (a) **approve** the modification, subject to conditions, under Section 75W of the *Environmental Planning and Assessment Act 1979*; and
- (b) **sign** the attached Instrument of Modification (**Tag B**); and
- (c) **sign** the attached letters to inform the Proponent and Council accordingly (**Tag C**).

Prepared by

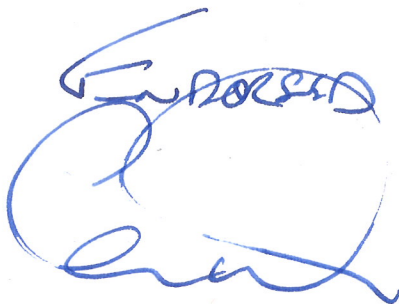
Endorsed By



Andrew Beattie  
**Senior Planner**  
**Metropolitan Projects**



Michael Woodland  
**Director**  
**Metropolitan Projects**



18-10-10



## APPENDIX A    MODIFICATION REQUEST

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See the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=3975](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3975)

## **APPENDIX B SUBMISSIONS**

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See the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=3975](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3975)

APPENDIX C TABLE OF APPROVED AND PROPOSED CHANGES

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
<b>CONCEPT PLAN AREA</b>																					
<b>Under Construction/Completed</b>																					
<b>Stage 1</b>																					
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
<b>Total Stage 1</b>	<b>Subtotal</b>	<b>54636</b>	<b>54636</b>	<b>53956</b>	<b>53956</b>	<b>680</b>	<b>680</b>	<b>342</b>	<b>342</b>	<b>804</b>	<b>804</b>	<b>150</b>	<b>150</b>	<b>174</b>	<b>174</b>	<b>18</b>	<b>18</b>	<b>602</b>	<b>602</b>	<b>758</b>	<b>758</b>
<b>Future Stages/Under Construction</b>																					
<b>Stage 2</b>																					
<b>Point Precinct</b>																					
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
<b>Total Point Precinct</b>		<b>21596</b>	<b>22314</b>	<b>21596</b>	<b>22314</b>	<b>0</b>	<b>0</b>	<b>128</b>	<b>210</b>	<b>349</b>	<b>384</b>	<b>93</b>	<b>30</b>	<b>35</b>	<b>114</b>	<b>0</b>	<b>66</b>	<b>239</b>	<b>295</b>	<b>312</b>	<b>379</b>
<b>Silkstone Precinct</b>																					
The Silkstone	Lot 5C	6380	6750	6380	6750	0	0	44	45	110	100	22	20	22	15	0	10	77	73	101	93
<b>Total Silkstone Precinct</b>		<b>6380</b>	<b>6750</b>	<b>6380</b>	<b>6750</b>	<b>0</b>	<b>0</b>	<b>44</b>	<b>45</b>	<b>110</b>	<b>100</b>	<b>22</b>	<b>20</b>	<b>22</b>	<b>15</b>	<b>0</b>	<b>10</b>	<b>77</b>	<b>73</b>	<b>101</b>	<b>93</b>
<b>Plantations Precinct</b>																					
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
<b>Total Plantations Precinct</b>		<b>38349</b>	<b>32832</b>	<b>38349</b>	<b>32832</b>	<b>0</b>	<b>0</b>	<b>269</b>	<b>320</b>	<b>565</b>	<b>531</b>	<b>70</b>	<b>20</b>	<b>156</b>	<b>171</b>	<b>43</b>	<b>129</b>	<b>423</b>	<b>427</b>	<b>541</b>	<b>536</b>
<b>Woodlands North Precinct</b>																					
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
<b>Total Woodlands Precinct North</b>		<b>21210</b>	<b>22605</b>	<b>21210</b>	<b>22605</b>	<b>0</b>	<b>0</b>	<b>138</b>	<b>212</b>	<b>309</b>	<b>362</b>	<b>52</b>	<b>28</b>	<b>67</b>	<b>94</b>	<b>19</b>	<b>90</b>	<b>224</b>	<b>287</b>	<b>290</b>	<b>360</b>
<b>Seashore Precinct</b>																					
Building 7D5	Lot 7Dv	5900	6500	5900	6500	0	0	40	60	80	99	10	5	20	29	10	26	60	80	77	100
<b>Total Seashore Precinct</b>		<b>5900</b>	<b>6500</b>	<b>5900</b>	<b>6500</b>	<b>0</b>	<b>0</b>	<b>40</b>	<b>60</b>	<b>80</b>	<b>99</b>	<b>10</b>	<b>5</b>	<b>20</b>	<b>29</b>	<b>10</b>	<b>26</b>	<b>60</b>	<b>80</b>	<b>77</b>	<b>100</b>
<b>Commercial Building</b>																					
Powerhouse	Other	839	839	0	0	839	839	0	0	0	0	0	0	0	0	0	0	21	10	0	0
<b>Total Powerhouse</b>		<b>839</b>	<b>839</b>	<b>0</b>	<b>0</b>	<b>839</b>	<b>839</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>21</b>	<b>10</b>	<b>0</b>	<b>0</b>
<b>Total Stage 2</b>	<b>Subtotal</b>	<b>94274</b>	<b>91840</b>	<b>93435</b>	<b>91001</b>	<b>839</b>	<b>839</b>	<b>619</b>	<b>847</b>	<b>1413</b>	<b>1476</b>	<b>247</b>	<b>103</b>	<b>300</b>	<b>423</b>	<b>72</b>	<b>321</b>	<b>1044</b>	<b>1172</b>	<b>1321</b>	<b>1467</b>
<b>Seniors Housing</b>																					
<b>Stage 3</b>																					
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
<b>Total Seniors Housing - Stage 3</b>	<b>Subtotal</b>	<b>34570</b>	<b>37004</b>	<b>34570</b>	<b>0</b>	<b>0</b>	<b>37004</b>	<b>228</b>	<b>227</b>	<b>505</b>	<b>509</b>	<b>88</b>	<b>77</b>	<b>101</b>	<b>128</b>	<b>39</b>	<b>22</b>	<b>367</b>	<b>304</b>	<b>474</b>	<b>272</b>
<b>TOTAL ALL STAGES</b>	<b>TOTAL</b>	<b>183480</b>	<b>183480</b>	<b>181961</b>	<b>144957</b>	<b>1519</b>	<b>38523</b>	<b>1189</b>	<b>1416</b>	<b>2722</b>	<b>2789</b>	<b>485</b>	<b>330</b>	<b>575</b>	<b>725</b>	<b>129</b>	<b>361</b>	<b>2013</b>	<b>2078</b>	<b>2553</b>	<b>2497</b>
Masterplan 2002		157350	157350	152191	152191	5159	5159	880	880	2315	2315	555	555	317	317	8	8	1603	1603	2086	2086
<b>BREAKFAST POINT TOTAL</b>		<b>340830</b>	<b>340830</b>	<b>334152</b>	<b>297148</b>	<b>6678</b>	<b>43682</b>	<b>2069</b>	<b>2296</b>	<b>5037</b>	<b>5104</b>	<b>1040</b>	<b>885</b>	<b>892</b>	<b>1042</b>	<b>137</b>	<b>369</b>	<b>3616</b>	<b>3681</b>	<b>4639</b>	<b>4583</b>

## APPENDIX D RELEVANT REPORTS OR DOCUMENTS

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See the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=3975](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3975)

**APPENDIX E    RECOMMENDED MODIFYING INSTRUMENT**

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